

WRANGLER APPREL CORP.,  
Opposer,

Inter Partes Case No. 4152  
Opposition to:

-versus-

Serial No.: 87388  
Filed: 01 August 1993  
Trademark: "WRANCOJEANS"

VENANCIO SAMBAR,  
Respondent-Applicant,  
x-----x

DECISION No. 98-07

### DECISION

For consideration is the Motion of the Opposer Wrangler Apparel Corporation through Counsel, praying that a Summary Judgment be issued denying the registration of "WRANCOJEANS" in the name of herein Respondent-Applicant Venacio Sambar, as well as the Opposition (Re: Motion for Summary Judgment) filed by Respondent-Applicant, likewise through Counsel.

The antecedent facts are as follows:

After the termination of the pre-trial conference on 2 February 1996, Opposer moved for the issuance of a Summary Judgment on the instant case. Opposer alleges that in view of the finality of the Court of Appeals' decision in the case of the Blue Bell Inc. vs. Venancio Sambar, CA-GR SP No. 22554, whereby the Appellate Court held that the Respondent-Applicant's "WRANCO" mark is confusingly similar to Blue Bell's "WRANGLER", this Office is now bound thereby and as a consequence, the Opposer is entitled to a judgment in the present case as a matter of law. Opposer avers that this Office should take judicial notice of said decision inasmuch as the issue here is the same as in the Blue Bell case. Opposer further alleges that "JEANS" is a generic name, thus, its combination with a mark already held as confusingly similar to Opposer's "WRANGLER" mark did not create a new identity on the Respondent-Applicant's original "WRANCO" mark, but only showed the Respondent-Applicant's desperate effort to get around with the appellate court's decision.

In its Opposition to the Opposer's Motion for Summary Judgment, Respondent-Applicant avers that summary judgment is improper inasmuch as two cases (Bluebell case and the instant Opposition) involve different subjects.

The Supreme Court in Excelsa Industries, Inc. vs. Court of Appeals, 247 SCRA 560, has held:

"Summary Judgment under Rule 34 of the Revised Rules of Court (now Rule 35 of 1997 Rules on Civil Procedure) is a procedural technique which is proper only if there is no genuine issue as to the existence of a material fact and that the moving party is entitled to a judgment as a matter of law. It is a method intended to expedite or promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits on record.

"The term "genuine issue" has been defined as an issue of fact which calls for the presentation of evidence as distinguished from an issue which is sham, fictitious, contrived, set up in bad faith and patently unsubstantial so as not to constitute as genuine issue for trial."

Based thereon and from the records of this case, there appears no genuine issue calling for a full blown trial. Respondent-Applicant denies identity of issues between the Blue Bell case

and the instant Opposition, but records reveal otherwise. In *Blue Bell Inc. vs. Venancio C. Sambar*, the Court of Appeals said:

“The sole issue x x x said confronts us (is) whether Sambar’s mark “WRANCO” is confusingly similar to Blue Bells “WRANGLER”.”

Here, the parties focused on whether or not the Respondent-Applicant’s mark should be allowed registration under Section 4 of Republic Act 166, as amended. Under said provision, a mark which so resembles a registered mark such that there is a likelihood of confusion as to origin of the goods covered thereby should not be allowed registration. Consequently, the issue before this Office boils down to whether the marks “WRANCOJEANS” of the Respondent-Applicant and “WRANGLER” of the Opposer are confusingly similar.

Opposer alleges that the word “JEANS” is a generic name and its addition to Respondent-Applicant’s “WRANCO” is but an effort on the part of the latter to get around with the appellate court’s decision. Respondent-Applicant, on the other hand, contends that descriptive or generic words may properly become the subject of a tradename by combination with another word or term which is non-descriptive, thereby creating a new mark. In *Ethepha vs. Director of Patents*, 16 SCRA 575, the Supreme Court, however, held that a generic word may properly be the subject of a trademark by combination with another word or phrase only if the combination results to a creation of a new mark.

In the instant case, the addition of the word “JEANS” to the “WRANCO” mark did not create a new identity on Respondent-Applicant’s mark. “JEANS” is a generic term denoting pants made of jean – a heavy cotton (Third Edition, 1994 American Heritage Dictionary), which is merely descriptive of the goods of Respondent-Applicant.

Consequently, finding no genuine issue calling for a full blown trial, this Office hereby rules that the Opposer is entitled to a judgment in the present case as a matter of law.

The Court of Appeals in *Blue Bell, Inc. vs. Venancio C. Sambar*, held:

“a) “WRANCO” conveys the idea of “WRANGLER Co.”,

xxx

c) The sample label or “WRANCO” showing a western motif is a copy of appellant’s cowboy jeans, and is an obvious ploy to take advantage of the reputation built by appellant on an image of western style clothing. Appellant’s USPO certificates particularly protects the use of the “WRANGLER” mark on western style clothing. This is important because as stated, the appellant’s mark “WRANGLER” has been judicially ruled to be its own exclusively;

“In the final analysis, the conclusion is that the “WRANCO” label is a colorable imitation of the “WRANGLER” trademark. Although the two logos are not exactly the same, they nevertheless approximate each other to such an extent that the one can pass for the other, in the mind of an inattentive shopper, or who in the very least, will conclude that both are made by the same manufacturer.”

IN VIEW OF FOREGOING, this Office is hereby constrained to rule that the Respondent-Applicant’s application for registration of the “WRANCOJEANS” mark bearing Serial No. 87388 is hereby, REJECTED.

Let the file wrapper of this case be forwarded to the Administrative, Financial, Human Resource and Development Bureau for appropriate action in accordance with this DECISION with a copy to be furnished the Bureau of Trademark for information and update of its records.

SO ORDERED.

Makati City, 04 November 1998

ESTRELLITA BELTRAN-ABELARDO  
Caretaker/Office-In-Charge