

COMMONWEALTH KNITTING
MILLS, INC.,
Junior Party-Applicant,

INTER PARTES CASE NO. 2084

INTERFERENCE BETWEEN:

Application Serial No. 51007
Filed : May 1, 1983
Applicant : Commonwealth Knitting
Mills, Inc.
Trademark : RADICI & LOGO
For : T-shirts, polos, shorts,
sweatshirts, etc.

-versus-

-and-

Application Serial No. 50055
Filed : January 11, 1987
Applicant : Betty Soliven
Trademark : RADICI & LOGO
For : T-shirts, polos, shorts,
sweatshirts, etc.

BETTY SOLIVEN,
Senior Party-Applicant.

x-----x

DECISION NO. 88-85(TM)
August 18, 1988

DECISION

This is an interference case declared by this Bureau relative to Application Serial No. 51007 filed on May 4, 1983 by Commonwealth Knitting Mills, Inc., the herein Junior Party-Applicant, for the trademark "RADICI & LOGO" used on T-shirts, polos, shorts, sweatshirts, pants; and Application Serial No. 50055 filed on January 11, 1983 by Betty Soliven, the herein Senior Party-Applicant, likewise for the trademark "RADICI & LOGO" used on similar goods - T-shirts, shorts, socks, pants, briefs, baby dresses and sweaters.

The Junior Party-Applicant is a corporation organized and existing under the laws of the Philippines located at 1129 President Quirino Avenue, Paco, Manila, while the Senior Party-Applicant is a Filipino Citizen doing business under the name and style "Richton Garment" located at 98 J. Teodoro Street, Grace Park, Caloocan City.

This Bureau declared an interference between the contending Applicants pursuant to Rule 182 of the Revised Rules of Practice in Trademark Cases to determine who has priority of use and adoption of the contested mark in the market. The parties were directed on January 4, 1988 to file within forty (40) days from receipt of the Notice a motion to dissolve interference and other actions of similar character. None of the parties did so.

This bureau set the pre-trial conference to March 10, 1988. Only counsel for the Junior Party-Applicant appeared and he moved in open court that Senior Party-Applicant be declared in default and that he be authorized to present his evidence ex parte. This was granted and he did present the following exhibits.

Exhibits	Description
"A"	- Official Receipt No. 7346598-D issued by the Patent Office on June 26, 1985 in the amount of 202.00 pesos for publication fee.
"B"	- Trademark application for the mark "RADICI" filed on May 4, 1983 by Commonwealth Knitting Mills, Inc. through its President and General Manager, Paulino Yap, to be used on T-shirts, polos, shorts, sweatshirts, and pants in the Principal Register.
"C"	- Trademark application for the same mark "RADICI" filed on the same date, May 4, 1983, by the same applicant for use on the same goods as Exhibit "B" in the Supplemental Register.
"D"	- Certificate of Copyright Registration of the mark "RADICI" issued on April 27, 1983 in the name of Commonwealth Knitting Mills, Inc.

The purpose of these exhibits is to show that the herein Junior Party-Applicant is the owner of the mark "RADICI". These were all admitted for whatever they are worth in aid of the adjudication of the case.

The Senior Party-Applicant did not file any kind of pleading, nor appear in the scheduled hearing, neither did she inquire about her application since the declaration of this interference proceedings. With these circumstances obtaining, the Senior Party-Applicant is deemed to have abandoned her application.

WHEREFORE, the Junior Party-Applicant's Application Serial No. 51007 for the mark "RADICI & LOGO" should be given due course. Accordingly, Application Serial No. 50055 filed by the Senior Party-Applicant is hereby REJECTED.

Let the records of this case be transmitted to the Trademark Examining Division for appropriate action in accordance with this Decision

SO ORDERED.

IGNACIO S. SAPALO
Director