RE: APPEAL TO THE DIRECTOR
FROM FINAL REJECTION OF
TRADEMARK APPLICATION

EX PARTE CASE NO. (UNNUMBERED)

Application Serial No. 60799
Filed: January 23, 1987
Applicant: Lilian Domanais
Trademark: SANYO
Used on: Soy Sauce

LILIAN DOMANAIS,
Applicant-Appellant.
x----------x

DECISION NO. 90-18 (TM)
March 29, 1990

DECISION

On January 23, 1987, Applicant-Appellant Lilian Domanais filed an application for the mark “SANYO”, which she uses for the product soy sauce. However, the said mark could not be granted because it is confusingly similar with “SANYO” registered trademark in the name of Sanyo Electric Co., Ltd. Therefore, the application was finally rejected because of the existence of the rival mark and that said rival mark is also used as a tradename of the registrant (Art. 8 of the Paris Convention).

Appellant claims that she will be using “SANYO” only on soy sauce, which is different from amplifier with record playing instruments, stereophonic record playing instruments, electric fans to be equipped in cars, tape decks, transceivers, public address system, automatic telephone, answering system, video tape, electrical refrigerators, electrical well pumps, electric fans, etc. for the mark “SANYO” registered in the name of Sanyo Electric Co., Ltd.

However, in the case of Ang vs. Teodoro, 74 Phil. 50, No. 48226, Dec. 14, 1942, the Court held:

a. The there can be no unfair competition or unfair trading even if the goods are non-competing, and that such unfair trading can cause injury or damage to the first user of the given trademark, first, by prevention of the natural expansion of its business and, second, by having his business reputation confused with and put at the mercy of the second user; and

b. That the owner of trademark or tradename has a property right in which he is entitled to protection since there is damage to him from confusion of reputation or goodwill in the mind of the public as well as from confusion of goods.

Also, in the case of Converse Rubber Corp. vs. Universal Rubber Product Inc., 147 SCRA 154, No. L-27906, Jan. 8, 1987, the court held that:

> “xxx assuming, arguendo, that the trademark sought to be registered by respondent is distinctively dissimilar from those of the petitioner, the likelihood of confusion would still subsist, not on the purchaser’s perception of the goods but on the origin thereof. “By appropriating the word ‘CONVERSE’, respondent’s products are likely to be mistaken as having been produced by the petitioner. xxx”

Citing Callman, Vol. 4, p. 2186, the court stated:

> "The risk of damage is not limited to a possible confusion of goods but also includes confusion of reputation if the public could reasonably assume that the goods of the parties originated from the same source."

WHEREFORE, the final rejection of this application is affirmed.

SO ORDERED.

IGNACIO S. SAPALO
Director