

STANDARD APPLIANCES CORPORATION,	}	Inter Partes Case No. 4207
<i>Opposer</i>	}	Opposition to:
	}	
-versus-	}	Appln. Serial No.: 83480
	}	Date Filed: 19 November 1992
	}	Trademark: "STANDARD"
	}	
JOHNNY KONWAT,	}	
<i>Respondent-Applicant.</i>	}	
x-----x	}	Decision No. 2006-17

### DECISION

This pertains to the Opposition to the registration of the trademark "STANDARD", Serial No. 83480 filed on November 19, 1992 for use on rice dispenser, which application was published for opposition on page 28 of Volume VIII, Issue No. 3 of the Bureau of Patents, Trademarks and Technology Transfer (BPTTT) Official Gazette officially released for circulation on August 22, 1995.

The Opposer in the instant opposition proceeding is Standard Appliances Corporation, a corporation duly organized and existing under the laws of the Philippines with principal address at 1787 Taft Avenue, Pasay City. On the other hand, the herein Respondent-Applicant is "Johnny Konwat", a Filipino citizen of Parañaque, Metro Manila.

The grounds of the opposition are as follows:

- "1. The approval of the application in question is contrary to Section 4(d) of Republic Act No. 166, as amended.
- "2. The approval of the application in question will unduly restrict the right of Opposer and its company from extending the use of their registered trademark STANDARD to other related and/or allied products such as rice dispenser.
- "3. STANDARD is the principal word in the corporate name of Opposer and its sister company, Standard Electric Manufacturing Corporation;
- "4. The approval of the application in question and the continued use by respondent of the trademark STANDARD will likely deceive the consuming public into believing that the goods of respondent come from and/or are authorized by Opposer and its sister company, thereby causing confusion and great irreparable damage and injury to herein Opposer and its sister company, Standard Electric Manufacturing Corporation."

Opposer relied on the following facts to support its opposition:

- "1. That as early as June 1, 1966, Opposer and its sister company, Standard Electric Manufacturing Corporation adopted and since then, have been lawfully using in commerce in the Philippines the trademark STANDARD for various products belonging to International Classes 9, 11 and 14 including electric fans, bread toasters, rice cookers, washing machines, flat irons, hair dryers, water heaters, TVs, radios, weighing scales, clocks, airpots, LPG rangers, gas stoves, electric airpots or thermo bottles with self-boiling means. Attached herewith as Annexes A, B, C, D and E are

certified copies of Registration Certificates Nos. 51078, 30379, 3766, 30425 and 3767 and made integral parts hereof;

- “2. That Opposer and its sister company Standard Electric Manufacturing Corporation have continued the use of the trademark STANDARD up to the present and have not abandoned said trademark STANDARD;
- “3. That through long continued use and the maintenance of the high quality of the goods upon which the trademark STANDARD is used, said mark has become popular and well-known in the Philippines and has become distinctive of Opposer’s goods, as well as the goods of its sister company, Standard Electric Manufacturing Corporation;
- “4. That the trademark sought to be registered by Respondent-Applicant under the application in question is identical or at the very least, confusingly similar to Opposer’s trademark STANDARD, as well as that of its sister company;
- “5. That the approval of Respondent-Applicant’s application in question is contrary to Section 4(d) of Republic Act No. 166, as amended;
- “6. That approval of the application in question will unduly restrict the right of Opposer and its sister company from extending the use of their registered trademark STANDARD to other related and/or allied products such as rice dispenser;
- “7. STANDARD is the principal word in the corporate name of Opposer and its sister company, Standard Electric Manufacturing Corporation;
- “8. That the approval of the application in question and the continued use by Respondent-Applicant of the trademark STANDARD will likely deceive the consuming public into believing that the goods of Respondent-Applicant come from and/or are authorized by Opposer and its sister company Standard Electric Manufacturing Corporation.”

On August 1, 2002, this Office issued an Alias Notice to Answer to the Respondent-Applicant, which notice was served upon the Respondent-Applicant on August 12, 2002 and despite having received the Alias Notice to Answer, he has not filed the required Answer and was thereafter, declared in DEFAULT, per Order No. 2002-147 dated 9 April 2003.

Pursuant to the Order of Default, Opposer submitted in evidence exhibits marked “A” to “J”.

The only issue to be resolved in the instant opposition is:

WHETHER OR NOT THE RESPONDENT-APPLICANT’S TRADEMARK  
“STANDARD” IS IDENTICAL OR CONFUSINGLY SIMILAR WITH THE  
OPPOSER’S MARK “STANDARD”.

To be noted is the fact that the trademark application subject of the instant opposition was filed on *November 19, 1992* where the law that governs intellectual property rights particularly trademark is Republic Act No. 166, as amended.

The applicable provision of the Trademark Law is Section 4 (d) of Republic act No. 166, as amended which provides:

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

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

A cursory review of the documentary exhibits indicates that both trademarks contain the same word “STANDARD”, the *spelling, meaning and pronunciation* of which is exactly the same.

There is no doubt that Opposer’s mark and that of Respondent-Applicant is *identical* in all aspect and is therefore confusingly similar.

One important point to be taken into consideration is the fact that Opposer’s mark has already been registered with this Office under Registration No. SR-3766 (Exhibit “D”) and Registration No. 30379 (Exhibit “F”).

When one applies for registration of a trademark or label which is almost the same or very closely resembles one already used and registered by another, the application should be rejected and dismissed outright, even without any opposition on the part of the owner and user of a previously registered label or trademark, this is not only to avoid confusion on the part of the public, but also to protect and already used and registered trademark and an established goodwill (Chuan Chow Soy & Canning Co., vs. Director of Patents and Villapanta, 108 Phil. 833, 836)

Moreover, Respondent-Applicant’s mark “STANDARD” is being used on “rice dispenser” under Class 21 of the International Classification of goods which are related to the goods covered by the Opposer’s mark “STANDARD” used on electric fan, bread toaster, *rice cooker*, washing machine, flat iron, hair dyer, water heater, television, radio, weighing scale, clocks, airpot, LPG range and gas stove. (Exhibits “D” and “F”). Clearly, Respondent-Applicant’s mark “STANDARD” is confusingly similar to Opposer trademark “STANDARD”.

It may also be stated that Respondent-Applicant exerted no effort to defend his rights in this case. In fact, he did not even file his Answer to this opposition, hence, he was as declared DEFAULT. Such act of Respondent-Applicant is indicative of his lack of interest in his application, thus he is deemed to have abandoned the same.

Furthermore, under Rule 602 of the Rules and Regulations on Trademarks, Service marks, Trade names and marked of stamped containers, the law imposes upon the Respondent-Applicant the duty to look after his own interest in the prosecution of his application. On the contrary the applicant in this case appears to have no interest in defending his application, which is the subject of this Notice of Opposition.

With all the foregoing, the Notice of Opposition is, as it is hereby, SUSTAINED. Consequently, trademark application bearing Serial No. 43480 for the mark “STANDARD” filed on November 19, 1992 by Johnny Konwat is hereby REJECTED.

Let the filewrapper of STANDARD subject matter of this case be forwarded to the Administrative, Financial and Human Resource Development Services Bureau (AFHRDSB) for

appropriate action in accordance with this DECISION with a copy furnished the Bureau of Trademarks for information and to update its record.

SO ORDERED.

Makati City, 27 March 2006.

ESTRELLITA BELTRAN-ABELARDO  
Director, Bureau of Legal Affairs  
Intellectual Property Office