



REPUBLIC OF THE PHILIPPINES  
COURT OF APPEALS  
MANILA

SEVENTEENTH (17<sup>th</sup>) DIVISION

**UNI-CHARM CORPORATION,  
INC.,**

Petitioner,

-versus-

CA-G.R. SP NO. 135287

**INTELLECTUAL PROPERTY  
OFFICE (IPO) DIRECTOR  
GENERAL,**

Respondent.

X-----X

January 29, 2016

NOTICE OF DECISION

S I R:

Please take notice that on **January 29, 2016**, a **Decision**, copy hereto attached, was rendered by the **Seventeenth Division** of the Court of Appeals in the above-entitled case, the original copy of which is on file with this Office.

You are hereby required to inform this Court, within five (5) days from receipt, of the date when you received this notice and a copy of the **Decision**.

Very truly yours,

  
**MICHAEL F. REAL**  
Division Clerk of Court

Copy furnished via reg. mail w/rc:

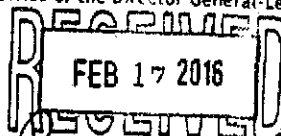
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BY:  TIME: \_\_\_\_\_



Republic of the Philippines  
**COURT OF APPEALS**  
Manila

**SEVENTEENTH (17<sup>TH</sup>) DIVISION**

\* \* \*

UNI-CHARM  
CORPORATION, INC.,  
*Petitioner,*

CA-G.R. SP NO. 135287

Members:

-versus-

GONZALES-SISON, M.,  
Chairperson  
CRUZ, R.A. and  
INTING, H.J.P.B., *II*

INTELLECTUAL PROPERTY  
OFFICE (IPO) DIRECTOR  
GENERAL,  
*Respondent.*

Promulgated:

January 29, 2016

X-----X

**DECISION**

**GONZALES-SISON, M.,J:**

This is a Petition for Review<sup>1</sup> under Rule 43 of the Rules of Court filed by the petitioner, Uni-Charm Corporation, Inc. ("petitioner"), contesting the Decision<sup>2</sup> of the public respondent dated 23 April 2014 in Appeal No. 01-2013-002, and pertaining to Application No. 1-2005-501061.

<sup>1</sup> Rollo, pp. 7-34.

<sup>2</sup> Rollo, pp. 36-43.

The assailed Decision disposed:

“WHEREFORE, premises considered, the instant appeal is hereby dismissed. Let a copy of this Decision be furnished to the Director of the Bureau of Patents and the library of the Documentation, Information and Technology Transfer Bureau for their appropriate action, information, guidance, and records purposes.”

The assailed Decision narrates the antecedents, as follows:

“Records show that the Appellant filed on 03 June 2005 a request for national phase entry of International Application No. PCT/JP2003/015021 for disposable diaper. The international application was given a domestic application number 1-2005-501061. Subsequently, the Examiner-in-Charge (“Examiner”) issued an official action requiring the Appellant to submit a power of attorney or the appointment of a resident agent. The Appellant requested extensions of time to submit the response to the official action.

The Appellant, however, did not submit the required power of attorney or appointment of a resident agent within the requested extensions of time. Consequently, the Examiner issued another official action inviting the Appellant to fulfill the requirement of submitting the power of attorney or appointment of a resident agent. The Appellant requested again extensions of time to respond to the official action.

Subsequently, for failure of the Appellant to comply with the requirements to submit a power of attorney or the appointment of a resident agent, the Examiner issued a “NOTICE OF WITHDRAWN APPLICATION” on Application No. 1-20050501061.

On 16 September 2008, the Appellant filed a petition questioning the authority of the “Records” Officer to deny the petition for revival. The Appellant maintained that it has executed a general power of attorney in favor of its counsel which was submitted to the Office on 29 June 2007 in connection with

Application No. 3-2007-000337. The Appellant contended that a petition for revival can only be acted upon by the Director and, thus, the Records Officer has no authority to act on the petition.

On 30 April 2013, the Director issued the assailed decision affirming the action of the Records Officer and denying the Appellant's petition for revival. Not satisfied, the Appellant filed on 10 June 2013 and 10 July 2013 a "NOTICE OF APPEAL" and "APPELLANT'S BRIEF" seeking the reversal of the Director's decision and the granting of its petition for revival."

In its appeal before the public respondent, the petitioner contended that the untimely submission of a power of attorney is not a ground to declare an application as withdrawn; that it had already submitted such power of attorney; and that the Records Officer cannot deny the petition for revival, the proper authority being the Director of the Intellectual Property Office ("IPO").

The public respondent defined the issue to be resolved as "whether the Director was correct in denying the Appellant's request for revival of Application No. 1-2005-501061". It ruled in the negative through the assailed Decision.

The public respondent affirmed that the Intellectual Property Code (the "IP Code") requires non-resident applicants, like the petitioner, to submit a power of attorney or to appoint a resident agent as part of the formality examination. It then found that petitioner's failure to submit such document, as required by the Examiner and despite numerous extensions of time granted to the petitioner, constituted non-compliance with the formalities and amounted to a failure to prosecute under Rule 929 of the Implementing Rules and Regulations on Inventions ("IRR"). For this reason, the public respondent determined that petitioner may be deemed to have withdrawn its application.

Hence, this appeal.

I. WHETHER OR NOT [the] PATENT APPLICATION FOR INVENTION IS MERITORIOUS

II. WHETHER OR NOT THE UNTIMELY SUBMISSION BY THE PETITIONER OF THE REQUESTED DULY SIGNED POWER OF ATTORNEY/APPOINTMENT OF RESIDENT AGENT IS ONE OF THE GROUNDS UNDER THE LAW FOR RESPONDENT-APPELLANT (sic) TO DECLARE TO DECLARE A PATENT APPLICATION AS WITHDRAWN.

III WHETHER OR NOT THE RECORDS OFFICER HAS THE JURISDICTION TO ACT UPON AND DENY PETITIONER'S REQUEST FOR REVIVAL WITH COST.

Petitioner preeminently contends that its application for a patent application is meritorious. It highlights that it "wishes to provide people with products to gently support their minds and bodies to free them from burdens and allow them to fulfill their dreams"; that it "seeks to be the industry leader in offering to the public, among others, baby and child care products centering on disposable diapers and urinary care products"; and that it has devoted vast resources in research and product development. According to petitioner, all these are conditioned on its successful application for patent here. It maintains that the United States Patent and Trademark Office and European Patent Office had granted its applications in those jurisdictions.

Petitioner then posits that the IP Code and related rules must be liberally interpreted in its favor, considering the State's policy to advance and protect intellectual property and to streamline procedures related thereto.

From this point of view, petitioner presses that it has not failed to prosecute. It stresses that it paid the annual examination fees from its initial application in 2005.

Petitioner points out that failure to timely submit a requested power of attorney is not enumerated by the IP Code as a ground for considering an application withdrawn. It continues that not even the Philippine Rules on Patent Cooperation Treaty ("PCT Rules") declares such omission as a basis for withdrawal. Petitioner offers that the absence of statutory and treaty basis bars Intellectual Property implementing rules from stating the contrary, and hence, the public respondent's affirmation of the Records Officer's withdrawal of its application lacks legal support and must be reversed.

Regarding the Record Officer's denial of petitioner's Request for Revival,<sup>3</sup> petitioner argues that the officer holds no jurisdiction to do so. It cites Rule 930 of the IRR (now Rule 929), underscoring that only the Director has authority to act on these requests. Without such jurisdiction, the Record Officer's denial thus could not attain finality.

Petitioner then contends that its failure to comply with the Records Officer's request for a power of attorney could only be attributed to excusable negligence, and that anyway, it has already filed a general power of attorney<sup>4</sup> for its counsel to represent it in all patent applications, albeit in another application (3-2007-000337) and on 29 June 2007.

On 6 July 2015, this Court received the Office of the Solicitor General's (the "OSG") Comment<sup>5</sup>, as counsel for the public respondent.

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<sup>3</sup> Rollo, p. 144.

<sup>4</sup> Rollo, p. 75.

<sup>5</sup> Rollo, pp. 231-247.

The OSG chiefly posits that the denial of the petition for revival by the records officer has already become final. It cites Rule 1302 of the IRR which provides that a second adverse decision by an Examiner may be treated as final for appeal purposes, and argues that when the Records Officer denied petitioner's request for revival, the denial counted as the second adverse decision. Thus, the OSG contends that petitioner could, under the IRR, appeal until 23 February 2011 from its receipt of the denial on 23 August 2010. However, petitioner belatedly filed its Petition to Question the Authority<sup>6</sup> on 12 July 2012. The OSG reminds that appeal is a mere statutory privilege, which petitioner lost when it failed to question the Record Officer's authority on time.

The OSG then submits that granting the denial was not final, the IPO's determination that petitioner's application has been abandoned must still stand. The OSG focuses on petitioner's failure to comply with the Record Officer's instruction to furnish a duly signed power of attorney or appointment of resident agent, as required by law. The OSG argues that without such power or appointment, petitioner cannot have satisfied the formality examination. The OSG maintains that there must a separate power of attorney to comply with the IP Code.

On this matter, the OSG adds that under the IRR on Inventions, an application shall be deemed withdrawn for failure to respond to an official action within the reglementary period.

The OSG parlays that revival could not even be granted in favor of petitioner. The OSG urges that petitioner did not even prove that it failed to prosecute due to excusable negligence, as mandated by Rule 929 of the IRR.

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<sup>6</sup> Rollo, pp. 90-91.

Regarding petitioner's theory that the Record Officer never had jurisdiction to resolve its Petition for Revival, the OSG maintains that the cited Rule 930 of the previous IRR only provides that the Director may grant revival if he is satisfied that the failure to prosecute falls among the legally sanctioned grounds. Besides, the OSG counters, the Director himself had already affirmed the action taken by the Records Officer.

Lastly, in response to petitioner's plea for a liberal interpretation of rules, the OSG asserts that the imposition of time limits for complying with legal directives serves the vital state interest of assuring effective and orderly administration. The OSG quotes that patents are imbued with public interest and that petitioner should have complied with the requirements attending its application here in good faith.

On 5 August 2015, We received petitioner's Reply<sup>7</sup>. Petitioner responds that under Rule 1302 of the IRR, it has the discretion to treat the Record Officer's second adverse decision as final, considering that the provision states that "a second adverse decision by the Examiner on the same ground may be considered as final by the applicant, petitioner, or patentee for purposes of appeal". Petitioner contends that as the Records Officer has issued no "final denial", then the denial of its petition for revival by such examiner cannot be given the effect of *res judicata*. It also adds it has never treated the denial of the Records Officer as final, and hence, the Director's affirmation of the same pre-empted its rights under the law.

The petitioner then pleads for a liberal application of the rules so that the merits of its patent application could be heard.

On 12 November 2015, the petitioner filed its Memorandum in support of its arguments.<sup>8</sup> On 27 November 2015, the OSG filed its own.<sup>9</sup>

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<sup>7</sup> Rollo, pp. 252-264.

<sup>8</sup> Rollo, pp. 281-297.

<sup>9</sup> Rollo, pp. 304-322.



We now resolve.

Confronting Us are the following issues: a) Whether or not the Examiner (Records Officer II) had "jurisdiction" or "authority" to rule on petitioner's petition for revival; b) Whether or not the Examiner's denial, assuming that his office had jurisdiction, already attained finality; and c) Whether or not the public respondent Director General of the IPO correctly affirmed the denial of petitioner's Petition for Revival.

At the outset, We must exclude the merits of petitioner's application for patent, although this has been raised as an issue. The patentability of petitioner's product constitutes an entirely separate issue which the Intellectual Property Office, through its proper officers, must first rule on. Considering that petitioner's application never hurdled past the formality examination, We leave this matter untouched, in deference to the IPO's primary jurisdiction.

Now to the main issues.

**First, We find that a Records Officer II has no authority to act on petitioner's request for revival.**

Rule 929 of the IRR elucidates:

"Rule 929. Revival of Application. - An application deemed withdrawn for failure to prosecute may be revived as a pending application within a period of four (4) months from the mailing date of the notice of withdrawal **if it is shown to the satisfaction of the Director** that the failure was due to fraud, accident, mistake, or excusable negligence."

The above mentioned provision clearly identifies that it is only the Director of Patents revive applications deemed withdrawn, such as appellant's. The provision does not provide that such authority may be delegated to a Records Officer II. Thus, pursuant to the cornerstone of statutory construction that is the plain meaning rule, We simply apply the exact wording of the law, the same being plain, clear, and unequivocal.<sup>10</sup>

Notably, the lack of authority has been observed by the Director of Patents in the 30 April 2013 Decision<sup>11</sup>, resolving petitioner's Petition to Question Authority of Records Officer to Deny Petition for Revival, to wit:

"We stress, at the outset, that while the authority to grant or deny petitions for revival rests solely with the Director of the Bureau of Patents as provided under Rule 930 of the Rules and Regulations on Inventions, the denial of the Request for Revival made by the Records Officer in this instant application may be properly considered as the "Final Action" for purposes of Appeal to the Director of Patents. Parenthetically, the Petition to Question Authority of Records Officer to Deny Petition for Revival shall be treated by this Office as such."

**Second, and proceeding from this deliberation, the denial of the petition by the Records Officer cannot attain finality.**

Considering that the Records Officer II has no authority to resolve the Petition for Revival, We cannot consider his denial of the same as a "final action" upon which the effect of *res judicata* may attach.

Since the IRRI invokes the application of a remedial principle, We recall the elements making the concept of *res judicata* operative, which are as follows:

- a. Previous final judgment;
- b. By a court having jurisdiction over the parties and the subject matter;
- c. On the merits of the case;

<sup>10</sup> See *Navarro, et al. v. Executive Secretary, et al.*, G.R. No. 180050, 12 May 2010.

<sup>11</sup> Rollo, pp. 96-102.

d. Between identical parties, on the same subject matter, and cause of action.<sup>12</sup>

Plainly, the second requisite is absent here. The Records Officer has no authority at all to rule on the Petition for Revival. We find, moreover, that the enforcement of property rights, a vital State concern, would be advanced further if We were to avoid technical dismissals and encourage the hearing of cases on their merits. Thus, for this appeal, We disregard the unauthorized denial by the Records Officer and treat the Director's 30 April 2013 ruling as the definitive resolution of petitioner's Petition for Revival.

Anent the third issue, We again review the factual antecedents leading to the withdrawal.

The IP Code mandates that applicants for patents must comply with formal requirements laid out in the law.<sup>13</sup> Part of these formal requirements<sup>14</sup> is the appointment of an agent or representative, which the public respondent sought to enforce when it ruled that petitioner should have submitted the required power of attorney, initially required on 1 March 2006<sup>15</sup>.

The IPO granted petitioner extensions from 1 March 2006, until 1 September 2006, to submit the power of attorney.<sup>16</sup> Petitioner was unable to submit and applied for two extensions: 13 February 2007 and 13 April 2007.<sup>17</sup>

Meanwhile, on 5 June 2007, petitioner filed a General Power of Attorney for another application, application no. 3-2007-000337, an industrial design registration.<sup>18</sup>

<sup>12</sup> See *Mallion v. Alcantara*, G.R. No. 141528, 31 October 2006.

<sup>13</sup> Sec. 42 of the IP Code.

<sup>14</sup> Sec. 33 of the IP Code states: An applicant who is not a resident of the Philippines must appoint and maintain a resident agent or representative in the Philippines upon whom notice or process for judicial or administrative procedure relating to the application for patent or the patent may be served.

<sup>15</sup> Rollo, p. 52.

<sup>16</sup> Rollo, pp. 68-70.

<sup>17</sup> Rollo, pp. 71-72.

<sup>18</sup> Rollo, pp.73-75.

On 8 August 2007, the IPO notified the petitioner thru counsel that it had until 8 October 2007 to submit the required document.<sup>19</sup> From 8 October 2007, petitioner requested for extensions until 8 February 2008 to comply. No record shows that these requests were granted.<sup>20</sup>

On 16 May 2008, the handling Records Officer issued a Notice of Withdrawal of Application for "failure to comply with the requirements stated in paper number 10 mailed August 8, 2007".<sup>21</sup>

On 15 September 2008, petitioner filed its Request for Revival.<sup>22</sup> The Records Officer denied the request on 23 August 2010.<sup>23</sup> On 12 July 2012, petitioner questioned the denial and only then did it notify the Director of Patents of the filing of the general power of attorney on 5 June 2007.<sup>24</sup>

**Principally, We find that the non-submission of a required power of attorney constitutes a failure to prosecute and a ground for withdrawal.**

Petitioner argues that the timely submission of a power of attorney is not among the requirements for the assignment of a filing date under Sec. 40, 41, and 42 of the IP Code and Rule 600 of the IRR. While it is true that those Sections make no mention of a power of attorney, We find that acts constituting a failure to prosecute need not be limited to a non-compliance with those provisions.

Petitioner's narrow construction of the law ignores a basic precept in statutory construction: that a statute must be interpreted as a whole.

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<sup>19</sup> Rollo, p. 76.

<sup>20</sup> Rollo, pp. 77-78.

<sup>21</sup> Rollo, p. 79.

<sup>22</sup> Rollo, p. 80.

<sup>23</sup> Rollo, p. 81.

<sup>24</sup> Rollo, pp. 82-83.

The case of *Commissioner of Customs and The District Collector for the Port of Iloilo v. New Frontier Sugar Corporation*<sup>25</sup> expounds on this principle, as follows:

*"Ut magis valeat quam pereat.* A statute is to be interpreted as a whole. The provisions of a specific law should be read, considered, and interpreted together as a whole to effectuate the whole purpose of which it was legislated. A section of the law is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together. In other words, the court must harmonize them, if practicable, and must lean in favor of a construction which will render every word operative, rather than one which may make the words idle and nugatory."

Such doctrine, when applied here, reveals that inaction resulting to a failure to prosecute need not necessarily be confined to a non-submission of the documents or information required by Sections 401, 41, and 42 of the IP Code. By "failure to prosecute", as the phrase suggests and in absence of a statutory definition, means a failure to comply not only with the provisions identified by the petitioner, but also as with other requirements indispensable to the processing of a patent application.

It must be underscored that the law expressly allows the IPO, through its own rules, to determine the formality requirements in addition to the IP Code, to wit:

"Sec. 42. Formality Examinations. 42.1. After the patent application has been accorded a filing date and the required fees have been paid on time in accordance with the Regulations, **the applicant shall comply with the formal requirements specified by Section 32 and the Regulations within the prescribed period**, otherwise the application shall be considered withdrawn." (Emphasis Ours.)

<sup>25</sup> G.R. No. 163055, 11 June 2014.

The governing IRR at the time of petitioner's application states:

"Rule 929. Withdrawal of Application for Failure to Respond Within Time Limit.

(a) If an applicant fails to prosecute his application within the required time as provided in these Regulations, the application shall be deemed withdrawn.

(b) The time for reply may be extended only for good and sufficient cause and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due. The Examiner may grant a maximum of two (2) extensions, provided that the aggregate period granted inclusive of the initial period allowed to file the response, shall not exceed six (6) months from mailing date of the official action requiring such response.

**(c) Prosecution of an application to save it from withdrawal must include such complete and proper action as the condition of the case may require. Any amendment not responsive to the last official action shall not operate to save the application from being deemed withdrawn.**

(d) When the action by the applicant is a bona fide attempt to advance the case to final action, and is substantially a complete response to the Examiner's action, but consideration of some matter or compliance with some requirements has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of withdrawal is considered.

(e) Prompt ratification or filing of a correctly signed copy may be accepted in case of an unsigned or improperly signed paper."

It must be stressed that compliance with Sec. 33, on the appointment of a resident agent through a power of attorney, is necessary for an application to proceed to substantive examination. This is clear in Sec. 48 of the IP Code:

"48.1. The application shall be deemed withdrawn unless within six (6) months from the date of publication under Section 41, a written request to determine whether a patent application meets the requirements of Sections 21 to 27 and **Sections 32 to 39 and the fees have been paid on time.**" (Emphasis Ours.)

Thus, pursuant to Rule 929 of the IRR, an applicant must completely and properly comply with Sec. 33 for its application to proceed to substantive examination and to avoid being withdrawn.

Relevant to this point, the OSG correctly asserts that even the PCT Rules authorizes states to require that foreign applicants be represented by agents, which is carried out by Sec. 33 of the IP Code and the IRR.

Rule 51*bis*.1(b) of the PCT Rules allows certain national requirements, including that the applicant "be represented by an agent" and that "the agent, if any, representing the applicant be duly appointed by the applicant." Rule 7 of the Rules is more emphatic, in that it provides that "[A]n applicant who is not a resident of the Philippines shall appoint and maintain an agent or representative residing in the Philippines x x x."

*Thus, as gleaned from the above cited provisions, the appointment of an agent must be complied with by the petitioner, a non-resident applicant. Proof of compliance consists in the submission to the IPO of the power of attorney. Logically, a failure to submit the same on time constitutes incomplete or improper action, for which an application may be deemed withdrawn.*

Hence, when petitioner failed to submit that requirement within the time allowed by the Records Officer, the latter was acting legally when he considered petitioner's application withdrawn.

From the withdrawal, petitioner moved to revive its application. Rule 929 of the IRR (previously Rule 930) lays out the requirements, to wit:

"An application deemed withdrawn for failure to prosecute may be revived as a pending application within a period of four (4) months from the mailing date of the notice of withdrawal if it is shown to the satisfaction of the Director that the failure was due to fraud, accident, mistake, or excusable negligence."

**We now determine whether petitioner's petition for revival was correctly denied, which is the third and apparently most significant issue. On this matter, We rule in the positive, and affirm the denial of petitioner's request. We elaborate below.**

It must be underscored that for a request for revival to prosper, the applicant must show that the failure to prosecute was due to fraud, accident, mistake, or excusable negligence.

Unfortunately, petitioner has not established any of these grounds to explain its untimely informing the IPO that it already has a power of attorney.

In its Request for Revival, petitioner did not even allege that one or more of these causes prevented it from timely complying with the Record Officer's instruction. Its counsel merely narrated that petitioner only recently expressed its intention to revive the application for patent.

In the subsequent proceedings, petitioner would then claim that its belated compliance resulted from excusable negligence.

Jurisprudence defines excusable negligence, as follows:

"Excusable negligence is "one which ordinary diligence and prudence could not have guarded



against." The circumstances should be properly alleged and proved."<sup>26</sup>

Petitioner, however, miserably failed to allege and prove circumstances constituting excusable negligence. We, as with the public respondent, are left in the dark as to why it has failed to promptly and timely comply with the submission of a power of attorney.

As to its claim that it had already filed a general power of attorney, We find that the belated invocation of the same for the instant application does not salvage the defective move to revive.

*First, petitioner could have raised the submission before the Records Officer but it failed to do so.* Based on petitioner's documentary submissions, there was no reason which impaired it from complying. Plainly, had petitioner only exercised ordinary diligence in the processing of its application, then it would have presented the general power of attorney as required by the Records Officer before the time allotted to it had expired. Corollarily, since only ordinary diligence could have guarded against the non-compliance, petitioner's negligence in missing the deadline cannot be classified as excusable negligence.

*Second, the submission of the power of attorney in July 2007 satisfies the formality requirements for a different application.* The IRRI and the IP Code, however, mandates applicants to comply with formalities for each application. Moreover, no provision requires the Records Officer to check for applicants whether it has filed any document that may be construed as compliance.

*Third, petitioner's tardy notification of the submission in 12 July 2012 constitutes laches.* Petitioner fails to see that it glaringly failed to comply since October 2006, despite numerous extensions and without adequate explanations on its part.

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<sup>26</sup> *Lui Enterprises, Inc. v. Zuellig Pharma Corporation and the Philippine Bank of Communications.*

Jurisprudence defines laches, as follows:

"Laches has been defined as such neglect or omission to assert a right, taken in conjunction with lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity. It is a delay in the assertion of a right which works disadvantage to another because of the inequity founded on some change in the condition or relations of the property or parties. It is based on public policy which, for the peace of society, ordains that relief will be denied to a stale demand which otherwise could be a valid claim. It is different from and applies independently of prescription. While prescription is concerned with the fact of delay, laches is concerned with the effect of delay. Prescription is a matter of time; laches is principally a question of inequity of permitting a claim to be enforced, this inequity being founded on some change in the condition of the property or the relation of the parties. Prescription is statutory; laches is not. Laches applies in equity, whereas prescription applies at law. Prescription is based on a fixed time, laches is not. Laches means the failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert it either has abandoned or declined to assert it."<sup>27</sup>

This is not the first time that laches would be appreciated against an applicant in patent registration proceedings. In *Lothar Schuartz, et al. v. Court of Appeals and the Bureau of Patents, Trademarks and Technology Transfer*<sup>28</sup> the Supreme Court refused the revival of several patent applications on the ground that the petitions for revival were filed out of time, despite the applicant's assertion that its counsel's employees did not notify its lawyers of the service of the notices of abandonment. The Court, in particular, cited the unreasonable length of time which

<sup>27</sup> *Dela Cruz v. Miguel*, G.R. No. 144103, 31 August 2005.

<sup>28</sup> G.R. No. 113407, 12 July 2000.

intervened between the notifications of withdrawal and the petitions for revival.

Such unreasonable length of time is also present here. We cannot overlook that petitioner only notified the Director of its appointment on 12 July 2012, more than four years from the time it was supposed to be submitted on 8 October 2007.

Petitioner pleads for a liberal application of the rules but We are not persuaded. In order for such a stance to be adopted, the pleader must cite compelling reasons of exceptional character to justify or explain deviation from procedure.<sup>29</sup> Unfortunately, no reasons of such nature have been advanced here, to explain why petitioner's flawed petition to revive must be granted and why petitioner only belatedly complied with the Records Officer's requirement.

For the foregoing reasons, this appeal must therefore be denied. Consequently, the assailed Decision is affirmed.

**WHEREFORE, premises considered, the APPEAL is DENIED for lack of merit. The assailed Decision dated 23 April 2014 is AFFIRMED.**

**SO ORDERED.**

**MARLENE GONZALES-SISON**  
Associate Justice

<sup>29</sup> See *Anderson v. Ho*, G.R. No. 172590, 7 January 2013; *Heirs of San Pedro v. Garcia and Calderon*, G.R. No. 166988, 3 July 2009; and *Fil-Estate Properties, Inc. and Blue-Waters Resorts Country Club, Inc. v. Hon. Homena-Valencia, et al.*, G.R. No. 173942 15 October 2007.

**WE CONCUR:**

**RAMON A. CRUZ**  
Associate Justice

**HENRI JEAN PAUL B. INTING**  
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.

**MARLENE GONZALES-SISON**  
Chairperson, Seventeenth (17<sup>th</sup>) Division