

COLE-HAAN,  
Opposer

INTER PARTES CASE NO. 4012  
Opposition to:

- versus -

NANCY CHAN,  
Respondent-Applicant.

Serial No.: 84334  
Date Filed: 17 April 1986  
Trademark: "COLE HAAN"

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## ORDER

On 30 June 2003, Opposer filed an APPEAL MEMORANDUM seeking a reversal of Resolution No. 2003-08 dated 05 May 2003 rendered by the Director of the Bureau of Legal Affairs, the dispositive portion of which reads as follows:

"IN VIEW OF THE FOREGOING AND THE ABOVE QUOTED PROVISION OF LAW, the Amended Manifestation and Motion to Refuse Registration filed by Opposer is hereby DENIED FOR LACK OF MERIT.

WHEREFORE, Opposer is hereby required to file its Formal Offer of Evidence within fifteen (15) days from receipt of this resolution if necessary on its part otherwise, the same may be deemed waived."

Under Section 2 of the IPO Uniform Rules on Appeal, the decisions or final orders of the Bureau Director shall become final and executory thirty (30) days after receipt of a copy thereof by the appellant or appellants unless, within the same period, a motion for reconsideration is filed with the Bureau Director or an appeal to the Director General has been perfected.

Accordingly, Resolution No. 2003-08 appealed by the Opposer is not the decision or final order contemplated by the above-cited rule. Final orders are those that decide finally the rights of the parties upon the issue submitted specifically denying or granting the remedy sought in action. (See *Miranda v. Court of Appeals*, 71 SCRA 295) The assailable resolution, in this instance, is merely an interlocutory order because it does not terminate nor finally dispose of the case, but leaves something to be done by the court (in this case the Bureau of Legal Affairs) before the case is finally decided on the merits. (See *Philgreen Trading Construction Corp. v. Court of Appeals*, 271 SCRA 719, 18 April 1997)

Incidentally, this Office has noted that in the dispositive portion of the assailed resolution the Director required the Opposer to file its Formal Offer of Evidence within fifteen (15) days from receipt thereof. Although we cannot rule or pass upon the issue in view of the aforementioned reason and discussions, we noted that the Opposer claims that it has yet to conclude its presentation of its evidence. Opposer alleged that it has two (2) more witnesses and several documentary evidence to present. Rule 132, Section 35 of the Rules of Court expressly provides that as regards the testimony of a witness, the offer must be made at the time the witness is called to testify. Documentary and object evidence shall be offered after the presentation of a party's testimonial evidence. As the rules of Court are suppletory to the rules governing this case, the same should be observed.

WHEREFORE, premises considered, the instant appeal is hereby denied without prejudice to the continuance of the presentation of the witnesses and other documentary evidence of the parties to support their cases and to file their Formal Offer of Evidence.

SO ORDERED.

July 04, 2003. Makati City, Philippines

EMMA C. FRANCISCO  
Director General