

FASHION ONE TELEVISION LLC,	}	IPC No. 14-2015-00398
Opposer,	}	Opposition to:
	}	
-versus-	}	Application No. 4-2015-00002189
	}	Date Filed: 27 February 2015
EDMON SEE NGO,	}	
Respondent-Applicant.	}	Trademark: FASHION 21
x-----x		Order No. 2016 - <u>06</u> (D)

ORDER

FASHION ONE TELEVISION LLC ("Opposer") filed on 15 October 2015, thru registered mail, a Motion for Extension to File Opposition. The motion seeks for a third extension of thirty (30) days or until 11 November 2015 within which to file the Verified Opposition for reason that the sending of the consularized version of the document could not yet still be completed since the person in charge thereof is continuously travelling outside the Philippines.

The Respondent-Applicant did not file his comment or opposition thereto.

The records will show that per Order No. 2015-1298 dated 08 September 2015, the Opposer was given a first extension of thirty (30) days from 12 August 2015 or until 11 September 2015 within which to file his Verified Notice of Opposition. Upon proper motion and payment of the applicable fee, the Opposer was given by this Bureau a second and final extension of thirty (30) days or until 11 October 2015 within which to file the verified opposition. On 15 October 2015, instead of filing the verified opposition, the Opposer filed the instant motion requesting for a third extension of thirty (30) days to file the verified opposition.

Section 134 of R. A. No. 8293, otherwise known as the Intellectual Property Code of the Philippines ("IP Code") provides that:

Sec. 134. Opposition. Any person who believes that he would be damaged by the registration of a mark may, upon payment of the required fee and within thirty (30) days after the publication referred to in Subsection 133.2, file with the Office an opposition to the application. Such opposition shall be in writing and verified by the oppositor or by any person on his behalf who knows the facts, and shall specify the grounds on which it is based and include a statement of the facts relied upon. Copies of certificates of registration of marks registered in other countries or other supporting documents mentioned in the opposition shall be filed therewith, together with the translation in English, if not in the English language. For good cause shown and upon payment of the required surcharge, the time for filing an opposition may be extended by the Director of Legal Affairs, who shall notify the applicant of such extension. The Regulations shall fix the maximum period of time within which to file the opposition.

Corollarily thereto, Rule 7, Section 2 of the Rules and Regulations on Inter Partes Proceedings, as amended¹, provides the period for filing the opposition, to wit:

¹ Promulgated through Office Order No. 99, series of 2011, as amended by Office Order No. 14-068, series of 2014.

Section 2. *Period to file opposition.* - The verified notice of opposition must be filed within 30 days from the date of the publication of the trademark application in the IPOPHL "Gazette". Upon proper motion anchored on meritorious grounds which must be expressly indicated in the motion, and the payment of the filing fee for opposition and other applicable fees, the Bureau may grant an additional period of 30 days within which to file the opposition. A second motion for extension of 30 days may be granted on compelling grounds and upon payment of the applicable fees; Provided, that in no case will the filing of the opposition exceed ninety (90) days from the date of the aforementioned publication, *Provided, further,* that if the last day for filing of the verified opposition or motion for extension falls on a Saturday, Sunday, holiday, non-working day or on a day when the Office or the Bureau is closed for business as may be declared by the Director General, the filing must be done the next succeeding working day. [Emphasis supplied]

The above-quoted provisions are explicit as to the period within which to file the verified notice of opposition. Similarly, Rule 2, Section 8 (b) of the same rules provides the sanction for filing the opposition beyond the prescriptive period, thus:


Section 8. *Action on the Notice of Opposition or Motion for Extension to File Notice of Opposition, and Petition* - x x x (b) The notice of opposition or petition may be dismissed outright and/or motu proprio for having been filed out of time, due to lack of jurisdiction, and/or failure to state a cause of action. Likewise, a motion for extension of time to file notice of opposition shall be denied outright if the opposer fails to state meritorious grounds.

To date, the Opposer has not yet filed the Verified Notice of Opposition despite the extensions of time given and the lapse of the ninety (90) day period from the publication of the subject trademark application.

WHEREFORE, premises considered, the Opposer's Motion for Extension to File Opposition filed on 15 October 2015 is hereby **DENIED**. Accordingly, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2015-00002189 be returned, together with a copy of this Order, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 06 January 2016.


Atty. NATHANIEL S. AREVALO
Director IV, Bureau of Legal Affairs

Copy furnished:

Atty. NELSON G. LEYCO

Counsel for Opposer

One Hollywood Boulevard
Bigfoot I. T. and Media Park
Mactan, Lapu-Lapu City
Cebu

EDMON SEE NGO

Respondent-Applicant

601 Peony Tower
Numancia Street, Galleria De Binondo
Manila