UNITED LABORATORIES, INC., Opposer, **-versus-** **RITZEN PHILIPPINES, INC.,** Respondent- Applicant.	}	**IPC No. 14-2014-00109** Opposition to: Appln. Serial No. 4-2013-008636 Date Filed: 19 July 2013 **TM: "NERVRON"**

NOTICE OF DECISION

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GREETINGS:

Please be informed that Decision No. 2016 - 271 dated July 28, 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, July 28, 2016.

For the Director:

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

UNITED LABORATORIES, INC.,	}	**IPC No. 14-2014-00109**
Opposer,	}	**Case Filed: 12 March 2014**
	}	**Opposition to:**
-versus-	}	**Application No. 4-2013-008636**
	}	**Date Filed: 19 July 2013**
	}	**Trademark: "NERVRON"**
RITZEN PHILIPPINES, INC.,	}	
Respondent-Applicant.	}	
x----------x		*Decision No. 2016-* 271

DECISION

UNITED LABORATORIES, INC.[1] ("Opposer") filed an opposition to Trademark Application Serial No. 4-2013-008636. The application, filed by Ritzen Philippines, Inc.[2] ("Respondent-Applicant"), covers the mark "NERVRON" for use on "*pharmaceuticals-vitamin B complex capsule*" under Class 05 of the International Classification of Goods and Services.[3]

The Opposer alleges:

x x x

"GROUNDS FOR OPPOSITION

"The grounds for this Verified Notice of Opposition are as follows:

"7. The trademark 'NERVRON' owned by Respondent-Applicant so resembles the trademark 'ENERVON-C' owned by Opposer and duly registered with the IPO prior to the application for opposition of the mark 'NERVRON' and thus, will likely cause confusion, mistake and deception on the part of the purchasing public, most especially considering that the opposed mark 'NERVRON' is applied for the same class and goods as that of Opposer's trademark 'ENERVON-C', i.e. Class 05 of the International Classification of Goods as Pharmaceutical Preparation containing Vitamin B Complex.

"8. The registration of the mark 'NERVRON' in the name of the Respondent-Applicant will violate Sec. 123 of the IP Code, which provides, in part, that a mark cannot be registered if it: x x x

"9. Under the above-quoted provision, any mark which is similar to a registered mark, shall be denied registration if the mark applied for nearly resembles a

[1] A corporation duly organized and existing under the laws of the Philippines with office address at No. 66 United Street., Mandaluyong City, Philippines.

[2] With address at 7/F South Center Tower, 2206 Market St., Madrigal Business Park II, Alabang, Muntinlupa City, Metro Manila, Philippines.

[3] The 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.

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registered mark that confusion or deception in the mind of the purchasers will likely result.

"ALLEGATIONS IN SUPPORT OF THE OPPOSITION

"In support of this Verified Notice of Opposition, Opposer will rely upon and prove the following facts:

"10. Opposer is the registered owner of the trademark 'ENERVON-C'.

"10.1. Opposer is engaged in the marketing and sale of a wide range of pharmaceutical products. The trademark application for the trademark 'ENERVON-C' was filed with the Philippine Patent Office on 15 September 1967 by Opposer's sister-company, United American Pharmaceuticals, Inc. ('UAP'), and was approved for registration on 16 June 1969 and valid for a period of twenty (20) years, or until 16 June 1989. A certified true copy of the Certificate of Registration No. 14854 for the trademark 'ENERVON-C' is hereto attached x x x

"10.2. Before the expiration of the registration, UAP filed an application for renewal, which was accordingly granted to be valid for another period of twenty (20) years, or until 16 June 2009. x x x

"10.3. In the meantime, on 21 September 2005, UAP assigned the trademark 'ENERVON-C' to Unam Brands (BVI) Ltd. ('UNAM'), another sister-company of Opposer. A certified true copy of the Assignment of Registered Trademark is hereto attached x x x

"10.4. On 23 February 2009, UNAM subsequently assigned the trademark 'ENERVON-C' to herein Opposer. A certified true copy of the Assignment of Registered Trademark is hereto attached x x x

"10.5. On 12 May 2009, before the expiration of the registration, Opposer filed an application for renewal of the registration of the trademark 'EVERVON-C', which was accordingly granted for a period of ten (10) years from 16 June 2009, or until 16 June 2019. Thus, the registration of the trademark 'ENERVON-C' subsists and remains valid to date. A certified true copy of the Certificate of Renewal of Registration No. 014854 is hereto attached x x x

"11. The trademark 'ENERVON-C' has been extensively used in commerce in the Philippines.

"11.1. Opposer's predecessor-in-interest, UAP, dutifully filed Affidavits of Use pursuant to the requirement of the law in order to maintain the registration of the trademark 'ENERVON-C' in force and effect. Certified true copies of the Affidavits of Use are hereto attached x x x

"11.2. A sample product label actually used in commerce is hereto attached x x x

"11.3. No less than the Intercontinental Marketing Services ('IMS') itself, the world's leading provider of business intelligence and strategic consulting services for the pharmaceutical and healthcare industries with

operations in more than 100 countries, acknowledged and listed the brand 'ENERVON-C' as the leading brand in the Philippines in the category of 'A11B - Without Minerals and A11E - Vitamins B Complex' in terms of market share and sales performance. A copy of the Certification which shows the sales data, is hereto attached x x x

"11.4. In order to legally market, distribute and sell this pharmaceutical preparation in the Philippines, Opposer registered the product with the Bureau of Food and Drugs ('BFAD'). A certified true copy of the Certificate of Product Registration issued by the BFAD for the trademark 'ENERVON' is hereto attached x x x

"11.5. By virtue of the foregoing, there is no doubt that Opposer has acquired an exclusive ownership over the trademark 'ENERVON-C' to the exclusion of all others.

"11.6. As provided in Section 138 of the IP Code, '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.'NERVRON

"12. The registration of Respondent-Applicant's mark 'NERVRON' will be contrary to Section 123.1 (d) of the IP Code. 'NERVRON' is confusingly similar to Opposer's trademark 'ENERVON-C'.

"12.1. There are no set rules that can be deduced in particularly ascertaining whether one trademark is confusingly similar to, or is a colorable imitation of, another. Nonetheless, jurisprudence provides enough guidelines and tests to determine the same.

"12.1.1. In fact, in Societe' Des Produits Nestle', S.A. vs. Court of Appeals [356 SCRA 207, 216,] the Supreme Court, citing Ethepa v. Director of Patents, held "[i]n determining if colorable imitation exists, jurisprudence has developed two kinds of tests - the Dominancy Test and the Holistic Test. The test of dominancy focuses on the similarity of the prevalent features of the competing trademarks which might cause confusion or deception and thus constitute infringement. On the side of the spectrum, the holistic test mandates that the entirety of the marks in question must be considered in determining confusing similarity."

"12.1.2. It is worthy to note at this point that in Societe' Des Produits Nestle', S.A. vs. Court of Appeals [Supra, p. 221,] the Supreme Court held "[T]he totality or holistic test only relies on visual comparison between two trademarks whereas the dominancy test relies not only on the visual but also on the aural and connotative comparisons and overall impressions between the two trademarks."

"12.1.3. Relative thereto, the Supreme Court in McDonalds' Corporation vs. L.C. Big Mak Burger, Inc. (437 SCRA 10, 32-33 [2004]) held: x x x

"12.1.4. This was affirmed in McDonald's Corporation vs. Macjoy Fastfood Corporation (514 SCRA 95, 109 [2007]), which held that, '[t]he Court has consistently used and applied the dominancy test in determining confusing similarity or likelihood of confusion between competing trademarks.'

"12.1.5. In fact, the dominancy test is 'now explicitly incorporated into law in Section 155.1 of the Intellectual Property Code, which defines infringement as the colorable imitation of a registered mark xxx or a dominant feature thereof.' (MacDonald's Corporation, supra, p. 33 [2004])

"12.1.6. Thus, applying the dominancy test in the instant case, it can be readily concluded that the mark 'NERVRON', owned by Respondent-Applicant, so resembles Opposer's trademark 'ENERVON', that it will likely cause confusion, mistake and deception on the part of the purchasing public.

"12.1.6.1. Respondent-Applicant's mark 'NERVRON' appears and sounds almost the same as 'ENERVON'.

"12.1.6.2. The last six letters of Respondent-applicant's mark 'NERVRON' are exactly the same with 'ENERVON'.

"12.1.6.3. Respondent-Applicant merely removed the first letter in 'ENERVON' in arriving at its mark 'NERVRON'.

"12.1.7. Clearly, Respondent-Applicant's mark 'NERVRON' adopted the dominant features of the Opposer's trademark 'ENERVON-C'.

"12.1.8. As further ruled by the High Court in McDonald's Corporation case [supra p.33-34 [2004]): x x x

"12.1.9. In American Wire & Cable Co., vs. Director of Patents (31 SCRA 544, 547-548 [1970]), the Supreme Court explained: x x x

"12.2. Opposer's trademark 'ENERVON-C' and Respondent-Applicant's mark 'NERVRON' are practically identical marks in sound and appearance that they leave the same commercial impression upon the public. Thus, the two marks can easily be confused for one over the other, most especially considering that the opposed mark 'NERVRON' is applied for the same class and goods as that of Opposer's trademark 'ENERVON-c' UNDER Class 05 of the International Classification of Goods as Pharmaceutical Preparation containing Vitamin B Complex.

"12.3. Yet, Respondent-Applicant still filed a trademark application for 'NERVRON' despite its knowledge of the existing trademark registration of

'ENERVON-C,' which is confusingly similar thereto in both its sound and appearance, to the extreme damage and prejudice of Opposer.

"12.4. Opposer's intellectual property right over its trademark is protected under Section 147 of the IP Code, which states: x x x

"12.5. 'When, as in the present case, one applies for the registration of a trademark or label which is almost the same or very closely resembles one already used and registered by another, the application should be rejected and dismissed outright, even without any opposition on the part of the owner and user of a previously registered label or trademark, this not only to avoid confusion on the part of the public, but also to protect an already used and registered trademark and an established goodwill.' (Chuanchow Soy & Canning Co., vs. Director of Patents, 108 Phil. 833, 836 [1960])

"13. To allow Respondent-Applicant to continue to market its products bearing the mark 'NERVRON' undermines Opposer's right to its trademark 'EVERVON-C'. As the lawful owner of the trademark 'ENERVON-C', Opposer is entitled to prevent the Respondent from using a confusingly similar mark in the course of trade where such would likely mislead the public.

"13.1. Being the lawful owner of the trademark 'ENERVON-C', Opposer has the exclusive right to use and/or appropriate the said marks and prevent all third parties not having its consent from using in the course of trade identical or similar marks, where such would result in a likelihood of confusion.

"13.2. By reason of Opposer's ownership of the trademark 'ENERVON-C', it also has the right to prevent third parties, such as Respondent-Applicant, from claiming ownership over Opposer's marks or any depiction similar thereto, without its authority or consent.

"13.3. Moreover, following the illustrative list of confusingly similar sounds in trademarks cited in McDonald's Corporation case (supra, p. 34), , it is evident that Respondent-Registrant's mark 'NERVRON' is aurally confusingly similar to Opposer's trademark 'ENERVON-C'. x x x

"14. Further, the fact that Respondent-Applicant seeks to have its mark 'NERVRON' registered in the same Class (Nice Classification 05) as Opposer's trademark 'ENERVON-C', coupled by the fact that both are Pharmaceutical Preparation containing Vitamin B Complex, will undoubtedly add to the likelihood of confusion among the purchasers of these two goods.

"15. By virtue of Opposer's prior and continued use of the trademark 'ENERVON-C', the same have become well-known and established valuable goodwill to the consumers and the general public as well. The registration and use of Respondent-Applicant's confusingly similar mark 'NERVRON' on its goods will enable the latter to obtain benefit from Opposer's reputation and goodwill and will tend to deceive and/or confuse the public into believing that Respondent-Applicant is in any way connected with Opposer.

"15.1. As held in Sterling Products International, Inc. vs. Farbenfabriken Bayer Aktiengesellschaft, et. al. (27 SCRA 1214, 1227 [1968]) there

are two types of confusion in trademark infringement. 'The first is the confusion of goods' in which event the ordinarily 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 brought as the plain' 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 be deceived either into that belief or into the belief that there is some connection between the plaintiff and defendant which, in fact, does not exist."

"15.2. Significantly, it is already established that 'Modern authorities on trademark law view trademarks as symbols which perform three (3) distinct functions: first, they indicate origin or ownership of the articles to which they are attached; second, they guarantee that those articles come up to a certain standard of quality; third, they advertise the articles they symbolize.' (See Callman, Unfair Competition and Trademarks [1945], p. 804)

"15.3. The doctrine of confusion of business or origin is based on cogent reasons of equity and fair dealing. It has to be realized that there can be unfair dealing by having one's business reputation confused with another. 'The owner of a trademark or trade name has a property right in which he is entitled to protection, since there is damage to him from confusion of reputation or goodwill in the mind of the public as well as from confusion of goods.' (Ang vs. Teodoro, 74 Phil 50, 55-56 [1942])

"15.4. In the case at bar, there is a likelihood of confusion as to the business reputation or goodwill between the Opposer and Respondent-Applicant. Opposer has the inherent right to protect its goodwill and business reputation symbolized by its trademark just like any other property right.

"16. The registration and use of Respondent-Applicant's confusingly similar mark 'NERVRON' will enable the latter to obtain benefit from Opposer's reputation and goodwill and will tend to deceive and/or confuse the public into believing that Respondent-Applicant is in any way connected with Opposer.

"16.1. In Sta. Ana v. Maliwa, (24 SCRA 1018, 1025 [1968]), the Supreme Court held that, 'Modern law recognizes that the protection to which the owner of a trademark in entitled is not limited to guarding his goods or business from actual market competition with identical or similar products of the parties, but extends to all cases in which the use by a junior appropriator of a trademark or tradename is likely to lead to a confusion of source, as where prospective purchasers would be misled into thinking that the complaining party has extended his business into the field (see 148 ALR 56 et seq; 2 Am. Jur. 576) or is in any way connected with the activities of the infringer; or when it forestalls the normal potential expansion of his business (v. 148 ALR, 77, 84; 52 Am. Jur. 576, 577).'

"16.2. This has earlier been highlighted in Ang vs. Teodoro (74 Phil 50, 55-56 [1942]) wherein it was held, 'The courts have come to realize that there can be unfair competition or unfair trading even if the goods are non-competing, and that such unfair trading can cause injury or damage to the first ever user of a given trade-mark, first, by prevention of the natural expansion of his business

and, second, by having his business reputation confused with and put at the mercy of the second user.'

"16.3. Applying the foregoing to the instant case, to allow Respondent-Applicant to use its mark 'NERVRON' on its product would likely cause confusion or mistake in the mind of the public or deceive purchasers in to believing that the product of Respondent-Applicant originate from or is being manufactured by Opposer, or at the very least, is connected or associated with the 'ENERVON-C' product of Opposer when such connection does not exist.

"17. Clearly, the scope of protection accorded to trademark owners includes not only confusion of goods but also confusion of origin. As in this case, besides from the confusion of goods already discussed, there is undoubtedly also a confusion of the origin of the goods covered by the marks of Respondent-Applicant and Opposer, which should not be allowed.

"17.1. In Canon Kabushiki Kaisha v.s Court of Appeals (336 SCRA 266, 275 [2000]), the Supreme Court explained that: x x x

"17.2. In case of grave doubt, the rule is that, '[a]s between a newcomer who by confusion has nothing to lose and everything to gain and one who by honest dealing has already achieved favor with the public, any doubt should be resolved against the newcomer inasmuch as the field from which he can select a desirable trademark to indicate the origin of his product is obviously a large one.' (Del Monte Corporation, et. al. vs. Court of Appeals, 181 SCRA 410, 420 [1990])

"17.3. In American Wire & Cable Co., vs. Director of Patents (supra, p. 551), it was observed that: x x x

"17.4. When a newcomer used, without a reasonable explanation, a confusingly similar, if not at all identical, trademark as that of another 'though the field of its selection was so broad, the inevitable conclusion is that it was done deliberately to deceive.' (Del Monte Corporation, et. al. vs. Court of Appeals, supra, p. 419-420)

"18. Respondent-Applicant's use of the mark 'NERVRON' in relation to any of the goods covered by the opposed application will take unfair advantage of, dilute and diminish the distinctive character or reputation of the Opposer's trademark 'ENERVON-C'. Potential damage to Opposer will be caused as a result of its inability to control the quality of the products put on the market by Respondent-Applicant under the mark 'NERVRON'.

"19. Thus, Opposer's interests are likely to be damaged by the registration and use of the Respondent-Applicant of the mark 'NERVRON'. The denial of the application subject of this opposition is authorized under the IP Code.

"18. In support of the foregoing, the instant Notice of Opposition is herein verified by Mr. Jose Maria A. Ochave, which will likewise serves as his affidavit. (Nasser vs. Court of Appeals, 191 SCRA 783, 792-793 [1990])

The Opposer's evidence consists of copies of the pertinent pages of the IPO E-Gazette officially released on 10 February 2014; a copy of the Certificate of Registration No. 14854 for the trademark "EVERVON-C"; a copy of the Assignment of Registered Trademark dated 21 September 2005; a copy of the Assignment of Registered Trademark dated 23 February 2009; a copy of the Certificate of Renewal of Registration No. 014854; copies of the affidavits of use for the trademark "ENERVON-C"; a sample product label bearing the trademark "ENERVON" actually used in commerce; a copy of the Certification dated 26 February 2014 issued by the Country Manager of IMS Health Philippines, Inc. and sales performance; and, a copy of the Certificate of Product Registration issued by the BFAD for the brand name "ENERVON".[4]

This Bureau issued a Notice to Answer and served a copy thereof upon Respondent-Applicant on 24 March 2014. The Respondent-Applicant filed its Answer on 23 April 2014 alleging among other things:

xxx

"3. On July 19, 2013 applicant filed an application for the registration of the trademark 'NERVRON' for goods considered as pharmaceutical products under Class No. 05 or more specifically for a vitamin complex in capsule form. The application is docketed as Trademark Application No. 4-2013-00008636. It was allowed and thereafter published in the IPO E-Gazette.

"4. Applicant acknowledges that opposer owns trademark registration no. 14854 over the brand 'ENERVON-C' for multivitamin tables under Class 05.

"5. The rest of opposer's allegations, except as admitted below, are hereby denied.

"THE MARKS ARE NEITHER IDENTICAL
NOR CONFUSINGLY SIMILAR

"6. The only issue at bay is whether applicant's 'NERVRON' trademark is identical to or confusingly similar to opposer's 'ENERVON-C' trademark.

"7. Applicant asserts by way of affirmative defense that the marks are not identical as claimed by opposer, much less similar enough to result in confusion.

"8. Applicant's 'NERVRON' trademark is pronounced as 'NERV-RON'.

"9. On the other hand, opposer's 'ENERVON-C' trademark is pronounced as 'E-NER-VON-CEE'.

"10. Applying the dominancy test to both marks, the dominant feature of applicant's 'NERVRON' trademark is 'NERV' connoting 'nerves', whereas the dominant feature of opposer's 'ENERVON-C' trademark connotes 'energy'.

[4]Marked as Exhibits "A" to "M".

"11. In its Declaration of Actual Use (hereinafter EXHIBIT '1' and made an integral part hereof), applicant illustrates how the trademark 'NERVRON' is used in its labels.

"12. The likelihood of confusion is remote in cases of medicines which are dispensed only upon prescription of a physician or sold with the intervention of a pharmacist.

"13. On the basis of the dominancy test, the following trademarks have been held to be dissimilar:

a. Transpulmin vs. Pulmin (cough syrup)
b. Dacron vs. Licron (textile fiber)
c. Pediamox vs. Diamox (medicine)

"Nervron' vs. 'Enervon-C' should be added to the same list.

"14. The marks in question are VERY DISSIMILAR in terms of dominant features, pronunciation and visual presentation. There can be no question that a purchaser who intends to buy 'Nervron' capsules will NOT confuse it for 'Enervon-C' tablets.

The Respondent-Applicant's evidence consists of a copy of the Declaration of Actual Use for the mark NERVRON dated 18 July 2013 and sample product label or packaging bearing the mark NERVRON.[5]

The Preliminary Conference was terminated on 13 October 2014. Then after, the Opposer and Respondent-Applicant submitted their respective position papers.

Should the Respondent-Applicant be allowed to register the trademark NERVRON?

The Opposer anchors its opposition on the following provisions of Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"):

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;"

[5]Marked as Annexes "1-1" and "1-2".

> Sec. 147. *Rights Conferred.* – 147.1. The owner of a registered mark 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 or containers for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in 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.

Records show at the time the Respondent-Applicant filed its trademark application on 19 July 2013, the Opposer has an existing trademark registration for the mark ENERVON-C under Trademark Reg. No. 14854 issued on 16 June 1969. The registration covers "a high-potency therapeutic vitamin formula containing essential vitamin B complex plus vitamin C" under Class 05. This Bureau noticed that the pharmaceutical products covered by Respondent-Applicant's trademark application for the mark NERVRON are similar to the Opposer's.

A comparison of the competing marks reproduced below:

ENERVON-C	**NERVRON**
Opposer's trademark	*Respondent-Applicant's mark*

shows that confusion is likely to occur in this instance because of the close resemblance between the marks and that the goods are the same and are for human consumption. Designated as NERVRON, Respondent-Applicant's pharmaceutical products are "vitamin B complex capsule". Opposer's products covered under ENERVON-C are "a high-potency therapeutic vitamin formula containing essential vitamin B complex plus vitamin C". Both marks used the letters "E", "N", "R", "V" and "O". NERVRON appears and sounds almost the same as Opposer's trademark ENERVON. Both marks end with letters "ON". Respondent-Applicant merely deleted the first letter "E" in Opposer's ENERVON and added the letter "R" before the letters "ON" to come up with the mark NERVRON. It could result to mistake with respect to perception because the marks sound so similar. Under the idem sonans rule, the following trademarks were held confusingly similar in sound: "BIG MAC" and "BIG MAK"[6], "SAPOLIN" and LUSOLIN"[7], "CELDURA" and "CORDURA"[8], "GOLD DUST" and "GOLD DROP". The Supreme Court ruled that similarity of sound is sufficient ground to rule that two marks are confusingly similar, to wit:

> Two letters of "SALONPAS" are missing in "LIONPAS": the first letter a and the letter s. Be that as it may, when the two words are pronounced, the sound effects are confusingly

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[6] *MacDonalds Corp, et. al v. L. C. Big Mak Burger* ,G.R. No. L-143993,18 August 2004.

[7] *Sapolin Co. v. Balmaceda and Germann & Co,m 67 Phil, 705.*

[8] *Co Tiong SA v. Director of Patents,* G.R. No. L- 5378, 24 May 1954; *Celanes Corporation of America vs. E. I. Du Pont de Nemours & Co.* (1946), 154 F. 2d 146 148.)

similar. And where goods are advertised over the radio, similarity in sound is of especial significance...."SALONPAS" and "LIONPAS", when spoken, sound very much alike. Similarity of sound is sufficient ground for this Court to rule that the two marks are confusingly similar when applied to merchandise of the same descriptive properties.[9]

In conclusion, the subject trademark application is covered by the proscription under Sec. 123.1 (d) (iii) of the IP Code.

WHEREFORE, premises considered, the instant Opposition to Trademark Application No. 4-2013-008636 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, 28 JUL 2016.

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

[9] *Marvex Commerical Co., Inc. v.Petra Hawpia & Co., et. al.*, G.R. No. L-19297,22 Dec. 1966.