



**VICTORIA MILLING COMPANY INC.,**  
Petitioner,

**-versus-**

**LESSAFRE ET COMPAGNIE,**  
Respondent-Registrant.

}  
}  
}  
}  
}  
}  
}  
}

**IPC No. 14-2008-00260**  
Cancellation of:  
Reg. No. 4-2005-007652  
Date Issued: 19 Feb. 2007  
**TM: "VICTORIA"**

X-----X

### NOTICE OF DECISION

**HECHANOVA BUGAY VILCHEZ**  
Counsel for Petitioner  
851 Antonio Arnaiz Avenue  
Makati City

**SYCIP SALAZAR HERNANDEZ & GATMAITAN**  
Counsel for Respondent-Registrant  
5<sup>th</sup> Floor, SSHG Law Centre Building  
105 Paseo de Roxas, Makati City

### GREETINGS:

Please be informed that Decision No. 2012 - 65 dated April 12, 2012 (copy enclosed) was promulgated in the above entitled case.

Taguig City, April 12, 2012.

For the Director:

*Catherine Socorro O. Estrada*

**Atty. CATHERINE SOCORRO O. ESTRADA**  
Hearing Officer, BLA



**VICTORIAS MILLING COMPANY INC.,**  
Petitioner,

- versus -

**LESSAFRE ET COMPAGNIE,**  
Respondent-Registrant.

X-----X

**IPC NO. 14-2008-00260**

**Cancellation of:**

Reg. No. 4-2005-007652

Date Issued: 19 February 2007

Trademark: **"VICTORIA"**

**Decision No. 2012 - 65**

## DECISION

VICTORIAS MILLING COMPANY, INC.<sup>1</sup> ("Opposer") filed on 29 October 2008 a petition to cancel Trademark Reg. No. 4-2005-007652. The registration, issued on 19 February 2007 to LESSAFRE ET COMPAGNIE<sup>2</sup> ("Respondent-Registrant"), covers the mark "VICTORIA" for use on *"flour, bread, salt, yeast, baking powder, food flavor enhancers for food, bread improvers (additives and ingredients for preparing and improving bakery products), sour dough starters and dough conditioners"* under Class 30 of the International Classification of goods<sup>3</sup>.

The Petitioner alleges, among other things, the following:

- "3. Petitioner is the prior user and owner of the mark 'VICTORIAS' and variations thereof, which the company started using when it was established on 07 May 1919. The company was among the earliest sugar mills in the Philippines at the turn of the 20th century. In 1921, Petitioner expanded its facilities and established a sugarcane agriculture research department, the first in a sugar central in the country. In 1928, Petitioner established a sugar refinery. In 1929, Petitioner made its first export of raw sugar to the United States and from then on became a regular sugar exporter thereto. In 1934, the Petitioner made its first export of high-grade refined sugar to the United States. During the outbreak of the Japanese war, Petitioner suffered excessive damages but continued operations in 1946.

3.1. At the onset of the 1970's, the company steadily expanded into a conglomerate that was involved in businesses beyond sugar operations, such as engineering products and services, food processing, agri-business (aquaculture, cut-flower, swine and cattle projects, organic fertilizer), a shipping component, and management and consultancy services. Through the years, Petitioner was able to establish more than a dozen subsidiaries and affiliates.

3.2. Petitioner likewise advanced itself in the field of industrial relations and social responsibility and came to be regarded as a leader in the sugar industry. As an exponent of industrial peace, it has been conferred the 'CLARA AWARD' by the Department of Trade and Industry. Other honors include the 'SIKAP-GAWA

<sup>1</sup> A corporation organized and existing under the laws of the Republic of the Philippines, with principal address at VICMICO Compound, Victorias City, Negros Occidental, Philippines

<sup>2</sup> A corporation existing and organized under the laws of France with registered place of business at 41, rue Etienne Marcel, 75001 Paris, France.

<sup>3</sup> The Nice Classification is a classification of goods and services for the purpose of registering trademarks and service marks based on a multilateral treaty administered by the World Intellectual Property Organization. The treaty is called the Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks concluded in 1957.

AWARD', 'Outstanding Community Development Program Award', 'TANGLAW AWARD', 'UNLAD-BAYAN AWARD' and the 'EMILIO ABELLO AWARD.'

- 3.3. In 1991, the Department of Tourism identified Victorias Milling Company as one of the major tourist attractions in Victorias City with its 18 hole golf course sprawling over a 30 hectare area and the Saint Joseph the Worker Parish, famous for its angry Christ mural. Bacolod City itself includes a tour of Petitioner's agro-industrial complex as among its recommended tours. Copy of the write up featuring Victorias Milling Company, as downloaded from the official websites of Victorias City and Bacolod City are attached as Annex 'A' and 'B' of the Affidavit of Ms. Maricris Pañgan, which is attached hereto and made an integral part hereof as Exhibit 'B'.
- 3.4 At present, Petitioner is the biggest supplier of refined sugar in the Philippines, supplying about 30% of the country's daily needs. The history and development of the petitioner is set forth in the affidavit of its President, Mr. Abelardo E. Bugay, which is attached hereto and made integral part hereof as Exhibit 'C'.
- "4. Through long, continued and exclusive use for over eighty nine (89) years up to the present, the corporate name/business name 'Victorias Milling Company, Inc.' and the trademark/service mark 'VICTORIAS' have become distinctive of the business, products and services of Petitioner. The mark 'VICTORIAS' has long become well-known in the sugar and food industry and synonymous with the quality of the goods and services that Petitioner offers.
- 4.1 So well known has Petitioner become locally and internationally that Victorias City, where Petitioner has its operations, is considered to be notable because it is the site of Victorias Milling Company, 'the Philippine's largest sugar refinery' and sitting on a 7,0000 hectare compound is the world's largest integrated sugar mill. Victorias City is considered as 'well-known for sugar production through Victoria's Milling Company'. Copies of the articles featuring Victorias City, as downloaded from Wikipedia and Sunstar websites are attached hereto as Annexes 'C' and 'D' of the Affidavit of Ms. Maricris Pañgan, which is attached hereto as Exhibit 'B'.
- "5. Thus, the registration of the mark 'Victoria' in the name of Respondent-Registrant for similar goods, i.e., food products in Class 29 is likely to mislead the public, particularly as to the nature, quality, characteristics and origin of said goods.
- 5.1. In the case of *De la Rama Steamship Co. vs. National Development Co.*, 35 SCRA 567, the Supreme Court ruled that the substantial and exclusive use of a trade name for five (5) years is accepted as *prima facie* proof that the trade name has become distinctive; and thus by such long and continued use acquire a proprietary connotation, such that, to the purchasing public, the name becomes associated with the products or services of the business, as so is entitled to protection.
- "6. As the owner of the 'VICTORIAS' mark, Petitioner obtained registration for the trademark 'VICTORIAS & Design' as early as 09 November 1961. This fact was established in the case of *Victorias Milling Company, Inc. vs. Ong Su, et al., G. R. No. L-28499, September 30, 1977* where it was also established that Petitioner has been using the mark VICTORIAS for granulated refined sugar at least as early as 1947. The Supreme Court adopted the findings of the Director of Patents, as follows:

**'The petitioner, Victorias Milling Company, Inc., a domestic corporation and engaged in the manufacture and sale of refined granulated sugar is the owner of the trademark "VICTORIAS" and design registered in the**

Philippines Patent Office on November 9, 1961. x x x'

- "7. Thus, in the said case, the Supreme Court ruled that: 'The word "Victorias" is what identifies the sugar contained in the bag as the product of the petitioner' and that the word 'Victorias' is the dominant feature of the trademark in question.
- "8. On 24 January 1989 Petitioner also obtained registration for the trademark 'VICTORIAS' under Certificate of TM Registration No. 42861 for goods under Class 29 (meat, fish, poultry and game; preserved, dried and cooked fruits and vegetables; preserves and pickles; edible oils and fats, squid) and Class 30 (sugar, vinegar, salt, pepper, mustard, sauces, spices). Said registration was cancelled for failure of Petitioner to file the Declaration of Actual Use. Petitioner, however, had no intentions of abandoning the use of said mark and continues to use the same up to the present. Certified true copy of TM Registration No. 42861 is attached hereto as Exhibit 'D'.
- 8.1. Likewise, on 26 August 1988 Petitioner also obtained registration for the trademark 'VMC FISH MASCOT', ('VMC stand for Victoria's Milling Company') under Certificate of TM Registration No. 40889 for goods under Class 29 (canned or preserved fishes including, among others, mackerels, sardines, bangus, tuna and squid). Said registration was cancelled for failure of Petitioner to file the Declaration of Actual Use. Petitioner, however, had no intentions of abandoning the use of said mark and continues to use the same up to the present. Certified true copy of TM Registration No. 40889 is attached hereto as Exhibit 'D-1'.
- "9. Thus, when Petitioner decided to spin off its food processing and packaging operations, Petitioner incorporated its subsidiaries under the names 'VICTORIAS FOODS CORPORATION' and 'VICTORIAS QUALITY PACKAGING COMPANY, INC.' respectively. Information on these subsidiaries may be accessed at Petitioner's official at: <http://victoriasmilling.com/v2/corporate/joint.asp>. Other subsidiaries of Petitioner are VICTORIAS GOLF & COUNTRY CLUB, INC. and VICTORIAS AGRICULTURAL LAND CORPORATION.
- "10. Petitioner also has pending applications and/or registrations for the mark 'VICTORIAS' and its variations with the Intellectual Property Office, as follows:

x x x

- "11. The fame and renown of the 'VICTORIAS' mark was established and expanded by the successful growth of Petitioner's business since its inception in 1919. Through the years and as a result of Petitioner's continuous efforts in providing quality products and services, 'VICTORIAS' has become well-known in the sugar and food processing industry.
- "12. Information on the history, products and services, and business of Petitioner as well as the latest news and activities may be accessed worldwide at Petitioner's official website: <http://www.victoriasmilling.com>.
- "13. The continued registration of the mark 'VICTORIAS' in the name of the Respondent-Registrant violates and contravenes the provisions of Sections 123.1(e) and (g) of Republic Act 8293 (the 'IP Code'), as amended, because said mark is confusingly similar to Petitioner's well-known mark 'VICTORIAS', owned, used and not abandoned by the Petitioners as to be likely when applied to or used in connection with the goods of the Respondent-Registrant to cause confusion or mistake, or deceive the purchasers thereof as to the origins of the goods.
- "14. The continued registration of the mark 'VICTORIAS' for goods under Class 29 in the name of Respondent-Registrant causes grave and irreparable injury and damage to the



Petitioner, for which reason it is filing the instant Petition for Cancellation.

- "15. The continued registration of the trademark "VICTORIAS" in the name of Respondent-Registrant contravenes and violates Sections 123.1 (e) and (g) of the Intellectual Property Code (the "IP Code") which provide: x x x
- "16. The identity or confusing similarity between Respondent-Registrant's mark and Petitioner's mark 'VICTORIAS' is very likely to deceive the purchasers of goods on which the mark is being used as to the origin or source of said goods and as to the nature, character, quality and characteristics of the goods, to which it is affixed.
- "17. Confusion as to the origin or source of goods is all the more likely considering that the word 'VICTORIAS' is the dominant and distinguishing portion of the registered corporate name or business name of Victorias Milling Company, Inc. Under Sections 165.2(a) and (b) of the IP Code, 'trade names or business names shall be protected, even prior to or without registration, against any unlawful act committed by third parties. In particular, any subsequent use of the trade name by a third party, whether as a trade name or a mark or collective mark, or any such use of a similar trade name or mark, likely to mislead the public, shall be deemed unlawful.'
- "18. In the case of *Philips Exports B.V. vs. Court of Appeals*, 206 SCRA 457, the Supreme Court held:
- 'A corporation's right to use its corporate name and trade name is a property right *in rem* which it may assert and protect against the whole world in the same manner as it may protect its tangible property, real or personal against trespass or conversion. A corporation has the exclusive right to the use of its name which may be protected by injunction upon a principle similar to that upon which persons are protected in the use of trademarks and trade names. It is a fraud on the corporation which has acquired a right to the name and perhaps carried on a business thereunder, that another should attempt to use the same name, or the same with a slight variation, in such a way to induce others to deal with it in the belief that they are dealing with the corporation which has given reputation to the name. xxx The right to the exclusive use of a corporation name with freedom from infringement by similarity is determined by priority of adoption.'
- "19. Petitioner will be damaged by the continued registration of the mark 'VICTORIAS' in the name of Respondent-Registrant, considering the fact that Petitioner's registered corporate name/business name 'Victorias Milling Company, Inc.,' and its well-known trademark/service mark 'VICTORIAS' have long been established and have obtained goodwill and consumer recognition.
- "20. Respondent-Registrant's registration of the 'VICTORIAS' mark is in unfair competition with and an infringement of Petitioner's registered business name/corporate name 'Victorias Milling Company' as the use of the said on the goods described in Respondent-Registrant's registration clearly violates the exclusive right of the Petitioner to said mark.
- "21. The registration of the mark 'VICTORIAS' in the name of the Respondent-Registrant violates the proprietary rights, interest, business reputation and goodwill of the Petitioner over its corporate name and its trademark/service mark 'VICTORIAS', considering that the distinctiveness of said mark will be diluted, thereby causing irreparable injury to the Petitioner.
- "22. It is also apparent that the registration of the mark 'VICTORIAS' in the name of Respondent-Registrant, which mark is confusingly similar to Petitioner's registered corporate name/business name Victorias Milling Company, Inc. and the well-known trademark/service mark 'VICTORIAS' will not only prejudice the Petitioner but will also

allow the Respondent-Registrant to unfairly benefit from and get a free ride on the goodwill of Petitioner's mark."

The Respondent-Registrant filed on 15 April 2009 an "ANSWER (*To Petition for Cancellation*)" alleging, among other things, the following:

- "13. Petitioner cites as principal basis for its opposition Section 123.1 (e) of the IP Code x x x
- "14. To stress, however, Petitioner's reliance on Section 123.1 (e) of the IP Code, which gives the owner of a trademark that is well-known internationally and in the Philippines the right to prohibit the registration of a confusingly similar mark lacks support.
- "15. The Rules and Regulations issued by the Intellectual Property Office to implement the IP Code provisions on trademarks set out the criteria for determining whether a mark is well-known, as follows: x x x
- "16. In the case at bar, there is no denying that the Petitioner was not able to meet the criteria set forth above by the Rules and Regulations issued by the Intellectual Property Office to implement the IP Code.
- "17. Moreover, it must be emphasized that Petitioner's trademark VICTORIAS may not be considered well-known internationally in the absence of proof of extensive registration, use or promotion of the said mark abroad. To reiterate, trademark protection under Section 123.1 (e) of the IP Code may only be invoked if the mark sought to be protected has been 'considered by the competent authority of the Philippines to be well-known internationally and in the Philippines.'
- "18. Further, the petition is bereft of any proof to show that a 'competent authority of the Philippines' has considered petitioner's trademark VICTORIAS to be well-known internationally and in the Philippines.
- "19. It is, therefore, very clear from the foregoing that petitioner's trademark VICTORIAS is not well-known internationally and in the Philippines, and accordingly, Petitioner may not invoke Section 123.1 (e) of the IP Code as ground to cancel Registrant's Certificate of Registration No. 42005007652 for the trademark VICTORIA.
- "20. Petitioner also claims that Registrant's VICTORIA MARK is confusingly similar to petitioner's VICTORIAS and VMC FISH MASCOT marks, for which it allegedly obtained Certificates of Registration Nos. 42861 and 40889, respectively. Petitioner claims that it has been using the VICTORIAS mark since 1919.
- "21. However, Petitioner also expressly admitted that its Registration nos. 42861 and 40889 (for the trademarks VICTORIAS AND VMC FISH MASCOT, respectively) have both been cancelled for failure of petitioner to file the Declaration of Actual Use.
- "22. To stress, petitioner's failure to file the required Declaration of Actual use is conclusive proof that Petitioner did not actually use VICTORIAS and VMC FISH MASCOT marks. Accordingly, these marks may not be invoked in order to cancel Registrant's Certificate of Registration No. 42005007652 for the trademark VICTORIA.
- "23. Petitioner likewise cites its trademark application/registration for VICTORIAS MILLING COMPANY, INC. & DEVICE (Application No. 42007500803), VICTORIAS PURE, REFINED SUGAR & DEVICE (Registration No. 42008500038)-collectively, the 'Victorias Variations'. It is, however, again noted that petitioner's trademark applications for the Victorias Variations were all filed subsequent to the issuance of Registrant's Certificate of Registration No. 42005007652 for the trademark VICTORIA on February

19, 2007. Thus, these marks may not also be invoked in order to cancel Registrant's Certificate of Registration No. 42005007652 for the trademark VICTORIA."

Should the petition to cancel Registration No. 4-2005-007652 be granted?

The Petitioner's "Victorias" marks are depicted below:



The word "VICTORIAS" is obviously the focal point, the centerpiece, and the feature in the Petitioner's marks that the consumers will most likely to remember or recall. In this regard, this Bureau noticed that the Respondent-Registrant uses its mark on goods that are similar or at least closely related to the Petitioner's, particularly, food and food preparation or enhancers products which flow on the same channels of trade.

While embellishments or ornaments are present in the Petitioner's marks, serving aesthetic purposes, these are not sufficient to distinguish the Respondent-Registrant's mark from those of the Petitioner. Corollarily, the law does not require that the competing trademarks must be so identical as to produce actual error or mistake; it would be sufficient, for purposes of the law, that the similarity between the two labels is such that there is a possibility or likelihood of the purchaser of the older brand mistaking the newer brand for it.<sup>4</sup> Corollarily, the law does not require actual confusion, it being sufficient that confusion is likely to occur.<sup>5</sup> The likelihood of confusion would then subsist not only on the public's perception of services but on the origins thereof.<sup>6</sup> The consumers may assume that the Respondent-Registrant's goods originate from or sponsored by the Petitioner or believe that there is a connection between them, as in a trademark licensing agreement. The likelihood of confusion would subsist not only on the purchaser's perception of goods but on the origins thereof as held by the Supreme Court:<sup>7</sup>

Callman notes two types of confusion. The first is the confusion of goods in which event the ordinarily prudent purchaser would be induced to purchase one product in the belief that he was purchasing the other. In which case, defendant's goods are then bought as the plaintiff's and the poorer quality of the former reflects adversely on the plaintiff's reputation. The other is the

<sup>4</sup> *American Wire & Cable Co. v. Director of Patents, et al.*, G.R. No. L-26557, 18 Feb. 1970.

<sup>5</sup> See *Philips Export B.V., et al. v. Court of Appeals, et al.*, G.R. No. 96161, 21 Feb. 1992.

<sup>6</sup> See *Converse Rubber Corporation v. Universal Rubber Products, Inc., et al.*, G.R. No. L-27906, 08 Jan. 1987.

<sup>7</sup> See *Converse Rubber Corporation v. Universal Rubber Products, Inc., et al.*, G.R. No. L-27906, 08 Jan. 1987.

confusion of business. Here, though the goods of the parties are different, the defendant's product is such as might reasonably be assumed to originate with the plaintiff and the public would then be deceived either into that belief or into belief that there is some connection between the plaintiff and defendant which, in fact does not exist.

Succinctly, the inclusion in the Trademark Registry of two separate registrations for identical or confusingly similar marks for use on similar and/or closely related goods, in favor of different persons or entities, cannot be allowed.

Records show that the Respondent-Registrant was issued Cert. of Reg. No. 4-2005-007652 on 19 February 2007, earlier than the existing registrations of the following marks in favor of the Petitioner, to wit:

1. "Victorias and Oval Device" - filed on 17 Oct. 2008 and registered on 25 May 2009 (Reg. No. 4-2008-012796);
2. "Victorias Milling Co., Inc. & Device" - filed on 26 Nov. 2007 and registered on 23 Oct. 2009 (Reg. No. 4-2007-500803);
3. "Victorias Pure Refined Sugar & Device" - filed on 29 Jan. 2008 and registered on 22 Sept. 2008 (Reg. No. 4-2008-500038);
4. "Victorias Pure Refined Sugar & Device" - filed on 29 Jan. 2008 and registered on 22 Sept. 2008 (Reg. No. 4-2008-500039); and
5. "Victorias Milling Company Inc. Logo" - filed on 18 Oct. 2010 and pending registration.

The Petitioner, however, raised basically the issue of ownership of the mark.

It is emphasized that the essence of trademark registration is to give protection to the owners of trademarks. The function of a trademark is to point out distinctly the origin or ownership of the goods to which it is affixed; to secure to him, who has been instrumental in bringing into the market a superior article of merchandise, the fruit of his industry and skill; to assure the public that they are procuring the genuine article; to prevent fraud and imposition; and to protect the manufacturer against substitution and sale of an inferior and different article as his product.<sup>8</sup>

Thus, the right to register trademarks, trade names and service marks is based on ownership. Only the owner of the mark may apply for its registration. Although a certificate of registration is *prima facie* evidence of the registrant's ownership of a mark, this presumption can be overcome by contrary evidence. The Supreme Court held:

By itself, registration is not a mode of acquiring ownership. When the applicant is not the owner of the trademark being applied for, he has no right to apply for registration of the same. x x x

Registration, without more, does not confer upon the registrant an absolute right to the registered mark. The certificate of registration is merely a *prima facie* proof that the registrant is the owner of the registered mark or trade name. Evidence of prior and continuous use of the mark or trade name by another can overcome the presumptive ownership of the registrant and may very well entitle

---

<sup>8</sup> *Pribhdas J. Mirpuri v. Court of Appeals*, G.R. No. 114508, 19 Nov. 1999, citing *Etepha v. Director of Patents*, G.R. No. L-20635, 31 Mar. 1966.



the former to be declared the owner in an appropriate case.

Accordingly, Sec. 151 of the IP Code provides:

Sec. 151. Cancellation. – 151.1 A petition to cancel a registration of mark under this Act may be filed with the Bureau of Legal Affairs by any person who believes that he is or will be damaged by the registration of a mark under this Act as follows:

x x x

(b) At any time, if the registered mark becomes generic name for the goods or services, or a portion thereof, for which it is registered, or has been abandoned, or its registration was obtained fraudulently or contrary to the provisions of this Act, or if the registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services or in connection with which the mark is used. x x x

To prove its ownership of the contested mark, the Petitioner submitted evidence of the use of the mark VICTORIAS long before the Respondent-Registrant filed a trademark application for VICTORIA in 2005. The registration of the mark in the Principal Register on 24 January 1989 for a term of twenty (20) years under Serial No. 42861 for use on “*sugar, vinegar, salt, pepper, mustard, sauces, spices*” in class 30, and “*meat, fish, poultry and game; preserved dried and cooked fruits and vegetables; preserves and pickles; edible oils and fats, squid*” in class 29 proves the Petitioner’s expansion of its business in fresh and processed food products. Thus, the Petitioner has shown ownership of the mark VICTORIAS not only for sugar but also for other goods including those which are similar and/or closely related to the Respondent-Registrant’s “*goods, like salt, food flavor enhancers for food, bread improvers (additives and ingredients for preparing and improving bakery products)*”.

While the Petitioner’s registration in the Principal Register was cancelled on 13 October 2003 for non-filing of affidavit of use/non-use for the 10<sup>th</sup> anniversary per cancellation, this fact alone is not sufficient to support a conclusion that the Petitioner had abandoned its mark. The Petitioner has continuously used its mark for sugar and other goods up to present. It submitted articles which are essentially about its business under the corporate name Victorias Milling Co., Inc., both from its own publication as well as from independent publications<sup>9</sup>; pictures of its refinery and the mark “Victorias Milling Co., Inc. and Device” on sacks<sup>10</sup> and labels of its canned goods with the mark “Victorias”<sup>11</sup>. The articles talked about the dock of petitioner’s sugar central being used for loading into barges of petitioner’s produced sugar for distribution in various parts of the country<sup>12</sup> the locomotives that still chug to and from the mills during milling season from October to April of the year<sup>13</sup>; petitioner’s real property devoted to the production of corn, vegetables, roots crops, bananas, and coconut aside from production of sugar and fishery ventures<sup>14</sup>. These articles taken in conjunction with the picture of a building of petitioner’s sugar central with the mark “Victorias”<sup>15</sup> pictures of petitioner’s sacks for sugar with the mark “Victorias Milling Co.,

<sup>9</sup> Annexes “B”, “D”, and “E” of Exh. “B”; and Annex “D” and submarkings of Exh. “C”.

<sup>10</sup> Annexes “A”, and “B-6” to “B-7” of Exh. “C”.

<sup>11</sup> Annexes “C” to “C-12” of Exh. “C”.

<sup>12</sup> Page 3 of Annex “A” of Exh. “B”.

<sup>13</sup> Page 2 of Annex “B” of Exh. “B”.

<sup>14</sup> Annex “D” of Exh. “B”.

<sup>15</sup> Annex “A” of Exh. “C”.

Inc. and Device”<sup>16</sup> and labels of petitioner’s canned goods with the mark “Victorias”<sup>17</sup> point to the conclusion that petitioner has indeed uninterruptedly continued using its marks with the dominant feature “Victorias” to the present. Taken as a whole, there is evidence that petitioner has always been engaged in the production and sale in commerce of sugar and other food products to which it uses marks with the dominant feature “VICTORIAS”, uninterrupted, even during the years when the registrations of some of its marks were canceled for failure to file declarations of actual use

**WHEREFORE**, premises considered, the instant petition is hereby GRANTED. Accordingly, Trademark Registration Serial No. 4-2005-007652 is hereby CANCELLED. Let the filewrapper of the subject trademark registration be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action in accordance with this Decision.

**SO ORDERED.**

Taguig City, 12 April 2012.

  
**ATTY. NATHANIEL S. AREVALO**  
Director IV  
Bureau of Legal Affairs 

---

<sup>16</sup> Annexes “B-6” to “B-7” of Exh. “C”.

<sup>17</sup> Annexes “C” to “C-12” of Exh. “C”.