

BRITTSPORT LIMITED,  
Opposer,

INTER PARTES CASE NO. 1876

Petition for Cancellation of:

Regn. No. : SR-2508  
Date Issued : 7-07-76  
Trademark : BRITTANIA  
Used on : wallet, underwear, etc.

INTER PARTES CASE NO. 1877

Petition for Cancellation of:

Regn No. : 28124  
Date Issued : 1-17-80  
Trademark : BRITTANIA  
Used on : shirts, jackets, & jeans

-versus-

INTER PARTES CASE NO. 1880

Petition for Cancellation of:

Regn No. : SR-3708  
Date Issued : 12-20-78  
Trademark : BRITTANIA &  
CRISSCROSS DESIGN  
Used on : belts, anklets, shoes  
bags, etc.

INTER PARTES CASE NO. 1881

Petition for Cancellation of:

Regn No. : 3276  
Date Issued : 10-20-83  
Trademark : BRITTANIA  
Used on : belts, hankies, neckties, etc.

INTER PARTES CASE NO. 1882 & 83

Petition for Cancellation of:

Regn No. : SR-4483 & 32718  
Date Issued : 1-24-80 & 10-14-83  
Trademark : BRITTANIA  
Used on : wallet, underwear, etc. Class 18

JOYMART CONSOLIDATED  
CORPORATION.  
Respondent-Registrant

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DECISION NO.: 2000-17

## DECISION

The above-captioned cases pertain to petitions for cancellation of the following trademark registrations:

Inter Partes Case No. 1876 is a petition for cancellation of Certificate of Registration No. SR-2508 of the trademark BRITTANIA issued by this Office on July 7, 1976 to Joymart Consolidated Corporation.

Inter Partes Case No. 1877 is a petition for cancellation of Certificate of Registration No. 28124 issued by this Office on January 17, 1980 to Joymart Consolidated Corporation.

Inter Partes Case No. 1880 is a petition for cancellation of Certificate of Registration No. SR-3708 issued by this Office on December 20, 1978 to Joymart Consolidated Corporation.

Inter Partes Case No. 1881 is a petition for cancellation of Certificate of Registration No. 32762 issued by this Office on October 20, 1983 to Joymart Consolidated Corporation.

Inter Partes Case No. 1882 is a petition for cancellation of Certificate of Registration No. SR- 4483 issued by this Office on January 24, 1980 to Joymart Consolidated Corporation.

Inter Partes Case No. 1883 is a petition for cancellation of Certificate of Registration No. 32718 issued by this Office on October 14, 1983.

This Bureau takes cognizance of the fact that the trademark registrations subject on Inter Partes Cases Nos. 1876, 1877, 1880, 1882 have already expired on July 7, 1996; January 17, 2000; December 20, 1998; and January 24, 2000, respectively, the twentieth anniversary of their trademark registrations and therefore, ceases to have force and effect on said dates.

Section 12, Republic Act No. 166, as amended, the law governing the preceding trademark registration, provided:

“Duration – Each certificate of registration shall remain in force for twenty years: Provided, that registration under the provisions of this Act shall be cancelled by the Director, unless within one year following the fifth, tenth and fifteen anniversaries of the date of issue of the certificate of registration, the registrant shall file an affidavit showing that the mark or trade name is still in use or showing that its non-use is due to special circumstances which excuse such non-use and is not due to any intention to abandon the same, and pay the required fees.”

In light of this, the Bureau will not be resolving the issues raised in Inter Partes Cases Nos. 1876, 1877, 1880 and 1882 because their registrations have already expired having been in existence for twenty (20) years which is the duration of trademark registration hence, the aforesaid petitions for cancellation have become moot and academic and therefore, should be, as they are hereby, DISMISSED. Legally, speaking, there is nothing more to cancel because the law itself had extinguished their existence. Consequently, this Office will only have to resolve the two remaining cases namely, Inter Partes Case No. 1881, which is a petition for cancellation of Certificate of Registration No. 32762 issued by this Office on October 20, 1983, and Inter Partes Case No. 1883 which is a petition for cancellation of Certificate of Registration No. 32718 issued on October 14, 1983, both for the trademark BRITTANIA.

In these cases, the following facts were established:

Petitioner Brittsport Ltd., is a foreign corporation, organized and existing under the laws of Hongkong with principal office at 10<sup>th</sup> Floor, Wyler Centre, 210 Tai Lin Pai Road, Kwai Chung, Hong Kong, whereas Respondent-Registrant Joymart Consolidated Corporation is a domestic corporation organized and existing under Philippine laws, with principal office and place of business at 430 Rizal Avenue, Sta. Cruz, Manila.

The herein Petitioner seeks to cancel Certificate of Registration No. 32762 dated October 20, 1983 for trademark “BRITTANIA & Criss-cross Design” used on belts, hankies, neckties, scarfs, ankles, bags, shoes, dresses etc. (Classes 18, 25 and 26) subject matter of Inter Partes Case No. 1881, and Certificate of Registration No. 32718 dated October 14, 1983 for the same mark used on wallet, underwear, etc. (Class 18) subject matter of Inter Partes Case No. 1883.

The grounds relied upon by Petitioner for the cancellations of trademark registrations subject matter of the two cases were identical and they are as follows:

"1. Respondent was not entitled to register the said trademark at the time of its application for registration thereof or at any time thereafter;

"2. The registration was obtained fraudulently of contrary to the provisions of Section 4, Chapter II of R.A. 166, as amended, particularly subsection (d) thereof; xxx

"3 The registration of the trademark BRITTANIA & CRISS-CROSS DESIGN was likewise obtained on breach of the Paris Convention for the Protection of Industrial Property to which the Philippines is a signatory, hence, bound to observe the same; it violates Executive Order No. 913 and is contrary to the Memorandum of the Minister of Trade issued on October 20, 1983;

Except for the dated of first use in the Philippines by Respondent-Registrant of the mark BRITTANIA and BRITTANIA AND CRISS-CROSS DESIGN on the respective goods under the subject trademark registrations which is July 07, 1976 for IPC NO. 1883 and December 20, 1978 for IPC NO. 1881, and the names of the goods carrying the registered marks, Petitioner alleged the following facts to support its petition for cancellations:

"a. That Petitioner is the owner of BRITTANIA & CRISS-CROSS DESIGN which is the primary feature of its trademark in respect to (names of goods carrying the registered mark);

"b. Long before (date of first use by Respondent-Registrant for the respective goods under the trademark registrations), the trademark under consideration was well known in the Philippines as a mark already belonging to the Petitioner, a matter which was also known to the Respondent-Registrant, being the trademark used on shirts, jackets, clothing, dresses, wearing apparel, underwear and accessories sold by the petitioner in many parts of the world, some of which have been made/manufactured in the Philippines, such that permission for its use by the Respondent constitutes a reproduction, imitation, translation of other infringement; that in fact the trademark BRITTANIA & CRISS-CROSS DESIGN under consideration is exactly the same and/or colorable imitation or similar and identical to the aforementioned mark owned by herein petitioner;

"c. The trademark BRITTANIA & CRISS-CROSS DESIGN is duly registered as early as 1974 and even long prior thereto, in the Industrial Property Office of other countries such as the United States, United Kingdom, Romania, Hungary, Australia, Canada, Germany, Portugal, Spain, Japan, Singapore, Israel, Lebanon and a host of other countries, either in its name or in the name of its former predecessors and assignors; xxx

"d. Petitioner's products bearing the trademark BRITTANIA & CRISS-CROSS DESIGN have been advertised on radio and television, magazines and newspapers, billboards, posters, shopping bags. The

expenditures for advertising and promoting petitioner's products amounted to millions of dollars;

"e. On 27 September 1965, the Philippines became a party to the Convention of Paris of 13 March 1883 for the protection of industrial property, as revised and by Presidential Proclamation No. 3 dated 17 January 1966, the President of the Philippines made public the said Convention of Paris to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the Republic of the Philippines and citizens thereof; The Philippines adherence to the Paris Convention committed the government to the protection of trademark belonging not only to Filipino citizens but also to those belonging to nationals of other member countries like Hong Kong, as a colony of the United Kingdom who may seek protection in the Philippines;

"f. The provisions of the Paris Convention in which Hong Kong as a colony of the United Kingdom and the Philippines are members, specifically provides that countries of the Union shall refuse or cancel the registration of a trademark which constitutes a reproduction of the mark of a person entitled to the benefits of the Convention as used for industrial goods;

"g. In enforcing the mandate of said Convention and pursuant to the authority vested in him by Executive Order No. 913 the Minister of Trade and Industry issued on October 20, 1983 a Memorandum directing the Director of Patents as follows:

"1. Refuse all applications for, or cancel, the registration of trademark, logo or device which is a reproduction, translation or whose substantive portion is an imitation of a trademark, device or representative considered to be well known trademark or device owned by another person or entity who is a citizen of a country, signatory to the Paris Convention:

xxx

"2. Consistent with the obligation of the Philippines under said Conventions, the Philippine Patent Office is likewise hereby directed to afford full protection provided by law to all other internationally-well known tradenames, service marks, logos and devices covered by the provisions of the Paris Conventions for the protection of Industrial Property and other pertinent Philippine law. As to those marks the directives enumerated in the

preceding numbers are likewise applicable.”

“h. Said Convention is an international treaty forming part of Philippine municipal laws;

“i. Executive Order 913 itself, which has the force and effect of law, mandates the protection of internationally-well known tradenames and trademarks;

“j. The trademark BRITTANIA & CRISS-CROSS DESIGN is used by Petitioner in commerce internationally, supported by proof that the goods it deals in bearing the trademark in question are sold on an international scale, with massive advertisements, establishment of factories, sales offices, distributorships, and the like, in different countries, including volume or other measure of international trade and commerce;

“k. Said mark has long been established and obtained goodwill and general international consumer recognition, particularly in the Philippines and neighboring countries as belonging to the petitioners;

“l. The use of the trademark by respondent on the goods above-specified will likely confuse, mislead or deceive purchasers as to the source of origin of said goods, to such an extent that they may be mistaken by the unwary public as the products of the petitioner, and the use and adoption by respondent of the said trademark would tend to falsely suggest a connection with the business of the petitioner, and therefore constitute an intent to defraud petitioner and the public, to the damage and prejudice of herein petitioner;

“m. It appears also the respondent’s use of trademark is with intent to ride on the popularity and goodwill created or established by the petitioner’s trademark considering that the field from which a person may choose his trademark is practically unlimited, hence, this practice shall not be allowed to subvert the purpose or purposes for which the trademark law was enacted;”

xxx”

In both cases, Respondent-Registrant filed on December 20, 1984, respectively, its Answer denying all the material allegations in Petitioner’s grounds for cancellation and averring therein by way of affirmative and/or special defenses, the following:

“4.2. Petitioner does not have the necessary legal capacity nor personality to institute, much less prosecute the above petition for cancellation;

“4.3. Petitioner has no valid legal cause of action or if it does, the same has already prescribed;

“4.4. Petitioner did not file any opposition to respondent’s application notwithstanding its publication in the Official Gazette; hence, the issuance of

Registration Certificate Nos. 32762 on October 20, 1983 and 32718 on October 14, 1983;

“4.5. Finally, under the equitable principles of laches, estoppel and acquiescence, petitioner can no longer question respondent’s right to the exclusive use of the trademark BRITTANIA & CRISS-CROSS DESIGN nor the validity of Registration Certificate Nos. 32762 and 32718.”

Subsequently, the parties held a pre-trial conference on February 15, 1985 with their respective counsels armed with special power of attorney authorizing them to represent their clients in these cases including the possibility of entering into a compromise agreement to settle the cases amicably. However, both parties decided to pursue the cases but have stipulated on the following facts:

“1. That Petitioner is foreign corporation;

“2. That Petitioner has no pending application to register any of the trademarks in question in the Philippines; and

“3. That Respondent is presently using the trademark in question in the Philippines.”

Likewise, it was stipulated by both parties in said pre-trial conference that all cases namely: IPC Nos. 1876, 1877, 1882 and 1883 be consolidated and conducted in one joint hearing inasmuch as all of these are presided over by the same hearing officer.

Consequently, trial on the merits ensued with both parties submitting their respective evidences. However, as stated hereinabove, the four (4) cases have already become moot and academic by reason of the expiration of the trademark registrations, subject matter of the petitions for cancellation hence, this Office shall dwell only with Inter Partes Cases Nos. 1881 and 1883, respectively.

The focal issue to be resolved in these two cases is, which of the contending parties is entitled to own, adopt, and use the trademark BRITTANIA AND CRISSCROSS DESIGN as used on belts, hankies, necktie, anklets, bags, etc., and wallet and underwear to the exclusion of the other, pursuant to Republic Act No. 166, as amended.

Upon examination of the records and the evidence presented in the instant cases, this Office finds that both Petitioner’s and Respondent’s BRITTANIA marks were confusingly similar if not identical to each other, so much so that purchasers would be left guessing as to which of them comes from the other, or to be more precise, there is likelihood that consumers would be deceived or confused as to its source of origin.

This is violative of Section 4 (d) of Republic Act No. 166, as amended which provided to wit;

“Sec. 4. Registration of trade-marks, trade-names and service-marks on the principal register. – There is hereby established a register of trade-marks, trade-names and service-marks which shall be known as the principal register. The owner of a trade-mark, trade-name or service-mark used to distinguish his goods, business or services from the goods, business or services of others shall have the right to register the same on the principal register, unless it:

(d) Consists of or comprises a mark or trade-name which so resembles a mark or trade-name registered in the Philippines by another and not abandoned, as to be likely, when applied to or used in connection with the goods, business or services of the applicant, to cause confusion or mistake or to deceive purchasers; or

Respondent-Registrant argued the Petitioner has no legal capacity to sue primarily because it is a foreign corporation not doing business in the Philippines. This is erroneous. The Supreme Court, as early as 1972 was of the considered view that foreign corporation not doing business in the Philippines needs no license to sue before Philippine courts for infringement of trademark and unfair competitions. Thus, in *Western Equipment and Supply Co. v. Reyes* (51 Phil 115), the Court held that a foreign corporation which has never done any business in the Philippines and which is unlicensed and unregistered to do business in the Philippines through the use of its products bearing its corporate name and trade name, has a legal right to maintain in action in the Philippines to restrain the residents and inhabitants thereof from organizing a corporation bearing the same as the foreign corporation, when it appears that they have personal knowledge of such corporation and it is apparent that the purpose of the proposed domestic corporation is to deal and trade in the same goods as those of the foreign corporation.

There could not have been more eloquent demonstration of this principle than the American jurisprudence of *Hanover Star Mining Co. v. Allen and Wheeler Co.* (208 Fed., 513) in which the syllabus says: "Since it is the trade and not the mark that it is to be protected, a trademark acknowledges no territorial boundaries of municipalities or states or nations, but extends to every market where the trader's goods have become known and identified by the use of the mark.

Going into the substance of the cases, Petitioner asseverated that its entitlement to the ownership, adoption and use of the trademark BRITTANIA AND CRISS CROSS DESIGN is grounded on its being an internationally well known mark (Exhs. "A", "B", "D", "F", "G", "H", "J", "K", "L", "M", "N", "O", "P", "Q", "R", "S", "T") and its being protected by the Paris Convention and the Memorandum of Minister Roberto V. Ongpin dated October 13, 1983.

On the other hand, Respondent-Registrant stressed that all of the cases pertaining to the registration of the mark BRITTANIA AND CRISSCROSS DESIGN are barred by res judicata by virtue of an earlier decision of the then Director of Patents (Decision No. 141, dated December 04, 1979) relating to the same parties, subject matter, and cause of action.

Perusing on the argument of Respondent-Registrant, thee is nothing to indicate that these cases were barred by res adjudicata. To recapitulate Decision No. 141 dated December 04, 1979 pertain to Inter Partes Case No. 1051 which was an opposition to the trademark application no. 30030, for the registration of the trademark Brittania and Inter Partes Case No. 1065 which was a cancellation of supplemental trademark registration no. SR-2508 for the trademark Brittania. To qualify within the doctrine of res adjudicata the following must concur:

1. there must be identify of parties, subject matter, and cause of action;
2. the judgment must be issued by the court of competent jurisdiction; and
3. the judgment must be final and executory.

While it may appear that the judgment in Decision No. 141, which involved the same parties as in the instant cases, was final and issued by a tribunal of competent jurisdiction, nonetheless the subject matters and causes of action in the same vis-à-vis the instant cases are different. Decision no. 141 dealt with an opposition proceeding of published application in the

principal register and cancellation of trademark registration in the supplemental register, whereas the present cases are only concerned with cancellation of trademark registration in the principal register. Undoubtedly, there is no question with regard to the difference between an opposition proceeding and a cancellation proceeding. But with respect to variance between a cancellation in the principal register and supplemental register, jurisprudence had squarely settled the matter.

Thus, in *Lorenzana v. Macagba*, 154 SCRA 723-730 (1987) the Supreme Court had ruled that cancellation of trademark registration in the principal and supplemental registers involved different subject matters and thus institution of an action for the former, i.e. by way of an opposition proceeding, is not barred by an adjudication on the merit for the latter.

Said the Supreme Court:

“xxx Substantial distinction exists between registration in the Principal Register and registration in the Supplemental Register. The different effects of the two (2) types of registration of trademarks may be enumerated as follow:

“(1) Registration in the Principal Register gives rise to a presumption of the validity of the registration, the registrant’s ownership of the mark, and his right to the exclusive use thereof. There is no such presumption in registrations in the Supplemental Register.

“(2) Registration in the Principal Register is limited to the actual owner of the trademark and proceedings therein pass on the issue of ownership, which may be contested through opposition or interference proceedings, or, after registration, in a petition for cancellation.

“Registration in the Principal Register is constructive notice of the registrant’s ownership, while registration in the Supplemental register is merely proof of actual use of the trademark and notice that the registrant has used or appropriated it. It is not subject to opposition although it may be cancelled after its issuance. Corollarily, registration in the Principal Register is a basis for an action for infringement, while registration in the Supplemental Register is not.

“(3) In applications for registration in the Principal Register, publication of the application is necessary. This is not so in applications for registration in the Supplemental Register. Certificates of registration under both Registers are also different from each other.

“(4) Proof of registration in the Principal Register may be filed with the Bureau of Customs to exclude foreign goods bearing infringing marks while this does not hold true for registrations in the Supplemental Register.”

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This in effect had rendered Respondent-Registrant’s invocation of the case of *Wolverine Worldwide, Inc. v. Court of Appeals*, 169 SCRA 627, where the High Court upheld the decisions of the Director of Patents to be enjoying the benefit of *res judicata*, as inapplicable to the cases at bench. It is to be noted that the cases involved therein were cancellations in the Principal Register which are very different to the instant cases where both cancellations in either or both the supplemental and principal registers are sought.

Having shunned the incidental issue of *res judicata*, we shall now be delving on the merits of the instant cases.

In its effort to tilt the equilibrium in its favor, Petitioner cited the ruling of the Supreme Court in *La Chemise Lacoste, S.A. v. Fernandez*, 129 SCRA 373-404, where the High Court



stated thus: "It is among this Court's concerns that the Philippines should not acquire an unbecoming reputation among the manufacturing and trading centers of the world as haven for intellectual pirates form trademark which have established themselves in international or foreign trade."

It reasoned out that it was in reliance to the said policy statement that it filed the instant cases for the cancellation of the mark BRITTNANIA. It alleged that its mark BRITTANIA AND CRISS CROSS DESIGN is an internationally well-known mark thus, it need not show proofs of actual use, adoption or registration as impliedly pronounced in La Chemise Lacoste, S.A. v. Fernandez supra. It further averred that its mark is protected b the Paris Convention which states thus:

Article 6 Bis of the Paris Convention states:

"(1) The countries of the Union undertake, either administratively if their legislations so permits, or at the request of an interested party, to refuse or to cancel the registration and to prohibit the use of a trademark which constitutes a reproduction, imitation or translation, liable to create confusion of a mark considered by the competent authority of the country of registration or used to be well-known in that country as being already the mark of a person entitled to the benefits of the present Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well-known mark or an imitation liable to create confusion therewith."

x x x

Petitioner likewise implored the Memorandum of then Minister Roberto V. Ongpin, which reinforced the Paris Convention by laying down the criteria for a mark to be classified as internationally known, to wit:

x x x

"1. Whether the trademark under consideration is well-known in the Philippines or a mark already belonging to a person entitled to the benefits of the CONVENTION, this should be established pursuant to Philippine Patent Office procedures in inter partes and ex-parte cases, according to any of the following criteria or any combination thereof:

"(a) a declaration by the Minister of Trade and Industry that the trademark being considered is already well-known in the Philippines such that permission for its use by its original owner will constitutes a reproduction, imitation, translation or other infringement;

"(b) that the trademarks is used in commerce internationally, supported by proof that goods bearing the trademark are sold on an international scale, advertisements, the establishment of factories, sales office, distributorships, and the like, in different countries, including volume or other measure of international trade and commerce;

"(c) that the trademark is duly registered in the industrial property office(s) of another country or countries, taking into consideration the dates of such registration;

"(d) that the trademark has been long established and obtained goodwill and general international consumer recognition as belonging to one owner or source;

“(e) that the trademark actually belongs to a party claiming ownership and has the right to registration under the provisions of the aforestated PARIS CONVENTION.

xxx

“3. The Philippine Patent Office shall refuse all applications for, or cancel the registration of trademarks which constitutes a reproduction, translation or imitation of a trademark owned by a person, natural or corporate, who is a citizen of a country signatory to the Paris Convention of Industrial Property.”

(Underscoring provided)

Conformably with this, Petitioner submitted various evidences ranging from the testimonies of Messrs. Daniel Mettee (Exh. “A”, “L”, “M”, “T-2”); Christopher M. Regalla (Exh. “I”); Galiano Mondin (Exh “K”) all attesting to the fact of the renown mark “BRITTANIA AND CRISS CROSS DESIGN” through the production of various documents consisting of trademark registrations in various countries of the world such as: Australia, Bahamas, Bahrain, Benelux, People’s Republic of China, Denmark, Ecuador, Finland, France, Germany, Hungary, Japan, Lebanon, Monaco, Morocco, Peru, Ras al Khaimah, Romania, Sarawak, Spain, Sweden, Taiwan, and Thailand, object evidences such as hang tags (Exh “D”, “D-1 to D-3”), labels (Exhs. “D-4”, “D-5”, “D-5-A” to “D-5-E”, “D-6-A to D-6-D”, :D-7”, “D-7-A” to “-7-E”, “D-8” and “D-8-A”), advertisements such as posters (Exh. “E”, “E-1” to “E-2), pictures (Exhs. “F-1” to “F-11”, “H”, “H-1” to “H-20”), and newspaper publications (Exhs. “G” and “G-1”). Likewise, Petitioner also produced in evidence a pair of jeans bearing the mark “BRITTANIA”, and sales invoice from Isetann Department Store (Exhs. “U” including sub-markings) which proved that Respondent-Registrant was selling jean on which are affixed the Brittaniam trademark with additional word Brittsport through the Isetann Department Store.

Instead of impugning the veracity of these evidences, Respondent-Registrant relied heavily on Decision No. 141 dated December 4, 1979 (Exh. (1-r”), and its trademark registration No. 32718 issued on October 14, 1983 (Exh. “&”), as well as registration No. 32762 issued on October 20, 1983 (Exh. “8”) in maintaining the efficacy and validity of its trademark registrations.

However, as discussed hereinabove Decision No. 141 does not have any bearing in these cases because it is not barred by res judicata. With respect to the trademark registrations of the subject mark, we firmly believe that these have been revoked by the evidence adduced by Petitioner proving that the mark was in use prior to the first claim of use by Respondent-Registrant in the Philippines, it appearing that registration in the supplemental register No. SR-2508 bearing the same mark in favor of Petitioner was issued way back an internationally known mark, and of the fact that the goods for which the trademark registrations were used or are being used were or are already covered by the trademark registrations in the countries mentioned in the corroborative testimonies as well as certified documents presented by Petitioner’s witnesses (Exhs. “A”, “L”, “M”, “T-2”, “I”, “K”) aside from the fact that Registration SR-2508 has already expired since July 8, 1996.

Moreover, the criteria laid down by the Ongpin Memorandum had made it much more difficult for Respondent-Registrant to contradict the resounding and convincing evidences of Petitioner which are indubitably in conformity with some of these criteria. This is also in adherence to our international commitment under the Paris Convention of which the Philippines, United States and Hong Kong, (then territory of the United Kingdom) are all members.

With these factors before us, it became more evident that the instant petitions for cancellation filed under Sec. 17 of R.A. 166 are tenable and imminent.

Section 17, Republic Act No. 166, as amended, provides:

“Sec. 17. Grounds for Cancellation. – Any person, who believes that he is or will be damaged by the registration of a mark or trade name, may, upon payment of the prescribed fee, apply to cancel said registration upon any of the following grounds:

x        x        x

(c) That the registration was obtained fraudulently or contrary to the provisions of section four, Chapter II hereof;”

WHEREFORE, premises considered, the petition for cancellation filed in Inter Partes cases 1881 and 1883 are, as they are hereby GRANTED. Accordingly, Certificate of Registration Nos. 32762 and 32718 issued on October 20 and 14, 1983, respectively, are hereby ordered CANCELLED for having been obtained in violation of the Trademark Law.

Let the six (6) filewrappers all consisting of registrations of BRITANIA & CRISS-CROSS Device subject matter of these cases be forwarded to the Administrative, Financial and Human Resource Development Services Bureau for appropriate action in accordance with this Decision, with a copy to be furnished the Bureau of Trademarks for information and to update its records.

SO ORDERED.

Makati City, December 28, 2000.

ESTRELLITA BELTRAN-ABELARDO  
Director