



REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
Manila

**GIGA-BYTE TECHNOLOGY
CO. LTD.,**

Petitioner,

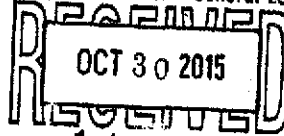
-versus-

CA G.R. **SP NO. 130056**

RICARDO R. BLANCAFLOR,
in his capacity as Director
General and LENY B. RAZ, in
her capacity as Director of Bureau
of Trademarks of the Intellectual
Property Office of the Philippines.

Respondent.

Intellectual Property Office of the Phils.
Office of the Director General-Legal



BY: *Phulya* TIME: *11:45 AM*

**GIGA-BYTE TECHNOLOGY
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-versus-

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X ----- X

NOTICE OF JUDGMENT

Date: **October 21, 2015**

Sir / Madam:

Please take notice that on **OCTOBER 20, 2015** a **DECISION**, copy hereto attached was rendered by the **SEVENTH DIVISION** of the Court of Appeals in the above-entitled case, the original of which is now on file in this office.

You are hereby **REQUIRED** to inform this Court within five (5) days from receipt hereof, of the date when you received this notice, together with the attached copy of decision.

Respectfully,

SELENE VENTURA-CONANAN

Executive Clerk of Court III

Copy Furnished:

Office of the Director General - reg w/rc
Intellectual Property Office
28 Upper McKinley Road
McKinley Hill Town Center
Fort Bonifacio, Taguig City

Office of the Solicitor General - reg w/rc
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The Director of the Bureau of Trademarks - reg w/rc
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Hechanova Bugay Vilchez and
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(Please notify the Court of any change in your address.)

**REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
MANILA**

SEVENTH DIVISION

**GIGA-BYTE
TECHNOLOGY CO. LTD.,
Petitioner**

CA-G.R. SP No. 130056

-versus-

**RICARDO R. BLANCAFLOR,
in his capacity as Director
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Respondent.**

**GIGA-BYTE
TECHNOLOGY CO. LTD.,
Petitioner**

CA-G.R. SP No. 130057

-versus-

Members:

**DE LEON, Chairperson,
YBAÑEZ, and
PAREDES, JJ.**

**RICARDO R. BLANCAFLOR,
in his capacity as Director
General and LENY B. RAZ,
In her capacity as Director**

of the Bureau of
Trademarks of the
Intellectual Property
Office of the Philippines
Respondent.

Promulgated:

OCT 20 2015 

X-----X

DECISION

DE LEON, J.:

These are consolidated Petitions for Review under Rule 43 of the Rules of Court assailing the Decision of the Director General of the Intellectual Property Office (IPOPHL) in Appeal No. 04-2010-0016 (Trademark Application No. 4-2007-007853) entitled "GIGA-BYTE TECHNOLOGY CO., LTD. vs. DIRECTOR OF THE BUREAU OF TRADEMARKS", dated April 30, 2013, and the Decision of the Director General of the IPOPHL in Appeal No. 04-2010-0017 (Trademark Application No. 4-2007-007852) entitled "GIGA-BYTE TECHNOLOGY vs. DIRECTOR OF THE BUREAU OF TRADEMARKS" also dated April 30, 2013.

The Facts

1. For CA-G.R. SP No. 130056

Petitioner Giga-Byte applied for the registration of the mark "STYLIZED GIGABYTE" (Application No. 4-2007-007852) with the IPOPFL. The subject mark covers goods under Class 09 of the Nice Classification, namely:

"PERSONAL COMPUTERS; SERVERS; NOTEBOOK COMPUTERS; PORTABLE COMPUTERS; PDAs (PERSONAL DIGITAL ASSISTANTS); SET-TOP BOXES; COMPUTER MOTHERBOARDS; PC CASINGS; COMPUTER CASES; CABLES; COMPUTER THERMAL/COOLING DEVICES; THIN CLIENTS; LIQUID CRYSTAL DISPLAY DEVICES; COMPUTER ADD-ON CARDS, NAMELY AUDIO CARDS, MODEM CARDS, VIDEO GRAPHIC CARDS, VIDEO GRAPHIC ARRAY CARDS, LAN (LOCAL AREA NETWORK) CARDS, NETWORK CONTROL CARDS AND SCSI (SMALL COMPUTER SYSTEM INTERFACE) CARDS; COMPUTER PROCESSORS; GRAPHIC CONTROLLERS; LOCAL AREA NETWORK CONTROLLERS, COMPUTER SCSI/IDE (INTEGRATED DRIVE ELECTRONICS) CONTROLLERS; COMPUTER INPUT, OUTPUT, AND STORAGE DEVICES, NAMELY PRINTERS, MONITORS, SCANNERS, FLOPPY DISKS, HARD-DISK, OPTICAL DISK DRIVES, COMPUTER MICE, KEYBOARDS, HARD-DISK DRIVES, FLOPPY DISK DRIVES; SEMICONDUCTORS, INTEGRATED CIRCUITS, APPLICATION SPECIFIC INTEGRATED CIRCUITS, PRINTED CIRCUIT BOARDS, ELECTRIC POWER SUPPLIES, ELECTRIC POWER ACCESSORY ORGANIZERS, ELECTRICITY CONDUITS, COMPUTER REMOTE CONTROLS/CORDLESS DEVICES; INTEGRATED SERVICES DIGITAL NETWORK DEVICES; FAX/MODEM DEVICES; CABLE MODEMS; NETWORKING DEVICES, NAMELY, NETWORK INTERFACE CONTROLLERS, ROUTERS, HUBS, BRIDGES; VIDEO TELEPHONES; VIDEO CONFERENCE APPARATUS; DIGITAL TV; DIGITAL CAMERA; DIGITAL TELEPHONES; MOBILE PHONES; CONNECTORS; PASSIVE COMPONENTS, NAMELY, CAPACITORS, RESISTORS, INDUCTORS; COMPUTER ENCLOSURES; FILM STRIP PROJECTORS, SLIDE PROJECTORS AND PHOTOGRAPHIC PROJECTORS; COMPUTER SOFTWARE, NAMELY, TESTING APPLICATION, AND SYSTEM SOFTWARE DRIVERS, FIRMWARE;

APPARATUS FOR RECORDING, TRANSMISSION OR REPRODUCTION OF SOUND OR IMAGE."

According to petitioner, a Registrability Report (Paper No. 3) was issued by Examiner Marlo Q. Carag dated October 24, 2007 which stated that the subject mark may not be registered because it is descriptive and is thus proscribed by Section 123.1 (j) of the Intellectual Property Code. Petitioner filed a Response to the Registrability Report but despite its submission, IPOPHL Examiner Carag issued *Official Action Paper No. 5*¹, dated March 26, 2008 which rejected the subject trademark application, reiterating and affirming the findings in the Registrability Report. Hence, petitioner appealed before the Director of the Bureau of Trademarks.

On November 12, 2010, petitioner received the *Decision*² of the Director of the Bureau of Trademarks, which sustained the Final Rejection in Official Action Paper No. 5.

On December 27, 2010, petitioner appealed the Director of the Bureau of Trademarks' decision to reject the registration of the subject mark before the Director General. On February 8, 2011, petitioner received the Comment of Director Leny B. Raz. The Director General then ordered the parties to submit their respective Memoranda and thereafter rendered the Decision now being assailed in the instant Petition for Review.³

The Director General's Decision

In the *Decision*⁴ of the Director General dated April 30, 2013, petitioner's appeal was dismissed. The Director

¹Rollo at p. 109.

²Rollo at p. 78-84.

³Docketed as CA G.R. SP No. 130056.

⁴Rollo at p. 44-49.

General sustained the ruling of the Director of the Bureau of Trademarks, finding that the term "GIGABYTE" is descriptive rather than suggestive because it conveys to the purchasing public the nature and characteristics of petitioner's products. No imagination is required on the part of the purchasing public in recognizing that the products are in fact computer-related, given that the term "GIGABYTE" is specifically used in the field of computer technology.

In addition, the argument that petitioner's mark has already acquired secondary meaning was also found to be untenable. The records fail to show that petitioner has continuous and exclusive use of the term "GIGABYTE" in Philippine commerce.

The Director General also did not give weight to the fact that the term "GIGABYTE" has been registered in other jurisdictions. Petitioner was reminded that rights to a mark are acquired through registration in the Philippines in accordance with the provisions of law and not through registration in other countries or regions.

Finally, the Director General did not consider petitioner's point regarding "GIGABYTE" being the dominant feature of its corporate name that is entitled to protection. The final rejection of the mark does not diminish the protection extended to the corporate name of petitioner, considering that the purposes of a trade name and a trademark are different. The former is for the purpose of identifying the enterprise while the latter is for distinguishing petitioner's goods.

2. For CA-G.R. SP No. 130057

Petitioner applied for registration of the mark "STYLIZED G (GIGABYTE) & DEVICE" (Application No. 4-

2007-007853) with the IPOP HL to cover goods under Class 09 of the Nice Classification.

Petitioner alleged that Examiner Marlo Q. Carag issued Registrability Report (Paper No. 03) dated October 24, 2007. Petitioner filed its Response to the Registrability Report on January 2, 2008. Thereafter, Examiner Carag issued the *Official Action Paper No. 05*⁵ on March 25, 2008, which confirmed the findings in Paper No. 3, namely, that the mark is non-registrable because the term "GIGABYTE" is descriptive as it is used as a measure of storage capacity in computer-related goods. It is descriptive despite the fact that the said term is connected to other elements of the whole mark and placed in big stylized text which gives the mark a heavy impression. Petitioner was required to submit a disclaimer for the term "GIGABYTE".

A Final Rejection in the Official Action Paper No. 07⁶ was issued by the Examiner. Thereafter, petitioner appealed to the Director of the Bureau of Trademarks on September 5, 2008. In the *Decision*⁷ dated November 03, 2010, the Director of the Bureau of Trademarks denied the appeal and sustained the Final Rejection of petitioner's application for registration.

Dissatisfied, the Petitioner appealed to the Director General on December 20, 2010.

The Director General's Decision

On April 30, 2013, the Director General dismissed petitioner's appeal,⁸ sustaining the Decision of the Director of the Bureau of Trademarks. The Director General upheld

⁵Rollo p. 113.

⁶Rollo p. 173.

⁷Rollo p. 84 to 90.

⁸Rollo p. 46 to 52.

the findings of the Director of the Bureau of Trademarks that petitioner's mark is a descriptive mark and thus cannot be registered. The mark describes the nature and characteristics of petitioner's products because by itself, the term "GIGABYTE" illustrates to the purchasing public that the products are computer-related.

Furthermore, the Director General also sustained the finding that the subject mark has not acquired secondary meaning. Petitioner has failed to show that because of its exclusive and continuous use of the subject mark in Philippine commerce, the purchasing public has already come to associate the term "GIGABYTE" with petitioner's products.

The Director General also did not give weight to the registrations obtained by petitioner in other countries. The rights to a mark are not acquired by registrations in other countries but through the registration validly secured under the provisions of the Intellectual Property Code.

Finally, the Director General disagreed with petitioner's contention that the term "GIGABYTE" is the dominant feature of petitioner's trade name and the denial of the registration of the mark will diminish the protection over petitioner's corporate name or trade name. A trademark's purpose is to identify the goods and their source while a trade name is for identifying or distinguishing a business or enterprise. Surely, the denial of the trademark's registration will not affect the protection extended to petitioner's trade name.

Thereafter petitioner filed two Petitions for Review under Rule 43 of the Rules of Court, pertaining to the Decisions of the Director General in the two applications for registration. The Petition for Review of the Decision of the

Director General in relation to Application No. 4-2007-007852 was docketed as CA-SP No. 130056, while the decision in relation to Application No. 4-2007-007853 was docketed as CA-SP No. 130057.

In a *Resolution*⁹ dated September 15, 2014, the Special Ninth Division of the Court of Appeals ordered that the two cases be consolidated, considering that CA-SP No. 130056 and CA-SP No. 130057 involve the same subject matter and issues.

The Issues

In the two Petitions for Review, petitioner essentially raises the same set of issues, namely: (1) whether the term "GIGABYTE" is descriptive, and thus required to be disclaimed in order for the mark to be allowed registration; (2) whether the subject mark has acquired secondary meaning; and (3) whether the fact that the mark has been registered in other jurisdictions should be given any weight. Ultimately, the issue for resolution is whether the Director General's Decision to uphold the final rejection of petitioner's applications for registration is in accordance with law and prevailing jurisprudence.

This Court's Ruling

The term GIGABYTE is descriptive

The Director General is correct: the subject marks cannot be registered. The term "GIGABYTE" used in both marks is inherently descriptive and thus may not be appropriated for exclusive use of one person.

⁹Rollo p. 528.

Under Section 123 (j) of the IP Code, which is the provision cited by the Examiner in rejecting the applications, a mark may not be registered if it:

"x x x consists exclusively of signs or indications that may serve in the trade to designate the kind, quality, quantity, intended purpose, value, geographical origin, time or production of the goods or rendering of the services, or other characteristics of the goods or services."

Petitioner insists that the term "GIGABYTE" in the marks STYLIZED GIGABYTE and STYLIZED G (GIGABYTE) & DEVICE are not descriptive. There is no question regarding the definition of the term "GIGABYTE", to wit: "(1) A unit of computer memory or data storage capacity equal to 1,024 megabytes (2^{30} bytes); or (2) One billion bytes." (The American Heritage Dictionary by Houghton Mifflin Company)¹⁰

Meanwhile, in support of its assertion that the term is not descriptive, petitioner, in its *Joint Memorandum*, points to its computer-related products that may not necessarily be described by the term "GIGABYTE" because they have nothing to do with data storage or computer memory. Petitioner cites, as examples, a keyboard, a mouse, a motherboard or a capacitor, as computer-related products that cannot be said to be described by the term "GIGABYTE". The purchasing public will not be informed of these goods through the term "GIGABYTE" and neither will the same term illustrate or give an idea of the nature or characteristics of these computer-related goods. Petitioner further contends that not all of its goods are "directly related to memory capacity of a computer, and even with little

¹⁰Rollo p. 15.

connection, the term "GIGABYTE" would only be suggestive of said measurement".¹¹

Moreover, petitioner argues that the subject marks are not proscribed under Section 123 (j) because the subject marks do not exclusively consist of signs or indications designating the kind, quality, quantity or intended purpose of the product.

Consequently, petitioner contends that there is no need to disclaim the term "GIGABYTE", specifically for the mark STYLIZED G (GIGABYTE), because the term is not descriptive but is, in fact, registerable.

For its part, respondents, invoking *Societe Des Produits Nestle, S.A. and Nestle Philippines, Inc. vs. Court of Appeals and CFC Corporation*,¹² argues that the Director General correctly ruled that the term is descriptive. In the said case, a mark is said to be descriptive, and thus invalid as a mark,

"x x x If, as understood in its normal and natural sense, it forthwith conveys the characteristics, functions, qualities or ingredients of a product to one who has never seen it and does not know what it is, or if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods, or if it clearly denotes what goods or services are provided in such a way that the consumer does not have to exercise powers of perception or imagination."

Using this definition, respondents aver that the term "GIGABYTE" is descriptive because it is a unit of measure that is specifically used in the computer industry. Respondents also point to the common experience of the purchasing public. In a survey of online shopping sites, "memory" is a common consideration of potential buyers of

¹¹Rollo pp. 615-617.

¹²G.R. No. 112012, April 4, 2001.

be established between the term "GIGABYTE" and computers and other related and derivative products.¹³

This Court agrees with respondents' contention. Petitioner itself submitted the definition of the term "GIGABYTE". All definitions relate to computers and their derivative products.¹⁴ This particular unit of measurement is specifically used in the field of computer technology. While it is true that there are other products which are not computer-related, the primary understanding by the purchasing public of the term "GIGABYTE" is that it is a term commonly used to describe computer-related products and their derivatives. Thus, the purchasing public need not use any imagination to make a connection between the computer-related products of petitioner and the term "GIGABYTE".

¹³Rollo, p. 659.

¹⁴From *Petition for Review*, Rollo, pp. 9- 42.

"18.2 The term 'gigabyte' is also defined as a unit of information, to wit:

- a). gigabyte – a unit of information equal to 1000 megabytes or 10^9 (1,000,000,000) bytes
- b). A gigabyte is a unit of information or computer storage meaning approximately 1.07 billion bytes. This is the definition commonly used for computer memory and file sizes. Microsoft uses this definition to display hard drive sizes, as do most other operating systems and programs by default.
- c). A gigabyte (GB or Gbyte) is a decimal multiple of the unit byte for digital information or computer storage
- d). gigabyte, G, GB (a unit of information equal to 1000 megabytes or 10^9 (1,000,000,000) bytes
- e). gigabyte: a unit of information equal to 1024 mebibytes or 2^{30} (1,073,741,824) bytes
- f). Gigabytes are units used for measuring digital information. According to the International system of Units, one such unit is equivalent to 1,000,000,000 bytes. "GB" is the unit symbol of gigabytes." (citations omitted)

Consequently, petitioner's claim that the term is merely suggestive cannot be sustained. In *Societe Des Produits Nestle, S.A. and Nestle Philippines, Inc. vs. Court of Appeals and CFC Corporation*,¹⁵ the Supreme Court had also set a standard for a mark to be merely suggestive and thus registrable, namely, "suggestive terms which, in the phraseology of one court, require imagination, thought and perception to reach a conclusion as to the nature of the goods."¹⁶ No such imagination, thought, or perception will be required for the purchasing public to establish a direct correlation between the term "GIGABYTE" and petitioner's computer technology products.

Moreover, petitioner's argument that it has products which cannot be described by the term "GIGABYTE" is untenable. *Ong Ai Gui vs. Director of Patents* is instructive.¹⁷ Therein, the Supreme Court explained the correct appreciation of allegedly descriptive marks:

"x x x the true test is not whether they are exhaustively descriptive of the article designated, but whether in themselves, and as they are commonly used by those who understand their meaning, they are reasonably indicative and descriptive of the thing intended. If they are thus descriptive, and not arbitrary, they cannot be appropriated from general use and become the exclusive property of anyone."¹⁸

A fortiori, petitioner's contention that there are computer-related products that cannot be described by the term "GIGABYTE" has no leg to stand on. Pursuant to the standard set in *Ong Ai Gui vs. Director of Patents*, the fact that some of petitioner's products cannot be exhaustively described by the subject mark is not sufficient to remove the

¹⁵ Supra at note 13.

¹⁶ Id.

¹⁷ G.R. No. L-6235, March 28, 1955.

¹⁸ 52 Am. Jur. 542-543.

term "GIGABYTE" from the purview of descriptive marks. It is sufficient that it is "reasonably indicative".

Apparently, petitioner fails to realize the implication of allowing the registration of the descriptive term "GIGABYTE". The IP Code itself provides that among the rights conferred to by registration is the right:

x x x to prevent all third parties not having the owner's consent from using In the course of trade identical or similar signs or containers for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in likelihood of confusion.¹⁹

This would be the same case if petitioner's applications are granted. Other proprietors will not be allowed to use the term GIGABYTE in designating or identifying their products which are identical or similar to petitioners' offerings. This will be problematic since the term "GIGABYTE" is the specific unit measure for various computer technology products, services and their derivatives. The term's applicability is universal in the field of computer technology. Thus, to appropriate the same for the exclusive use of one proprietor through registration as a mark or as a part of a composite mark without a disclaimer will run contrary to the requisite distinctiveness in trademark registration.

Inasmuch as "GIGABYTE" is a descriptive term, the Director General correctly upheld the Decision of the Director of the Bureau of Trademarks to require petitioner to disclaim the term "GIGABYTE" in its application for the mark STYLIZED G (GIGABYTE) & DEVICE as a condition for publication for opposition.

¹⁹Section 147.1

Petitioner maintains that a disclaimer for the term "GIGABYTE" should not be required considering that the subject mark is not descriptive. Petitioner also points to other registered trademarks, namely "PAPER MATE", "TEMASEK REVIEW", "TPG CAPITAL", and "JET SKI", which it believes to have a descriptive term as an element of the mark and how in the said cases, no disclaimer was required for the descriptive terms "PAPER MATE", "REVIEW", "CAPITAL" and "JETSKI".

This Court is not convinced. The term "GIGABYTE" is descriptive and may be allowed registration only if the same shall be disclaimed. Furthermore, petitioner cannot invoke the registrations of the other marks which petitioner claimed as invalid for being descriptive. These marks are not the ones in issue. Neither do the records show that these approved applications are on all fours with petitioner's situation, *i.e.*, that the marks are the same in being highly descriptive and the degree of correlation these marks have to the products concerned. Each mark must be considered on its own merits especially since each mark will have its corresponding surrounding factual circumstances and respective definitions.

There is also no reason why petitioner should refuse to disclaim the term "GIGABYTE" in the mark STYLIZED G (GIGABYTE) & DEVICE. The registration documents that petitioner submitted reveal that in its registrations in other countries, *i.e.*, registration with USPTO and with Russia,²⁰ it disclaimed the term "GIGABYTE". This shows that petitioner itself has recognized that the term "GIGABYTE" may have to be disclaimed for the mark to be validly registered. Petitioner points to these registrations as proof of registrability of the subject marks. Yet, it conveniently disregards such fact of disclaimer in some of its registrations

²⁰Rollo p. 105 and 129.

made abroad and insists that the disclaimer now being required by the IPOPHL is not necessary.

GIGABYTE has not acquired secondary meaning

Petitioner also contends that the subject marks are registrable because the term GIGABYTE has already acquired a secondary meaning, lending the same the requisite distinctiveness that would merit registration. Petitioner cites the extensive use of the mark in their advertising activities, the volume of sales that it has achieved in the Philippines, as well as articles in magazines which refer to its products using the mark "GIGABYTE". Petitioner contends that it has submitted substantial evidence that establishes its exclusive use of the mark, consistent with what is provided in Section 123 of the IP Code, to wit:

"As regards signs or devices mentioned in paragraphs (j), (k), and (l), nothing shall prevent the registration of any such sign or device which has become distinctive in relation to the goods for which registration is requested as a result of the use that have been made of it in commerce in the Philippines. The Office **may** accept as prima facie evidence that the mark has become distinctive, as used in connection with the applicant's goods or services in commerce, proof of substantially exclusive and continuous thereof by the applicant in commerce in the Philippines for five (5) years before the date on which the claim of distinctiveness is made." (Emphasis supplied)

Respondents point to the use of the word "may" in the same provision and concludes that the IPOPHL is not bound to accept proof of advertising, promotion, volume of sales and length and manner of continuous use of a mark as evidence that the same has become distinctive. The provision is merely directory and it is within the discretion of

the IPOPHL not to give weight to the documentary evidence submitted by petitioner.

There is no question that an otherwise descriptive mark could still be registered if it could be established that the same has already acquired a secondary meaning. Under the doctrine of secondary meaning, "a word or phrase originally incapable of exclusive appropriation with reference to an article on the market, because geographically or otherwise descriptive, might nevertheless have been used so long and so exclusively by one producer with reference to his article that, in that trade and to that branch of the purchasing public, the word or phrase has come to mean that the article was his product."²¹ However, petitioner and respondent disagree on the meaning of "may" and the extent of discretion of the IPOPHL in determining whether a mark has already acquired secondary meaning.

This Court is inclined to agree with respondents. No amount of linguistic gymnastics could support petitioner's claim that respondents erred in not giving weight to the evidence that petitioner submitted. The language of the provision is clear: the IPOPHL has the discretion to accept that certain pieces of evidence, *i.e.*, those that established substantially exclusive and continuous use in Philippine commerce for five years prior to the claim for distinctiveness is made, constitute *prima facie* evidence of exclusive and continuous use of a mark. In other words, mere submission of these proofs, meaning, documents and testimonies establishing advertising, volume sales, promotions, etc., does not bind or oblige the IPOPHL to conclude that the mark has become distinctive in connection with petitioner's goods. It may still decide not to consider or give weight to said evidence based on its sound judgment.

²¹Philippine Nut Industry, Inc. vs. Standard Brands Incorporated and Director of Patents, G.R. No. L-23035, July 31, 1975.

Accordingly, this Court will defer to the factual findings of the IPOPHL, considering that petitioner failed to show that there was grave error on the part of respondents in their appreciation of the evidence. Indeed, petitioner failed to prove that the subject mark has already acquired secondary meaning through continuous and exclusive use of the mark in Philippine commerce. The fact remains that an ordinary person would not necessarily associate the term "GIGABYTE" with petitioner's products but rather with the unit of measurement for computers or computer-related goods and services.

Finally, petitioner's argument that the registration of the subject mark will affect the protection accorded to its trade name deserves scant consideration. The fact that its trademark and trade name share a dominant feature (GIGABYTE) does not entitle petitioner to the approval of its application for registration. The trade name of the petitioner is protected in law just the same, with or without the registration of the subject mark.

WHEREFORE, the appeals are **DISMISSED**. The assailed *Decisions* of the Director General both dated April 30, 2013 concerning Application Nos. 4-2007-007852 and 4-2007-007853 are hereby **AFFIRMED**.

SO ORDERED.

ORIGINAL SIGNED
MAGDANGAL M. DE LEON
Associate Justice

CERTIFIED TRUE COPY:


SELENE VENTURA-CONANAN
Executive Clerk of Court III
Court of Appeals

WE CONCUR:

ORIGINAL SIGNED
ELIHU A. YBAÑEZ
Associate Justice

ORIGINAL SIGNED
VICTORIA ISABELA PAREDES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ORIGINAL SIGNED
MAGDANGAL M. DE LEON
Associate Justice
Chairperson – Seventh Division