

AVENTI SUB II INC.,
Opposer,

-versus-

CLOSED JOINT STOCK COMPANY
"BIOCAD",
Respondent- Applicant.

x-----x

} **IPC No. 14-2015-00031**
}
} **Opposition to:**
} **Appln. Serial No. 4-2014-008480**
} **Date Filed: 07 July 2014**
} **TM: "AVEGRA"**

NOTICE OF DECISION

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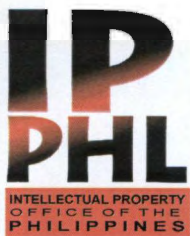
GREETINGS:

Please be informed that Decision No. 2016 - 202 dated June 30, 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, June 30, 2016.

For the Director:

MARILYN F. RETUTAL
IPRS IV
Bureau of Legal Affairs



AVENTI SUB II INC.,

Opposer,

-versus-

CLOSED JOINT STOCK COMPANY
"BIOCAD",

Respondent-Applicant.

x-----x

IPC No. 14-2015-00031

Opposition to:

Application No. 4-2014-008480

Date Filed: 07 July 2014

Trademark: "AVEGRA"

Decision No. 2016- 202

DECISION

AVENTI SUB II INC.¹ ("Opposer") filed an opposition to Trademark Application Serial No. 4-2014-008480. The application, filed by Closed Joint Stock Company "BIOCAD"² ("Respondent-Applicant"), covers the mark "AVEGRA" for use as "pharmaceutical preparations" under Class 05 of the International Classification of Goods and Services.³

The Opposer alleges:

x x x

"IV.

"GROUNDS IN SUPPORT OF THIS OPPOSITION

"10. The Respondent-Applicant's application for the registration of the mark AVEGRA should not be accepted by this Honorable Office since to do so would be contrary to Section 123.1 (d) and Section 123.1 (f) of the Intellectual Property Code, which prohibits the registration of a mark that:

"11. The act of Respondent-Applicant in adopting the mark AVEGRA for its pharmaceutical products in International Class 5 is clearly an attempt to trade unfairly on the goodwill, reputation and consumer awareness of the Opposer's internationally well-known ALLEGRA mark that was previously registered before this Honorable Office. Such act of the Respondent-Applicant results in the diminution of the value of the Opposer's internationally well-known ALLEGRA mark.

"12. The Opposer's internationally well-known ALLEGRA mark is registered in International Class 5, for Antihistamine and decongestant pharmaceutical preparations, identical to the class to which the Respondent-Applicant seeks registration for his AVEGRA mark. Further, because the Opposer's mark is internationally well-

¹A corporation duly organized and existing under the laws of the United States of America, with principal address at 3711 Kennett Pike, Suite 200, 19807 Greenville, Delaware.

²A foreign corporation with address at Russia 198515, Saint Petersburg, Petrodvortsovy District, Strelina, Svyazi St. Bld. 34, Liter A, Russian Federation.

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.

known, the same is likely to be associated with the Respondent-Applicant's AVEGRA mark leading to consumer confusion.

"13. Goods are closely related when they belong to the same class, or have the same descriptive properties, or when they possess the same physical attributes or characteristics, with reference to their form, composition, texture or quality.

"14. Opposer first filed its registration for the ALLEGRA mark in the Philippines in 2012. Today, there is one ALLEGRA trademark registered with the Philippine Intellectual Property Office.

"15. The Opposer's ALLEGRA trademark, being the more senior mark, clearly enjoys protection. Jurisprudence is well-settled that protection is accorded to trademarks that have prior, or a more senior registration. As held by the Supreme Court in the case of Berris Agricultural Co., Inc., vs. Norvy Abyadang,

"Clearly, ownership and protection of a trademark is granted from its registration and actual use. The Opposer's products have been available to the consuming public as far back as 2012. Moreover, the Opposer is undoubtedly the more senior registrant, being first issued a Certificate of Registration in the Philippines in 2012. The Supreme Court has also held that registration of the mark also grants the registrant exclusive right to use the trademark, thereby precluding the Respondent-Applicant, the more junior applicant, from appropriating and using the same.

"16. Certificates of registration that the Opposer has obtained all over the world, included in the Affidavit attached hereto as Annex 'B', is evidence that the Opposer's mark ALLEGRA is internationally well-known and warrants protection.

"17. The Opposer's mark ALLEGRA and the Respondent-Applicant's mark AVEGRA are identical and/or similar, in the following respects to wit:

- "17.1 Both are purely word marks, ALLEGRA and AVEGRA;
- "17.2 Both marks are composed of only three (3) syllables, AL-LEG-RA and A-VEG-RA respectively, which when applied to identical/similar goods heighten the visual, aural, phonetic and Conceptual similarity between the marks;
- "17.3 Both marks are composed of the same suffix 'GRA'-ALLE-'GRA' and AVE-'GRA';
- "17.4 Both use four (4) identical letters namely, 'A', 'E', 'G', and 'R'. Consumer confusion arises inevitably with the use of four (4) identical letters in the same 'position' out of the letters for each mark to identify the goods in the marketplace. The only difference is the addition of the letter 'V' after the first letter 'A' in A-'V'-EGRA. It is undeniable that even a prudent purchaser will have a hard time choosing and distinguishing one product from the other. It is without question that allowing the Respondent-Applicant to use the mark AVEGRA for pharmaceutical products would inevitably lead to diluting the distinctiveness of the well known mark especially between competitors in the same industry; and
- "17.5 Both marks are applied for, used or intended to be used in the similar class of goods namely in International Class 5.

"18. The Respondent-Applicant's mark AVEGRA very closely resembles and is very similar to the Opposer's internationally well-known ALLEGRA mark that was previously registered in the Philippines and elsewhere in the world. The resemblance of the Opposer's and the Respondent-Applicant's respective marks is more evident upon a juxtaposition of the said marks.

x x x

"19. Goods bearing the Opposer's mark ALLEGRA and the Respondent-Applicant's mark AVEGRA are commercially available to the public through the same channels of trade such that an indiscriminating buyer might confuse and interchange the products bearing the Respondent-Applicant's AVEGRA for goods bearing the Opposer's internationally well-known mark ALLEGRA. It is worthy to mention that the relevant consumers affected herein will be the buyers of pharmaceutical products. Naturally, consumers would merely rely on recollecting the dominant and distinct wording of the marks. There is a great similarity and not much difference between the Opposer's mark ALLEGRA and the Respondent-Applicant's mark AVEGRA. Thus, confusion will likely arise and would necessarily cause the interchanging of one product with the other.

"20. Considering the fact that the goods involved are related and flow through the same channels of trade, the possibility of confusion is more likely to occur in the light of the fact that ordinary consumers, who are prone to self-diagnose illnesses and purchase prescription drugs even without a doctor's prescription, may mistakenly believe that the goods of the Respondent-Applicant is equivalent to, or affiliated with, the Opposer's goods.

"21. The Respondent-Applicant's AVEGRA mark so closely resembles the Opposer's internationally well-known ALLEGRA mark that the Filipino public will undoubtedly confuse one with the other or worse, believe that goods bearing the Respondent-Applicant's mark AVEGRA originate from the Opposer, or, at lease, originate from economically linked undertakings.

"22. In *American Wire & Cable Co. v. Director of Patents*, 31 SCRA 544, 547-548 (1970), the Supreme Court through Justice J.B.L. Reyes ruled:

x x x

"23. In addition, under the rule of *idem sonans*, it is clear that there is a confusing aural similarity between the marks. The Supreme Court has held that the mark 'Gold Top' is 'aurally' similar to 'Gold Toe'. Furthermore, in *McDonalds's vs. L.C. Big Mak*, 437 SCRA 10, 34 (2004) citing *Marvex Commercial Co., Inc. vs. Petra Hawpia & Co., et al.*, Phil 295, 18 SCRA 1178 (1966) the Supreme Court held:

x x x

"24. The Honorable Office had occasion to deny the registration of a trademark under the rule of *idem sonans*. In *Inter Partes Case No. 14-2009-00086* concerning the registration of the trademark 'RENNIE', this Honorable Office ruled that:

x x x

"25. This Honorable Office has also applied the *idem sonans* rule in the more recent case of *Merck KGaA vs. Seville Pharmaceuticals, Inc.*, where it was ruled that:

x x x

"26. The Opposer's internationally well-known mark ALLEGRA is used as an Antihistamine and Decongestant. The goods bearing the Respondent-Applicant's mark AVEGRA is also used for diseases designated under International Class 5. The presence of two identical and/or similar pharmaceutical products bearing highly similar trademark which are used to treat the same illnesses will indubitably lead to consumer confusion.

"27. In fact, this Honorable Office ruled in the case concerning the registration of the trademark 'Optivim' that:

x x x

"28. In consonance with public policy, it is the duty of this Honorable Office to protect the Filipino purchasing public by ensuring that there is no confusing similarity involving medicinal products. Unlike ordinary goods, confusion of product between medicinal goods may also arise from as a result of a physician's illegible handwriting, thus the need for further protection. This has been recognized in jurisprudence, notably in *Morgenstern Chemical Co. v. G.D. Searle & Co.*, 253 F. 2d 390 (1958).

"29. In *Morgenstern*, the United States Court of Appeals ruled that the, 'obvious similarity in derivation, suggestiveness, spelling, and sound in careless pronunciation, between 'Micturin' and 'Mictine' as applied to pills to be taken by mouth for therapeutic purposes requires the conclusion, in the circumstances of this case, that the defendant has infringed the rights of the plaintiff in its common-law trade name Micturin and should be restrained from further doing so.

"30. Further, in *Morgenstern*, the Court also noted that it is common knowledge that mistakes or confusion occurring in filing handwritten prescriptions which are not legible. In arriving at this conclusion, the Court of Appeals in *Morgenstern* appropriately ruled that:

x x x

"31. The ruling in *Morgenstern* should squarely be applied in the case at bar. The fact that the medicinal products of the parties are for identical indications highlights the stubborn fact that there exist a possibility of one medicinal product being dispensed for the other medicinal product, which could easily be remedied by requiring clearly dissimilar trademarks in the field of medicinal products. The reputation and goodwill of the Opposer should not be trifled with the talismanic invocation that there is only a remote possibility of confusion. The fact clearly remains that the goods of the parties belong to the same class, are identical, and are available through the same channels of trade.

x x x

"32. The case of *Glenwood Laboratories, Inc. v. American Home Prod. Corp.*, 455 F. 2d 1384 (C.C.P.A. 1972), aptly illustrates the danger of confusion as regards medicinal products bearing similar marks, ruling that,

x x x

"33. Further, this Honorable Office has also aptly stated in *Inter Partes Case No. 14-2009-000172* concerning the opposition to the registration of the trademark 'Solvit' that:

x x x

"34. Of all the possible combinations of the letters of the alphabet and words, the Respondent-Applicant chose to use the mark ALLEGRA to identify the goods in International Class 5, which are in direct competition with the Opposer's goods, also in International Class 5. It cannot be gainsaid that confusion will arise inasmuch as the goods are identical, and they cater to the same kind of purchasers. As pharmaceutical products for the treatment of identical illnesses, both will be found and displayed in hospitals, clinics, and pharmacies, probably side by side, making both products flow through the same channels of trade, thus making the Opposer and the Respondent-Applicant competitors in the same product industry. No conclusion can be drawn surrounding the case other than the fact that the Respondent-Applicant is knowingly and deliberately attempting to trade on the valuable goodwill and to ride on the notoriety of the Opposer's internationally well-known ALLEGRA mark that has been used throughout the world for several decades including the Philippines.

"35. Clearly, the registration and use of the Respondent-Applicant mark's AVEGRA is a usurpation of the internationally well-known mark ALLEGRA, a mark legally owned by the Opposer, as well as the goodwill associated therewith and/or passing off its own products, as those manufactured by the Opposer.

"36. By the Respondent-Applicant's attempt to register and use the mark AVEGRA for its goods in International Class 5, it is plain that the Respondent-Applicant seeks to take advantage of the worldwide and nationwide reputation of the internationally well-known mark ALLEGRA that the Opposer has gained by ingenious and persistent marketing and the expenditure of considerable sums of money to promote the same, by confusing and misleading the trade and the Filipino public in passing off its products as those of the Opposer and/or suggesting that they are being sold or are approved by the Opposer.

"37. The Respondent-Applicant seeks to register the mark AVEGRA which is confusingly similar to the Opposer's internationally well-known ALLEGRA mark, as to be likely, when applied to the goods of Respondent-Applicant, to cause confusion, mistake or deception to the Filipino public as to the source of goods, and will inevitably falsely suggest a trade connection between the Opposer and the Respondent-Applicant, is simply violative of the Intellectual Property Code of the Philippines.

"38. The Supreme Court discussed these two types of trademark confusion in *Mighty Corporation, et. al. vs. E. & J. Gallo Winery, et. al.*, G.R. No. 154342, July 14, 2004, 434 SCRA 473, 504, thus:

x x x

"39. In the case of *Societe Des Produits Nestle, S.A. vs. Dy, Jr.*, the Supreme Court held that:

x x x

"40. Moreover, in the case of *McDonald's Corporation vs. L.C. Big Mak Burger, Inc., et. al.*, the Supreme Court had occasion to rule that, 'while proof of actual confusion is the best evidence of infringement, its absence is inconsequential'.

"41. Thus, the denial of the registration of Trademark Application No. 4-2014-013009 for the mark AVEGRA by this Honorable Office is authorized and warranted under the provisions of the Intellectual Property Code of the Philippines.

The Opposer's evidence consists of the Special Power of Attorney executed by the Opposer in favor of Cesar C. Cruz and Partners Law Offices and the Affidavit executed by Martin J. Travers, authorized signatory of Opposer, Aventisub LLC.⁴

This Bureau issued a Notice to Answer and served a copy thereof upon Respondent-Applicant on 31 March 2015. The Respondent-Applicant filed their Answer on 25 June 2015 and avers the following:

X X X

"Special and Affirmative Defenses

"12. The opposer has no valid cause of action against the respondent-applicant.

"13. The opposer failed to establish its main cause of action in the instant case since no Certificate of Trademark Registration for the mark ALLEGRA in the Philippines was presented or attached in the Notice of Opposition.

"14. Assuming arguendo that the oppose would be able to present later the Certificate of Trademark Registration for the mark ALLEGRA in the Philippines the grounds offered by the oppose in its Notice of Opposition are not sufficient to bar the registration of the AVEGRA mark of the respondent-applicant.

"15. The registrability of the respondent-applicant's AVEGRA trademark has been determined and resolved by no less than the Intellectual Property Office (IPO) when the latter, through the Bureau of Trademarks, allowed the subject application of the respondent-applicant despite the existence of the alleged Certificate of Trademark Registration of the mark ALLEGRA which was never cited during the merit examination of the respondent-applicant's AVEGRA trademark application.

"16. At present, AVEGRA is a protected mark of the respondent-applicant and registered in the countries of Mongolia, Armenia and Belarus as evidenced by copies of the Certificates of Trademark Registrations for AVEGRA in the countries of Mongolia, Armenia and Belarus including their English translations as attached in the Affidavit of respondent's representative, the Deputy Director General for Legal and Administrative Affairs, Aleksey Viktorovich Katkov, in the present case.

"17. Respondent-applicant also has pending trademark applications in the countries of Georgia, Ukraine, Kazakhstan, Uzbekistan, India, Kenya, China, Hongkong, Taiwan, Colombia, Ecuador, Thailand and in the Philippines.

"18. The mark AVEGRA is a coined word mark. Its adoption has historical and medical bases. The first letter/syllable 'A' in the mark was taken from the prefix 'anti' which means 'opposing' or 'posing a challenge to'. The second syllable 'VEG' was derived from 'VEGF', a medical abbreviation which means

⁴Marked as Annexes "A" and "B", inclusive.

'vascular endothelial growth factor'. The third syllable 'RA' means 'recombinant antibody'.

"19. AVEGRA is associated with Bevacizumab which is an angiogenesis inhibitor, a drug that slows the growth of new blood vessels and is for the treatment for certain metastatic cancers.

"20. The fact that the AVEGRA mark has a history on how it is adopted and that it is used as a trademark for products that treat specific illness outrightly dispel opposer's claims that AVEGRA is an imitation of its ALLEGRA mark and that respondent-applicant in adopting the AVEGRA mark is riding on the goodwill, reputation and consumer awareness generated by the ALLEGRA mark

"21. Contrary to the claims of the oppose, the allowance or registration of respondent-applicant's AVEGRA mark will not cause confusion, mistake or deception to the public nor will its registration violate Sec. 123.1 (d) & (f) of the IP Code.

"22. A side by side comparison between the AVEGRA and ALLEGRA marks would clearly show that they differ substantially in spelling, sounds and appearance. The said marks are not phonetically the same as claimed by the oppose since there are stark differences in their syllables to wit:

x x x

"23. The breakdown of syllables between the contending marks clearly show a marked difference between the 'V' sound in AVEGRA mark and the double 'L' sound in ALLEGRA mark. Undeniably, two of the syllable in the subject marks, the first ('A' vs. 'AL') and the second syllables ('VEG' vs. 'LEG') are also different. Only the third syllable 'RA' in both marks are the same.

"24. There being no unanimity in the syllables of the two contending marks since two out of three syllables are different the iden sonams rule theory relied upon by the oppose cannot be applied in the present case.

"25. The goods or pharmaceutical preparations for which the mark AVEGRA is used are entirely different from the goods or pharmaceutical preparations covered by the ALLEGRA mark. The AVEGRA is used for the treatment of certain metastatic cancers while the ALLEGRA mark is used for the treatment of allergic reactions to the nose or to relieve nasal congestion. These differences in the goods covered by the contending marks, and taking into consideration their phonetic, aural and visual differences, make the said marks of the parties, non-competing and non-confusingly similar marks and non-violative of Section 123.1 (d) & (F) of R.A. 8293.

"26. AS to opposer's contention that the use and registration of the mark AVEGRA will create and cause confusion in the minds of the purchasing public, respondent-applicant wishes to underscore that with the dissimilarities of the contending marks and the differences in the goods covered by the said marks as explained above such contention of the opposer have no strong factual and legal basis to stand. In addition, the alleged confusion will unlikely to occur for the following reasons:

x x x

"27. The Morgenstern case cited by the oppose on the danger accompanying a physician's handwritten prescription is a foreign judgment and hence, not really controlling but, assuming that it can be used in this case, there is still no showing that the facts of the present case are ripe for the application of Morgenstern case. Hence, opposer's concerns in this case appears to be more imagined than real.

"28. As to the theory of expansion advanced by the oppose citing Societe Des Produits Nestle, SA vs. Dy, Jr. (267 SCRA 223) citing Mc Donalds vs. LC Big Mak case, the same is also not applicable to the instant case in view of the earlier discussion that the subject pharmaceutical products involved non-confusingly similar marks.

"29. None of the facts in the Mc Donalds case are present in this case and in fact, the circumstances obtaining herein are entirely different. The parties in the McDonalds cases are directly competing fact-food businesses on directly competing fact food products. The same does not obtain in the present case.

"30. Likewise, further to the case of American Wire Cable, the said case involved the marks DURAFLEX and DYNAFLEX on competing goods, that is, insulated flexible wires under Class 20. That cited case is different from the above-entitled case because in the instant case consumer goods are not involved but pharmaceutical products under different medicinal preparations or treatments. Hence, this case cannot be applied in the instant case.

"31. None of the jurisprudence cited by the oppose in its Notice of Opposition applies squarely to the issues in point in this case because of lack of factual circumstances in the Notice of Opposition that would put the case under the sphere of any of the cited jurisprudence in the sense that non-competing goods and non-confusingly trademarks are involved.

"32. The present case must therefore be decided on the merits of its own peculiar set of circumstances. This approach of deciding the case is recognized by no less than our Supreme Court in Mc Donalds case in G.R. No. 166115 when it pronounced that each trademark case is to be decided on its own merits:

x x x

"33. Respondent-applicant having introduced an important pharmaceutical product for the treatment of certain metastatic cancers should not be denied the right of having the AVEGRA mark registered in its name in the Philippines. To deny the general public of this valuable medicine is regressive to the health and interests of the general public.

"34. Succinctly, 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 or 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.

"35. In the present case, respondent-applicant's trademark rights over the AVEGRA mark should be properly recognized and established in the Philippines as the mark represents the medicine or cure for the treatment of certain metastatic cancer. This product should be made available and accessible to the public especially those patients in most need of this medicinal treatment. A lesser treatment such as the non-registration of its brand AVEGRA would be detrimental to the public health and the interests of the general public.

The Respondent-Applicant's evidence consists of the affidavit of respondent-applicant's representative Aleksey Viktorovich Katkov, the Deputy Director General for Legal and Administrative Affairs (Russian text and English translation); a copy of the Certificate of Registration for the trademark AVEGRA in the country of Mongolia under Certificate of Trademark Registration No. 13776 (Mongolian text and English translation); a copy of the Certificate of Registration for the trademark AVEGRA in the country of Armenia under Certificate No. 22035 (Armenian text and English translation); a copy of the Certificate of Registration for the trademark AVEGRA in the Republic of Belarus under Certificate of Registration No. 53589 (Belarus text and English translation); Special Power of Attorney authorizing the law office of Padlan Salvador Coloma and Associates and Aleksey Viktorovich Katkov to represent respondent in the present case (Russian text and English Translation).⁵

On 24 February 2015, 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 AVEGRA?

The Opposer anchors its opposition on Sections 123.1, paragraphs (d) and (f) 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;"
- (f) Is identical with, or confusingly similar to, or constitutes a translation of a mark considered well-known in accordance with the preceding paragraph, which is registered in the Philippines with respect to goods or service which are not

⁵Marked as Exhibits "1" to "5", inclusive.

similar to those with respect to which registration is applied for: Provided, That use of the mark in relation to those goods or services would indicate a connection between those goods or services, and the owner of the registered mark: Provided further, That the interests of the owner of the registered mark are likely to be damaged by such use;

Records show that at the time the Respondent-Applicant filed its trademark application on 07 July 2014, the Opposer has an existing trademark registration for the mark ALLEGRA (Reg. No. 4-2012-000574) issued on 25 April 2014. The registration covers "antihistamine, decongestant pharmaceutical preparations not for ophthalmic use" under Class 05. On the other hand, Respondent-Applicant's mark covers "pharmaceutical preparations" under Class 05.

Hence, the question, does AVEGRA resemble ALLEGRA such that confusion or deception is likely to occur? The marks are shown below:

ALLEGRA

AVEGRA

Opposer's trademark

Respondent-Applicant's mark

This Bureau finds that confusion or deception is unlikely to occur at this instance. The pharmaceutical products covered by the marks treat different illnesses. Designated as AVEGRA, Respondent-Applicant's pharmaceutical product is associated with Bevacizumab which is an angiogenesis inhibitor in Class 05. Opposer's products covered under ALLEGRA are antihistamine under Class 05. Although both have the same prefix "A" and the same suffix "RA", Opposer can not exclusively appropriate the same as the first syllable "A" in Respondent-Applicant's mark was taken from the word "anti", the second syllable "VEG" was derived from "VEGF", a medicinal abbreviation of "vascular endothelial growth factor" and the third syllable "RA" means "recombinant antibody".⁶ ALLEGRA in Opposer's mark is derived or taken from ALLERGY. The combination of words and syllables can be registered as trademarks for as long as it can distinguish the goods of a trader from its competitors. To determine whether two marks that contain the prefix "A" and the suffix "RA" are confusingly similar, there is a need to examine the other letters or components of the trademarks. In this regard, when the syllable "VEG" is appended to prefix "A" and the suffix "RA", the resulting mark when pronounced can be distinguished from ALLEGRA.

The essence of trademark registration is to give protection to the owners of trademarks. The function of a trademark is to point out distinctly the origin or


⁶Paragraph 5 of Exhibit 1-a.

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 This Bureau finds that the Respondent-Applicant's mark sufficiently serves this function.

WHEREFORE, premises considered, the instant Opposition is hereby DISMISSED. Let the filewrapper of Trademark Application Serial No. 4-2014-008480 together with a copy of this Decision be returned to the Bureau of Trademarks (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, 30 JUN 2016.


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

⁷ Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 Nov. 1999.