

VICEROY CAYMAN LIMITED,
Opposer,

-versus-

DESIGNER HOTELS, INC.,
Respondent-Applicant.

X-----X

}
} IPC No. 14-2010-00267
} Opposition to:
} Appln. Serial No. 4-2008-011696
} Date Filed: 28 September 2008
} TM: "THE TIDES HOTEL
} BORACAY & DEVICE"
}

NOTICE OF DECISION

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GREETINGS:

Please be informed that Decision No. 2016 - 49 dated February 17, 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, February 17, 2016.

For the Director:


Atty. EDWIN DANILO A. DATING
Director III
Bureau of Legal Affairs

Republic of the Philippines
INTELLECTUAL PROPERTY OFFICE

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IPC No. 14-2010-00267

Opposition to:

Application No. 4-2008-011696

Date Filed: 28 September 2008

Trademark: "THE TIDES

HOTEL BORACAY & DEVICE"

Decision No. 2016- 49

DECISION

VICEROY CAYMAN LIMITED¹ ("Opposer") filed an opposition to Trademark Application Serial No. 4-2008-011696. The application, filed by Designer Hotels, Inc.² ("Respondent-Applicant"), covers the mark "THE TIDES HOTEL BORACAY & DEVICE" for use on "temporary accommodation" under Class 43 of the International Classification of Goods and Services.³

The Opposer alleges:

x x x

"The grounds for the opposition are as follows:

"1. Opposer has registered and applied for the trademark TIDES (and THE TIDES) in many countries of the world, including the United States.

"2. Opposer is using the mark TIDES in several marquis resort locations, and the same is widely known around the world to be exclusively owned by the opposer. Hence, registration of the mark THE TIDES HOTEL BORACAY & DEVICE in the name of respondent-applicant is contrary to the clear provisions of Article 6bis of the Paris Convention for the Protection of Industrial Property (Lisbon Revision) and the pertinent provisions of the GATT-TRIPS Agreement both of which the Philippines is a signatory, and which are being enforced in this jurisdiction by virtue of Section 123 (e) of the Intellectual Property Code (R.A. No. 8293), which provide that:

x x x

"3. The respondent-applicant's mark THE TIDES HOTEL BORACAY & DEVICE is confusingly similar to the mark TIDES (and THE TIDES) owned by opposer as to be likely, when applied to or used in connection with respondent-applicant's goods and services, to cause confusion or mistake and deceive the public or the public may be

¹A Cayman Islands exempt company existing under the laws of Cayman Islands with offices located at c/o Maples corporate Services Limited, Ugland House, Grand Cayman, KY 1-1104, Cayman Islands.

² With address on record at Unit 204 B, Wilson Street, Addition Hills, San Juan, Metro Manila, Philippines.

³The Nice Classification is a classification of goods and services for the purpose of registering trademark 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 Purposes of the Registration of Marks concluded in 1957

led to believe that the goods and services of respondent-applicant is owned by opposer or originated from or sponsored by the opposer. Thus, the application for registration of the mark THE TIDES HOTEL BORACAY & DEVICE in the name of respondent-applicant should not have been given due course and rejected outright not only because respondent-applicant's Application No. 4-2006-000790 has already been proscribed by opposer's prior application and registration for a similar mark under Section 123.1 (d) but also because opposer's mark TIDES (and THE TIDES) is a famous mark which is protected by Section 123.1 (e) of the Intellectual Property Code.

"4. The registration of the mark THE TIDES HOTEL BORACAY & DEVICE in the name of respondent-applicant will cause grave and irreparable injury and damage to the opposer within the meaning of Section 134 of R.A. No. 8293.

"THE OPPOSER HEREIN WILL RELY ON THE FOLLOWING FACTS TO SUPPORT ITS OPPOSITION, RESERVING THE RIGHT TO PRESENT ADDITIONAL EVIDENCE AS TO OTHER FACTS AS MAY BE NECESSARY IN THE COURSE OF THIS PROCEEDING DEPENDING UPON THE EVIDENCE THAT MAY BE ADDUCED BY RESPONDENT-APPLICANT.

"a) VICEROY CAYMAN LIMITED owns the trademark TIDES in connection with its business and, through its affiliates, has used the mark TIDES for its services and products.

"b) VICEROY CAYMAN LIMITED has registered and applied for registration of the trademark TIDES (or the substantially identical mark THE TIDES) in many other countries of the world, including the United States.

"c) Through its affiliates, VICEROY CAYMAN LIMITED has used the mark TIDES for hotels and restaurants in several marquis resort locations, making the mark TIDES well known around the world. The Tides Sugar Beach on the popular Carriibbean resort island St. Lucia is also poised to open yet this year.

"d) The respondent-applicant's mark THE TIDES HOTEL BORACAY & DEVICE is confusingly similar to the mark TIDES of VICEROY CAYMAN LIMITED.

"e) The mark THE TIDES HOTEL BORACAY & DEVICE of DESIGNER HOTELS, INC. is used on services substantially identical and/or related to the services of VICEROY CAYMAN LIMITED.

"f) The uncanny similarity in the mark and the use of the mark of DESIGNERS HOTELS, INC. on identical and/or related services make it very obvious that the respondent-applicant is riding on the international popularity of our mark TIDES and is passing off its goods as those of VICEROY CAYMAN LIMITED.

"g) As noted above, VICEROY CAYMAN LIMITED has spent large sums of money for advertising and popularizing its services and products using the mark TIDES (and THE TIDES), which coupled with its long use and unblemished and esteemed public reputation as operator of hotels, resorts and restaurants and provider of services and other products associated with its hotels and restaurants, has generated and established an immense and valuable goodwill for its mark TIDES (and THE TIDES) the world over.

"h) Moreover, the use and registration of the mark THE TIDES HOTEL BORACAY & DEVICE by respondent-applicant will likely cause the dilution of the advertising value of the mark TIDES of VICEROY CAYMAN LIMITED and the excellent image of the mark TIDES and will surely weaken its power of attraction.

"i) Under the circumstances, the use and registration of the mark THE TIDES HOTEL BORACAY & DEVICE by respondent-applicant will amount to a violation of the proprietary rights of VICEROY CAYMAN LIMITED and will likely prejudice the public who might mistakenly believe that respondent-applicant's services are those of VICEROY CAYMAN LIMITED or sponsored by, or originated from or are related to VICEROY CAYMAN LIMITED.

The Opposer's evidence consists of the sworn statement of Mary C. Pierson, Chief Financial Officer of VICEROY CAYMAN LIMITED, a list of current TIDES hotel locations, a list of the registrations and applications for registration of the trademark TIDES around the world in the name of VICEROY CAYMAN LIMITED, and samples of promotional materials featuring VICEROY CAYMAN LIMITED's TIDES mark and sample articles from magazines evidencing notoriety of the TIDES resorts.⁴

This Bureau issued a Notice to Answer and sent a copy thereof upon Respondent-Applicant on 17 January 2011. The Respondent-Applicant filed their Answer on 28 February 2011 and avers the following:

x x x

"II.

"BY WAY OF SPECIAL AND AFFIRMATIVE DEFENSES

"Respondent-Applicant hereby re-pleads and incorporates the foregoing denials and admissions insofar as they may be applicable to the following allegations and by way of special and affirmative defenses further states that:

"2.01. Respondent-Applicant is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with business address at Unit 204 B, Wilson Street, Addition Hills, San Juan, Metro Manila.

"2.02. On 24 September 2008, Respondent-Applicant filed an application for registration of the trademark, "THE TIDES HOTEL BORACAY & DEVICE" for Temporary Accommodation in Class 43, under Application Serial No. 4-2008-011696. Attached hereto and made an integral part hereof as Exhibit "1" is a copy of the Trademark/Service Mark Application corresponding to said trademark.

"2.03. The application was published for opposition in the Intellectual Property Office Official Gazette released on 24 May 2010. On 21 September 2010, Opposer filed its Verified Notice of Opposition.

⁴ Marked as Exhibits "A" to "C".

"2.04. In a Notice to Answer dated 05 January 2011 issued by the Honorable Bureau, Respondent-Applicant was directed to file its Verified Answer to the Verified Notice of Opposition filed by the Opposer within thirty (30) days from receipt thereof. In view that Respondent-Applicant received the Notice to Answer on 17 January 2011, it has until 16 February within which to file its Verified Answer. Hence, the timely filing of the instant Verified Answer containing the following grounds justifying a dismissal by the Honorable Bureau of Opposer's Verified Notice of Opposition.

x x x

"3.01. The mark 'THE TIDES HOTEL BORACAY & DEVICE' which the Respondent-Applicant seeks to register is not confusingly similar to the mark 'TIDES' (and 'THE TIDES') supposedly owned by the Opposer.

"3.02. According to the case of McDonald's Corporation vs. Macjoy Fastfood Corporation, in determining similarity and likelihood of confusion, jurisprudence has developed two (2) tests, the dominance test and the holistic test.

"3.02.1 The dominance test focuses on the similarity of the prevalent features of the competing trademarks that may cause confusion or deception. On the other hand, the holistic test requires the court to consider the entirety of the marks in question as applied to products, including the labels and packaging, in determining confusing similarity.

"3.03 The dominance test focuses on the similarity of the prevalent features of the competing trademarks which might cause confusion or deception. Confusion of goods (or in this case, services) is evident where the two registrants are actually in competition. It must be noted, however, that for there to be an actual confusion of goods or services, an otherwise prudent purchaser is induced in the belief that he is purchasing or availing the services of another, in which case Respondent-Applicant's goods or services are then purchased/availed of as the Opposer's and their substandard quality reflects badly on the Opposer's reputation. Without a doubt, confusion of goods or services would exist only if a customer does not exercise any degree of diligence in buying goods or services.

"3.03.1 Whether there exists a likelihood that an appreciable number of ordinarily prudent customers or clientele will be misled, or simply confused, as to the source of the goods or services in question, is a very important circumstance to consider. The 'purchaser' is not the 'completely unwary customer' but is the 'ordinarily intelligent buyer' who is discerning and who can distinguish between and among different brands. He is accustomed to buy, and therefore, to some extent familiar with, the services in question.

"3.03.2 Respondent-Applicant does not offer ordinary consumer products or services nor does Opposer. In order to avail of Respondent-Applicant's services, or specifically book a room in its hotel, a person must have fully appreciated and considered that he is booking a hotel room. Clearly, there is a degree of discretion on the client's part since he must have considered several factors such as price, location and amenities before deciding to book a room in the hotel. By reason of such discretion, clients desiring to book a hotel room will not be misled or simply confused as to the origin of the services.

"3.04. The holistic test mandates that the entirety of the marks in question must be considered in determining confusing similarity. In order to apply the holistic test, the appearance of the said trademarks must be compared.

"3.04.01 In the trademark 'THE TIDES HOTEL BORACAY & DEVICE', the words 'THE TIDES HOTEL BORACAY' are enclosed in a box with gray border. The words 'THE TIDES' are written in uppercase letters in black color above a black horizontal line and the words 'HOTEL BORACAY' are written in uppercase letters in black color and in smaller font below the black horizontal line. On the other hand, in the trademark 'TIDES' (and 'THE TIDES'), the words 'THE TIDES' are simply written in uppercase letters in brown color and positioned to the right of the brown logo of Opposer.

"3.04.02 Based on the appearance (as described above), the two trademarks are totally different from each other in their entirety. The fonts used in each trademark do not even closely resemble those of the other. There are marked and substantial differences between the overall appearances of the two trademarks, hence, they do not and cannot possibly create confusion as to the origin of the services provided by these two establishments. Moreover, the words 'HOTEL' and 'BORACAY' are incorporated in the trademark 'THE TIDES HOTEL BORACAY & DEVICE' which clearly indicates the service it provides and the place where such service is exclusively provided. Accordingly, there is no 'uncanny similarity' between the marks of Respondent-Applicant's and Opposer's.

x x x

"4.01. The claim that Opposer's trademark may be known internationally does not ipso facto entitle it to the benefits of the provisions of the Intellectual Property Code (hereinafter, the 'IPC') dealing with well-known marks.

"4.01.1 Under the IPC, a well-known mark is one which a competent authority of the Philippines has designated to be well known internationally and in the Philippines. In determining whether a mark is well-known, account shall be taken of the knowledge of the relevant sector of the public, rather than the public at large, including knowledge in the Philippines which has been obtained as a result of the promotion of the mark.

"4.02. In applying the provisions abovementioned, the determination of whether or not a mark is well-known should not be based on the advertising value and image Opposer perceives its mark to have, but rather, on the image and value placed on it by the relevant public, i.e. an appreciable number of ordinarily prudent purchasers/clientele who are discerning and who can distinguish between and among different hotel brands.

"4.03. As mentioned above, Respondent-Applicant does not offer ordinary consumer services nor does Opposer. With the degree of discretion involved in availing of Respondent-Applicant and Opposer's products/services, there simply is no room for confusion of goods (in this case, services) to take place. These prudent clientele are knowledgeable and well-informed of the products/services they are purchasing, including their origin, i.e. the tradename/hotel chain/brand of the hotel operator and its corresponding trademark/logo. Hence, Opposer's

fear of possible dilution of its mark's advertising value, image and power of attraction, is unwarranted.

"4.04. It likewise bears noting that Opposer's trademark/hotel chain/brand 'TIDES' (and 'THE TIDES') and its operator Viceroy Hotel Group, do not even place in the Global Hotel Brand Ranking of 2009 determined by MKG Hospitality, a European-based group whose solid analytical expertise and extensive industry know-how of the Hotel sector has contributed largely to the development of the Hospitality Industry.

"4.04.1 The Global Hotel Brand Ranking determines the Top 20 major chain hotel brands which are able to maintain their international market position, through a determination of their global room supply growth on an annual basis.
x x x

"4.04.2 Two important factors which are considered in determining the ranking of a trademark/hotel chain/brand are (1) total number of hotels owned and operated by a particular hotel group globally and (2) total number of rooms in all of the hotels owned by such group. An examination of the data provided reveals that hotel groups included in the rankings own and operate at least 214 hotels worldwide while the highest number of hotels owned and operated by a hotel group is 4,032. Based on these figures, it can be deduced that the international position of these hotel groups is maintained and their trademark/hotel chain/brand is secured, by an adequate number of hotels established globally.

"4.04.3 In contrast, the owner and operator of the trademark/hotel chain/brand 'TIDES' (and 'THE TIDES'), Viceroy Hotel Group, owns a very limited number of hotels, i.e. 11 hotels (as of 2009), most of which are located in the United States. From these eleven hotels, only three (3) use the trademark/hotel chain/brand 'TIDES' (and 'THE TIDES'), two (2) of which are located in Mexico while one is situated in Florida, USA. Moreover, these hotels are relatively new, with the Tides [Hotel] in Florida starting its operation in 2004 whereas both hotels in Mexico started operating in 2006.

"4.05 Given this factual milieu, it is apparent that Opposer has not yet established a right to the exclusive use of the trademark 'TIDES' (and 'THE TIDES'), despite its claim of aggressive advertising campaign. This is due to the fact that Opposer has not used its trademark 'TIDES' (and 'THE TIDES') over a sufficient period of time which will make it a well-known mark necessitating and demanding protection under the IPC.

"4.06. All of the foregoing considered, Respondent-Applicant must emphasize that serious prejudice would befall it and its business interests if the Honorable Bureau would give due course to the instant Verified Opposition. Verily, such action on the part of the Honorable Bureau would violate Respondent-Applicant's right to the use of its trademark 'THE TIDES HOTEL BORACAY & DEVICE' in its hotel business in the Philippines. It is, therefore, most respectfully submitted that on the basis of the foregoing grounds that the Honorable Bureau deny outright the instant Verified Opposition and give due course to Respondent-Applicant's application for registration of the mark 'THE TIDES HOTEL BORACAY & DEVICE'.

The Respondent-Applicant's evidence consists a copy of the trademark application serial no. 4-2008-011696; and copy of the Global Hotel Brand Ranking of 2009.⁵

On 28 June 2011, the Preliminary Conference was terminated and the parties were directed to file their respective position papers. Thereafter, the case was deemed submitted for resolution.

Should the Respondent-Applicant be allowed to register the trademark THE TIDES HOTEL BORACAY & DEVICE?

The Opposer anchors its opposition on Sections 123.1, paragraphs (d) and (e) of Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"), to wit:

Sec. 123.Registrability. – 123.1. A mark cannot be registered if it:

x x x

(d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of :

- (i) The same goods or services, or
- (ii) Closely related goods or services, or
- (iii) If it nearly resembles such a mark as to be likely to deceive or cause confusion;"

(e) Is identical with, or confusingly similar to, or constitutes a translation of a mark which is considered by the competent authority of the Philippines to be well-known internationally and in the Philippines, whether or not it is registered here, as being already the mark of a person other than the applicant for registration, and used for identical or similar goods or services: *Provided*, That in determining whether a mark is well-known, account shall be taken of the knowledge of the relevant sector of the public, rather than of the public at large, including knowledge in the Philippines which has been obtained as a result of the promotion of the mark;

A comparison of the competing marks reproduced below:

TIDES

Opposer's trademark

THE TIDES
HOTEL BORACAY

Respondent-Applicant's mark

⁵ Marked as Exhibits "1" and "2".

shows that confusion is likely to occur. The words THE TIDES are dominant in Respondent-Applicant's mark THE TIDES HOTEL BORACAY & DEVICE incorporating thereof Opposer's trademarks TIDES (and THE TIDES). The fact that the Respondent-Applicant's mark THE TIDES HOTEL BORACAY are enclosed in a box with gray border and has a different font style is of no moment. The distinctive feature of the Opposer's mark is the word TIDES (and THE TIDES), which was appropriated by the Respondent-Applicant. Because the Respondent-Applicant's trademark application covers goods and services that are similar and/or closely related to the Opposer's, particularly, hotel and restaurant services/operations under Class 43, it is likely that the consumers will have the impression that these goods originate from a single source or origin. The confusion or mistake would subsist not only on the purchaser's perception of goods but on the origin thereof as held by the Supreme Court, to wit:

Callman notes two types of confusion. The first is the confusion of goods in which event the ordinary 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 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.⁶

Public interest therefore requires, that two marks, identical to or closely resembling each other and used on the same and closely related goods, but utilized by different proprietors should not be allowed to co-exist. Confusion, mistake, deception, and even fraud, should be prevented. It is emphasized that 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.⁷

Records show that at the time the Respondent-Applicant filed its trademark application on 28 September 2008, the Opposer already owns trademark registration nos. 07011768 (Malaysia), 4-0156259-000 (Vietnam), IDM0000153548 (Indonesia), among others. These registrations cover hotel and resort services under Class 43. This Bureau noticed that the services indicated in the Respondent-Applicant's trademark application, i.e. temporary accommodation under Class 43, are similar to the Opposer's.

⁶ *Converse Rubber Corp. v. Universal Rubber Products, Inc. et. al.*, G.R. No. L-27906, 08 Jan. 1987.

⁷ *Pribhdas J. Mirpuri v. Court of Appeals*, G.R. No. 114508, 19 November 1999, citing *Ethepa v. Director of Patents*, *supra*, *Gabriel v. Perez*, 55 SCRA 406 (1974). See also Article 15, par. (1), Art. 16, par. (1), of the Trade Related Aspects of Intellectual Property (TRIPS Agreement).

The Respondent-Applicant's filing of their trademark application in the Philippines may be earlier than the Opposer's, but the latter raises the issues of trademark ownership, fraud and bad faith on the part of the Respondent-Applicant.

In this regard, this Bureau emphasizes that it is not the application or the registration that confers ownership of a mark, but it is ownership of the mark that confers the right of registration. The Philippines implemented the World Trade Organization Agreement "TRIPS Agreement" when the IP Code took effect on 01 January 1998. Art 16(1) of the TRIPS Agreement states:

1. The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs 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 a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use.

Significantly, Sec. 121.1 of the IP Code adopted the definition of the mark under the old Law on Trademarks (Rep. Act No. 166), to wit:

121.1. "Mark" means any visible sign capable of distinguishing the goods (trademark) or services (service mark) of an enterprise and shall include a stamped or marked container of goods; (Sec. 38, R.A. No. 166a)

Sec. 122 of the IP Code also states:

Sec. 122. How Marks are Acquired.- The rights in a mark shall be acquired through registration made validly in accordance with the provisions of this law. (Sec. 2-A, R.A. No. 166a)

There is nothing in Sec. 122 which says that registration confers ownership of the mark. What the provision speaks of is that the rights in a mark shall be acquired through registration, which must be made validly in accordance with the provisions of the law.

Corollarily, Sec. 138 of the IP Code provides:

Sec. 138. Certificates of Registration. - A certificate of registration of a mark shall be *prima facie* evidence of the validity of the registration, the registrant's ownership of the mark, and of the registrant's exclusive right to use the same in connection with the goods or services and those that are related thereto specified in the certificate. (Emphasis supplied)

Clearly, it is not the application or the registration that confers ownership of a mark, but it is ownership of the mark that confers the right to registration. While the

country's legal regime on trademarks shifted to a registration system, it is not the intention of the legislators not to recognize the preservation of existing rights of trademark owners at the time the IP Code took into effect.⁸ The registration system is not to be used in committing or perpetrating an unjust and unfair claim. A trademark is an industrial property and the owner thereof has property rights over it. The privilege of being issued a registration for its exclusive use, therefore, should be based on the concept of ownership. The IP Code implements the TRIPS Agreement and therefore, the idea of "registered owner" does not mean that ownership is established by mere registration but that registration establishes merely a presumptive right of ownership. That presumption of ownership yields to superior evidence of actual and real ownership of the trademark and to the TRIPS Agreement requirement that no existing prior rights shall be prejudiced. In *E.Y. Industrial Sales, Inc., et al. v. Shen Dar Electricity and Machinery Co. Ltd.*⁹, the Supreme Court held:

x x x Under this provision, the registration of a mark is prevented with the filing of an earlier application for registration. This must not, however, be interpreted to mean that ownership should be based upon an earlier filing date. While RA 8293 removed the previous requirement of proof of actual use prior to the filing of an application for registration of a mark, proof of prior and continuous use is necessary to establish ownership of a mark. Such ownership constitutes sufficient evidence to oppose the registration of a mark.

x x x

Notably, the Court has ruled that the prior and continuous use of a mark may even overcome the presumptive ownership of the registrant and be held as the owner of the mark. x x x

In this instance, the Petitioner proved that it is the originator and owner of the contested trademark. As stated, the "VICEROY CAYMAN LIMITED has registered and applied for registration of the trademark TIDES (or the substantially identical mark THE TIDES) in many other countries of the world, including the United States."¹⁰ It is incredible for the Respondent-Applicant to have come up with exactly the same and/or confusingly similar trademark for use on similar services by pure coincidence.

Succinctly, the field from which a person may select a trademark is practically unlimited. As in all other cases of colorable imitations, the unanswered riddle is why of the millions of terms and combinations of letters and designs available, the Respondent-Applicant had to come up with a mark identical or so closely similar to another's mark if there was no intent to take advantage of the goodwill generated by the other mark.¹¹

The intellectual property system was established to recognize creativity and give incentives to innovations. Similarly, the trademark registration system seeks to reward

⁸ See Sec. 236 of the IP Cod

⁹ G.R. No. 184850, 20 October 2010.

¹⁰ Par. 4(b) of the Notice of Opposition and Exhibit "B".

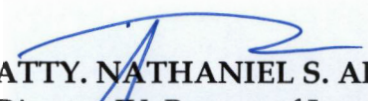
¹¹ *American Wire & Cable Company v. Director of Patents*, G.R. No. L-26557, 18 Feb. 1970.

entrepreneurs and individuals who through their own innovations were able to distinguish their goods or services by a visible sign that distinctly points out the origin and ownership of such goods or services.

WHEREFORE, premises considered, the instant Opposition to Trademark Application No. 4-2008-011696 is hereby SUSTAINED. Let the filewrapper of the subject trademark application be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 17 February 2016.



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