

AMBOS MUNDOS RESTAURANT INC.
as represented by BENJAMIN R. LEUNG,
Petitioner,

IPC No. 14-2007-00327
Case Filed: 09 Nov. 2007
Cancellation of:
Reg. No. 4-1997-121056
Date Issued: 24 Oct. 2005
Trademark: "AMBOS MUNDOS
RESTAURANT"
Date Issued: 24 Oct. 2005

-versus-

MARIA TERESA S. GAUDINEZ,
Respondent-Registrant.

Decision No. 2008-218

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DECISION

This is a Petition for Cancellation filed by AMBOS MUNDOS RESTAURANT INC. as represented by BENJAMIN R. LEUNG ("Petitioner") against Certificate of Servicemark Registration No. 4-1997-121056 for the servicemark "AMBOS MUNDOS RESTAURANT" covering restaurant service/s under Class 42 issued on 24 October 2005 in the name of MARIA TERESA S. GAUDINEZ ("Respondent-Registrant").

Petitioner Ambos Mundos Restaurant, Inc. is a corporation organized and existing under the laws of the Republic of the Philippines with business address at 750-752 Florentino Torres, Sta. Cruz, Manila.

Respondent-Registrant, Maria Teresa S. Gaudinez, is a single proprietor with stated address at 69 Siquijor Street, Ayala Alabang Village, Alabang, Muntinlupa City, and may be served with summons and other legal processes through its counsel R.A. Martinez Law Office with address at Suites 201 and 202, 2nd Floor Caraos Bldg., Quezon Ave. cor. Daleon St., Lucena City.

SUMMARY OF PROCEEDINGS

On 09 November 2007, Petitioners filed with this Bureau a Verified Petition for Cancellation against the subject trademark registration in the name of the Respondent-Registrant Maria Teresa S. Gaudinez. On 06 December 2007, this Bureau caused to be served upon Respondent's counsel R.A. Martinez Law Office a copy of the Petition for Cancellation and the Notice to Answer. On her part, Respondent-Registrant filed her Verified Answer on 05 March 2008 praying, among other things, that the instant petition be dismissed for lack of merit.

CLAIMS AND EVIDENCE PRESENTED

Petitioners filed the instant Petition for Cancellation based on the following facts and grounds:

"1. That the petitioner is a corporation duly existing under Philippine Laws and with address at 740-752 Florentino Torres, Sta. Cruz, Manila and as represented by BENJAMIN R. LEUNG, of legal age, and with the same address as that of the corporation petitioner, copy of the Secretary's Certificate is hereto attached as Annex "A";

"2. That last June 29, 2007, petitioner received a copy of Ma. Theresa Gaudinez-Martinez' complaint filed with the Securities and Exchange Commission and which was treated as a Petition for Change of Corporate Name. That part of the documents that she attached thereto was a Notice of Issuance of Certificate of Registration and a Certificate of Registration for the name AMBOS

MUNDOS RESTAURANT, copies of the said documents are hereto attached for the immediate guidance of the Honorable Office as Annexes "B" and "C" respectively:

"3. That the corresponding ANSWER was filed by the petitioner with the Securities and Exchange Commission, copy of which is hereto attached and made part hereto as Annex "D";

"4. That this petition is being filed with the Honorable Office for petitioner respectfully moves for the cancellation of the said Certificate of registration issued in the name of Ma. Theresa Gaudinez-Martinez for Ambos Mundos Restaurant to the best of knowledge of petitioner, said Ma. Theresa Gaudinez-Martinez is not now engaged in any restaurant business using the name AMBOS MUNDOS RESTAURANT, attached hereto as Annexes "E" and "F" are Certifications coming from the City of Muntinlupa and Office of the Barangay Chairman for Barangay Ayala, Alabang;

"5. That the records with the Department of Trade and Industry and with the Securities and Exchange Commission would reveal that the name AMBOS MUNDOS RESTAURANT INC. was validly and legally issued to the petitioner corporation, copies of the documents from the Securities and Exchange Commission and from the Department of Trade and Industry are hereto likewise attached and made part hereof as Annexes "G" and "H";

The Notice to Answer dated 06 December 2007 was sent to Respondent-Registrant, directing Respondent-Registrant to file her Verified Answer within thirty (30) days from receipt of the said notice. Respondent-Registrant filed by registered mail her Verified answer on 27 February 2008.

Respondent-Registrant in its Verified Answer interposed the following:

1. "Respondent is married, Filipino citizen and a resident of 120 Magnolia St., San Jose Village II, Biñan, Laguna, and may be served with notices, orders, and other processes of this Honorable Office through the undersigned counsel.
2. "Respondent vehemently and specifically denies all the allegations in the Petition/Complaint for the cancellation of herein Respondent's trademark, the truth being those hereinafter set forth. The instant petition is likewise tainted with ill-motives and bad faith, it is contrary to law and public policy, and should be summarily dismissed for lack of legal merit.
3. "It is undeniable that respondent is the registered owner of the trademark "AMBOS MUNDOS RESTAURANT" under Certificate of Registration No. 4-1997-121056, dated 6 July 2006, valid for twenty (20) years from 24 October 2005. A copy of said certification is hereto attached as Annex "A" and made an integral part of this document.
4. "Despite the issuance of said certificate of registration, respondent has been prevented from using said trademark under circumstances beyond her will and control.
5. "In its petition, petitioner purposely omitted the fact that a case was lodged against it or one of its incorporators, by the name of GREGORIO S. GAUDINEZ, before the Department of Trade and Industry (DTI) docketed as ADM. CASE NO. 97-81 for Violation of Business Name Act (Act 3883, as amended) for operating in the name and style "AMBOS MUNDOS RESTAURANT", without authority of law.

6. "On 28 February 2007 a decision was rendered by the DTI ruling that GREGORIO S. GAUDINEZ violated the Business Name Act. A copy of the said Decision is hereto attached as Annex "B" and made an integral part of this document.
7. "An appeal was instituted to the said Decision of DTI and is still pending for resolution with the Office of the President. Copies of the pleadings submitted to the Office of President with respect to said appeal are hereto attached as Annexes "C", "C-1", "C-2", "C-3" and "C-4" and made integral parts of this document.
8. "Pending the final determination of the abovementioned case, herein petitioner illegally and wantonly registered the name "AMBOS MUNDOS RESTAURANT, INC." with the Securities and Exchange Commission (SEC) despite the fact that said name has already been registered in favor of the respondent with this Honorable Office.
9. "A petition for the cancellation of the adopted corporate name of the petitioner has been lodged with the SEC, and is now pending for resolution. Copies of the pleadings submitted before the SEC are hereto attached as Annexes "D", "D-1" and "D-2" and made integral parts of this document.
10. "Respondent respectfully awaits the final determination of the abovementioned appeal with the Office of the President in order to clear uncertainties with respect to her trademark. In the meantime, respondent is being prevented from using her trademark and to engage in the restaurant business because of the unlawful and illegal acts of the petitioner in using the name "AMBOS MUNDOS RESTAURANT" in its transactions, which has caused confusion to the public.
11. "Under Rule 802, the non-use of a mark may be excused if such non-use is caused by circumstances arising independently of the will of the trademark owner (Rules & Regulations on Trademarks, Service Marks, Tradenames and Marked or Stamped Containers, as mended by Office Order No. 39 (2002), Order No. 40 (2002), Office Order No. 20 (2001), Office Order No. 08 (2000), Office Order No. 17 (1998).
12. "Had it not been for the illegal and unlawful use by the petitioner of the respondent's trademark and the baseless and dilatory appeal instituted with the Office of the President (which should have been appealed to the Secretary of the Trade and Industry), the respondent could have freely and rightfully used her trademark. Hence, based on the aforementioned facts and the pertinent legal precepts, it is respectfully submitted that the instant petition must be dismissed for lack of legal merit.
13. "Respondent's right to use her trademark is a proprietary right, a right in REM, which she may assert and protect against the world in the same manner that she may protect her tangible properties, real or personal, against trespass or conversion. A trade name is regarded as a property right and one which cannot be impaired or defeated by subsequent appropriation by another corporation of the same field (see *Western Equipment and Supply Co. vs. Reyes*, 51 PHIL 115, *Philips Export B.V. vs. Court of Appeals*, 206 SCRA 457).
14. "It should also be noted that petitioner is guilty of FORUM SHOPPING and has intentionally issued a false certification against forum shopping in its petition. Petition failed and purposely refused to state in its certification against forum shopping that an appeal was instituted with the Office of the President with

respect to the decision of the DTI, and that there is a pending petition for cancellation of its corporate name with the SEC.

15. "The instant petition is clearly dilatory and is merely instituted in order to increase petitioner's chances of a favorable decision against respondent. It should be noted that it was petitioner, or one of its incorporators, that instituted an appeal with the Office of the President and at the same time instituted the present petition. It should likewise be noted that the instant petition creates the possibility of conflicting decisions to be rendered by this Honorable Office and the SEC. Such tactics employed by the petitioner should not be countenanced for being contrary to law and public policy.
16. "Under present jurisprudence, the filing by a party of two apparently different actions, but with the same objective, constitutes FORUM SHOPPING (First Philippine International Bank vs. CA, 252 SCRA 259). This practice is abhorred as it would create the possibility of conflicting decisions being rendered by two different fora upon the same issue.
17. "In Gabionza vs. CA, 234 SCRA 192, the Supreme Court held that "(a) party-litigant shall not be allowed to pursue simultaneous remedies in two different forums, for such practice works havoc upon the orderly judicial procedure". The Supreme Court likewise explained in Silahis International Hotel, Inc. vs. CA 225 SCRA 94:

"We have consistently ruled that a party should not be allowed to pursue simultaneous remedies in two different forums, although most of the case we have ruled upon regarding forum shopping involved petitions in the courts and administrative agencies. The rule prohibiting it applies equally to multiple petitions in the same tribunal or agency.

By filing another petition involving the same essential facts and circumstances in the same agency, as in this case x x x x, respondents approached two different fora in order to increase their chances of obtaining a favorable decision or action. This practice cannot be tolerated and should be condemned."

18. "Being a clear case of forum shopping, the instant petition must be dismissed, and the petitioner and its counsel should be held in contempt in accordance with the Rules.
19. "By way of counterclaim, respondent prays for the amount of not less than One Hundred Thousand Pesos (100,000.00) representing moral and exemplary damages, considering that the instant petition was instituted with evident bad faith and malice, thus causing the respondent to suffer sleepless nights, serious anxiety and mental anguish, not to mention social humiliation and deprivation of her right to freely use her trademark. Also, as respondent was forced to join issues due to the institution of the instant petition, respondent prays for the amount of Fifty Thousand Pesos (P50,000.00) as and for attorney's fees, plus the amount of not less than Ten Thousand Pesos (P10,000.00) as and for litigation expense.

From receipt of the Answer, a preliminary conference of the instant suit was held on 24 September 2008. In view of the termination of the preliminary conference on said date and considering that the case was mandatorily covered by the Summary Rules under Office Order No. 79, the parties were directed to file their positions paper/s and thereafter this Bureau resolved to submit the case for decision.

In support of the foregoing claim, Petitioner submitted the following evidences: (i) Secretary's Certificate (*Annex "A"*); (ii) Copy of the Notice of Issuance of Certificate of Registration for the trademark AMBOS MUNDOS RESTAURANT (*Annex "B"*); (iii) Copy of the Certificate of Registration for the mark AMBOS MUNDOS RESTAURANT (*Annex "C"*); (iv) Copy of Petitioner's Answer in a case filed at the Securities and Exchange Commission as Sec Case No. 06 07-189 (*Annex "D"*); (v) Copy of the Certification issued by the City of Muntinlupa (*Annex "E"*); (vi) Copy of a Certification issued by the Barangay Ayala, Alabang (*Annex "F"*); (vii) Copy of Certificate of Incorporation issued by the Securities and Exchange Commission for AMBOS MUNDOS RESTAURANT, INC. (*Annex "G"*); (viii) Certificate of Business Name Registration for AMBOS MUNDOS RESTAURANT, INC. (*Annex "H"*).

Filed as documentary evidence, among others, for the Respondent-Registrant are 1) Copy of the Certificate of Registration No. 4-1997-121056 (*Annex "A"*); 2) Copy of a Decision rendered by DTI (*Annex "B"*); 3) Copies of the pleadings submitted to the Office of the President with respect to the appeal instituted to the aforementioned DTI Decision (*Annexes "C", "C-1" to "C-4"*); 4) Copies of the pleadings submitted before the SEC (*Annexes "D", "D-1" to "D-2"*).

ISSUES

The issues to be resolved in the instant case are:

(a) Whether or not Respondent-Registrant's Certificate of Registration No. 4-1997-121056 for the servicemarks "AMBOS MUNDOS RESTAURANT" covering restaurant service/s in Class 42 should be cancelled for being identical or confusingly similar with Petitioner's AMBOS MUNDOS RESTAURANT, INC. registered with the Securities and Exchange Commission; and

(b) Whether or not Petitioner will be damaged by the subsisting registration of the servicemark "AMBOS MUNDOS RESTAURANT" in the name of Respondent-Registrant.

DISCUSSION

Before us is a petition for cancellation maintained due to the adoption of an identical service mark AMBOS MUNDOS RESTAURANT in the corporate name of herein petitioner and service mark of Respondent-Registrant. The confusion stems or springs from Respondent-Registrant's appropriation of the name "AMBOS MUNDOS RESTAURANT", which is identical to Petitioner's SEC registered corporate name, AMBOS MUNDOS RESTAURANT, INC. At the core of the issues set forth in the case at bar is the adoption of the name AMBOS MUNDOS RESTAURANT in Respondent-Registrant's service mark. It is use and/or adoption of identical name AMBOS MUNDOS RESTAURANT that is being put to question for determination and for this Office to consider whether Petitioner has a priority right over this name AMBOS MUNDOS RESTAURANT.

In evaluating the facts of the record and weighing the evidence presented, this Bureau must first determine or make a finding on the similarity or dissimilarity of the two service marks or trade names. There is no issue that the trade names involved are identical, not with the style these service marks were printed or presented or with the device used thereon but the name AMBOS MUNDOS RESTAURANT appears both in the trade names or service marks of the contending parties. Below is a side-by-side comparison of the competing:



AMBOS MUNDOS RESTAURANT, INC.

Petitioner's
AMBOS MUNDOS RESTAURANT, INC.
SEC Registration No. CS200619803

Respondent-Registrant's
AMBOS MUNDOS RESTAURANT
trademark Registration No.
41997121056

Except that the subject of this instant suit is a service mark and Petitioner user AMBOS MUNDOS RESTAURANT as corporate name, the overall appearance of both trade names and service marks shows identicalness or perfect similarity. Both trade names bear the AMBOS MUNDOS RESTAURANT mark. Having shown and proven resemblance of the two service marks, we now delve on the matter of ownership and priority in application which certainly have decisive effects in the adjudication of this petition.

A cursory reading of paragraph (d) of R.A. 8293 with emphasis on prior registration and/or application of the same mark states that:

“Section 123. Registrability. – 123.1. A mark cannot be registered if it

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(d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of:

- (i) the same goods or services, or*
- (ii) Closely related goods or services, or*
- (iii) If it nearly resembles such a mark as to be likely to deceive or cause confusion;”*

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An examination of the documentary evidence confirms Respondent-Registrant's earlier application of the service mark AMBOS MUNDOS RESTAURANT with the then BPTTT on 29 May 1997. Between the two contending parties, service mark application of Respondent-Registrant came earlier vis-à-vis Petitioner's SEC issued registration in 2007 by more or less ten (10) years. Records will therefore show that there was prior adoption by Respondent-Registrant of the name AMBOS MUNDOS RESTAURANT. Petitioner's corporate or trade name is AMBOS MUNDOS RESTAURANT, INC. If anyone files a suit and can prove priority of adoption, he can assert his right to the exclusive use of a corporate name with freedom from infringement by similarity (Philips Export B.V. et al vs. CA, G.R. No. 96161). Petitioner was incorporated in 2007 by virtue of SEC registration No. CS200619803 and was registered in the same year as business name with the Department of Trade and Industry under Certificate No. 00060118. However, one essential factor that has led this Bureau to tilt the scales of justice in favor of Respondent-Registrant is the latter's establishment of prior adoption of the name AMBOS MUNDOS RESTAURANT as service mark when she filed her application for service mark registration in 1997 with the then BPTT now IPO, which service mark had matured into registration in 2005. Hence, inspite of Petitioner's SEC registration being shown and presented to this forum, Respondent-Registrant still emerged as the first or prior applicant under the "First-to-File" rule of R.A. 8293 or the Intellectual Property Code of the Philippines.

In the present cancellation proceeding, it is undeniable that the competing trade names of Petitioner and Respondent-Registrant are the same or is substantially similar considering that both parties bear the name AMBOS MUNDOS RESTAURANT. Although as established in several jurisprudence, that the mere adoption and use of one person of a service mark will not automatically prevent another from adopting and using the same service mark, a careful review and consideration of the facts and evidence presented should be taken in determining whether likelihood of confusion is likely to arise by the adoption of the same service mark.

Considering that the business of Petitioner vis-à-vis Registrant's service/s are the same, they are both engaged in the business of operating a restaurant carrying the trade name AMBOS MUNDOS RESTAURANT, therefore, with this scenario, their target markets and purchasers are the same will all probability that their services will be offered to the public and marketed similarly. Under these circumstances, their restaurant business covered by their application/registration and purposes of incorporation are not only related but are in fact the same.

The particular fact of earlier adoption by Respondent-Registrant of the name AMBOS MUNDOS RESTAURANT was disputed by Petitioner attaching as evidence two (2) certifications issued by the City of Muntinlupa and the Office of Barangay Ayala, Alabang to prove non-use by Respondent-Registrant of the service mark AMBOS MUNDOS RESTAURANT. The non-use nonetheless was satisfactorily explained by Respondent-Registrant; she was precluded to operate a restaurant using the trade name AMBOS MUNDOS RESTAURANT by a DTI case pending appeal and awaiting resolution from the Office of the President. On the other hand, Petitioner filed and was subsequently issued SEC registration for its corporate name AMBOS MUNDOS RESTAURANT, INC. under SEC Reg. No. CS200619803 in 2007 or more than ten (10) years later than Respondent-Registrant's service mark application with IPO. Between Petitioner and Respondent-Registrant, we may safely deduce that Petitioner is the later or subsequent user of the trade name AMBOS MUNDOS RESTAURANT. Therefore, a subsequent user is unjustified in appropriating prior user's trade or business name where the latter has painstakingly built a reputation and good name over the years only to be jeopardized by a later user by unfair methods of some sort. From the aforesaid evidence, Respondent-Registrant has sufficiently corroborated her claim that she filed and adopted the trade name AMBOS MUNDOS RESTAURANT since 1997 earlier than Petitioner's incorporation of its corporate name AMBOS MUNDOS RESTAURANT, INC. in 2007. As held in the case of *Unno Commercial Enterprises, Inc. vs. General Milling Corporation* "prior use by one will controvert a claim of legal appropriation by subsequent users". It may be concluded inevitably that Petitioner's use of the corporate name AMBOS MUNDOS RESTAURANT, INC. is an unlawful appropriation. The legal protection for corporate names has been strengthened by the IP Code. The pertinent provision of the Intellectual Property Code provides:

Section 165. Trade names or business names. – 165.1 A name or designation may not be used as a trade name if by its nature or the use to which such name or designation may be put, it is contrary to public order or morals and if, in particular, it is liable to deceive trade circles or the public as to the nature of the enterprise identified by that name.

165.2 (a) Notwithstanding any laws or regulations providing for any obligation to register trade names, such name shall be protected even prior to or without registration, against any unlawful act committed by third parties.

In particular, any subsequent use of the trade name by a third party, whether as a trade name or mark or collective mark, or any such use of a similar trade name or mark, likely to mislead the public, shall be deemed unlawful."

In *Philips Export B.V. vs. Court of Appeals*, the Supreme Court enunciated the right of a corporation to use its corporate and trade name. The Court held:

“As early as *Western Equipment and Supply Co. vs. Reyes*, 51 Phil 115 (1927), the Court declared that a corporation’s right to use its corporate name and trade name is a property right, a right *in rem*, which it may assert and protect against the world in the same manner as it may protect its tangible property, real or personal, against trespass or conversion. It is regarded, to a certain extent, as a property right and one which cannot be impaired or defeated by subsequent appropriation by another corporation in the same field. (*Red Line Transportation Co. vs. Rural Transit Co.*, September 6, 1934, 60 Phil. 549).”

A name is peculiarly important as necessary to the very existence of a corporation (*American Steel Foundries vs. Robertson*, 269 US 372, 70 L ed 317, 46 S Ct 160; *Lauman vs. Lebanon Valley R. Co.*, 30 Pa 42; *First National Bank vs. Huntington Distilling Co.* 40 W Va 530, 23 SE 792). Its name is one of its attributes, an element of its existence, and essential to its identity (6 Fletcher [Perm Ed], pp. 3-4). The general rule as to corporations is that each corporation must have a name by which it is sue and be sued and do all legal acts. The name of a corporation in this respect designates the corporation in the same manner as the name of an individual designates the person. (*Cincinnati Cooperage Co. vs. Bate*, 96 Ky 356, 26 SW 538; *Newport Mechanics Mfg. Co. vs. Starbird*, 10 NH 123); and the right to use its corporate name is as much a part of the corporate franchise as any other privilege granted. (*Federal Secur. Co. vs. Federal Secur Corp.*, 129 or 375, 276 P 1100, 66 ALR 934; *Paulino vs. Portuguese Beneficial Association*, 18 RI 165, 26 A 36).

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The right to the exclusive use of a corporate name with freedom from infringement by similarity is determined by priority of adoption.”

The right to register trademarks, trade names and service marks is based on ownership. Only the owner of the mark may apply for its registration. Being the prior adopter of the service mark “AMBOS MUNDOS RESTAURANT”, Respondent-Registrant is the actual owner thereof. Thus, Petitioner has no right to register with the SEC the subject service mark in its own name, to the detriment of Respondent-Registrant.

Having resolved the above issues in point, this Bureau deems it necessary to consider and further discuss the remaining issues raised by Respondent-Registrant. Registrant further argued for the following:

1. “It should be noted that petitioner is guilty of FORUM SHOPPING and has intentionally issued a false certification against forum shopping in its petition. Petitioner failed and purposely refused to state in its certification against forum shopping that an appeal was instituted with the Office of the President with respect to the decision of the DTI, and that there is a pending petition for the cancellation of its corporate name with the SEC” (par. 15, Respondent-Registrant’ Answer);
2. “Under present jurisprudence, the filing by a party of two apparently different actions, but the same objective, constitutes FORUM SHOPPING (*First Philippine International Bank vs. CA*, 252 SCRA 259). This practice is abhorred as it would create the possibility of conflicting decisions being rendered by two different for a upon the same issue” (par. 16, Respondent-Registrant’s Answer);

Even assuming that Cheng Yu Cheng did not assign his rights over the trademark “PD”, Chang Su Hwa, Cheng Su Yun, Cheng Yu Chuan, Cheng Su Yu, Cheng Yu Cheng’s heirs, after his death (Annex “F”, Petitioner), assigned the latter’s rights over the trademark “PD (Annex “H”, Petitioner) being Cheng Yu Cheng’s successors-in-interest and legal representatives have every right to assign the same.

3. *“By way of counterclaim, respondent prays for the amount of not less than One Hundred Thousand Pesos (P100, 00.00) representing moral and exemplary damages, considering that the instant petition was instituted with evidence bad faith and malice, thus causing the respondent to suffer sleepless nights, serious anxiety and mental anguish, not to mention social humiliation and deprivation of her right to freely use her trademark. Also, as respondent was forced to join issues due to the institution of the instant petition, respondent prays for the amount of Fifty Thousand Pesos (P50,000.00) as and for attorney’s fees, plus the amount not less than Ten Thousand Pesos (P10,000.00) as and for litigation purposes. (par. 19, Respondent-Registrant’s Answer);*

Even assuming that Cheng Yu Cheng did not assign his rights over the trademark “PD”, Chang Su Hwa, Cheng Su Yun, Cheng Yu Chuan, Cheng Su Yu, Cheng Yu Cheng’s heirs, after his death (Annex “F”, Petitioner), assigned the latter’s rights over the trademark “PD (Annex “H”, Petitioner) being Cheng Yu Cheng’s successors-in-interest and legal representatives have every right to assign the same.

all supporting papers and documents accompanying the Notice of Opposition should be either in duplicate originals or certified true copies as per requirement in Section 7.1 of Office Order No. 79, Series of 2005 (Amendments to the Regulations on Inter Partes Proceedings).

Based on the foregoing and considering that Respondent-Registrant is the prior adopter, user of the service mark “AMBOS MUNDOS RESTAURANT”, this Bureau resolves to deny this Petition to cancel Respondent-Registrant’s registration for the service mark AMBOS MUNDOS RESTAURANT.

WHEREFORE, premises considered, the Petition for Cancellation is, as it is hereby DENIED. Consequently, Servicemark Registration No. 4-1997-121056 issued on 24 October 2005 in favor of Maria Teresa S. Gaudinez for the servicemark “AMBOS MUNDOS RESTAURANT” for restaurant remains VALID and SUBSISTING unless sooner terminated as provided for by law.

Let the filewrapper of AMBOS MUNDOS RESTAURANT, subject matter of this case together with a copy of this Decision be forwarded to the Bureau of Trademarks (BOT) for appropriate action.

SO ORDERED.

Makati City, 11 December 2008.

ESTRELLITA BELTRAN-ABELARDO
Director, Bureau of Legal Affairs