

MARITON, INC.,	}	IPC No. 14-2014-00539
<i>Petitioner,</i>	}	Cancellation of:
	}	Reg. No. 4-2012-00780055
- versus -	}	Date Issued: 18 April 2013
	}	TM: MARITON & DESIGN
HELEN A. AGUILAR,	}	
<i>Respondent-Registrant.</i>	}	
x-----x		Order No. 2016- 288 (D)

**ORDER**

MARITON, INC. ("Petitioner") filed on 11 December 2014 a petition for cancellation of Trademark Registration No. 4-2012-00780055. The registration issued on 18 April 2013 in favor of HELEN A. AGUILAR ("Respondent-Registrant") covers the MARITON & DESIGN for use on goods under Class 30.

Pursuant to the Regulations on Inter Partes Proceedings, this Bureau issued a Notice to Answer and served a copy thereof to Respondent-Registrant on 20 July 2015. The Respondent-Registrant filed her Answer on 23 July 2015.

However, a check with the records of the Intellectual Property Office of the Philippines, in particular the Trademarks Registry, show that the subject mark MARITON & DESIGN has been removed from Register due to non-filing of Declaration of Actual Use ("DAU").

Article 124.2 of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines ("IP Code") states:

"124.2. The applicant or the registrant shall file a declaration of actual use of the mark with evidence to that effect, as prescribed by the Regulations within three (3) years from the filing of the application. Otherwise, the application shall be refused or the mark shall be removed from the Register by the Director."

Furthermore, Rule 204 of the Rules & Regulations on Trademarks, Service Marks, Trade Names and Marked or Stamped Containers ("Trademark IRR") provides:

"RULE 204. *Declaration of Actual Use.* - The Office will not require any proof of use in commerce in the processing of trademark applications. However, without need of any notice from the Office, all applicants or registrants shall file a declaration of actual use of the mark with evidence to that effect within three years, without possibility of extension, from the filing date of the application. Otherwise, the application shall be refused or the mark shall be removed from the register by the Director motu proprio."

Accordingly, with the removal from Register of the mark MARITON & DESIGN, there is no more reason nor basis to proceed with this case.

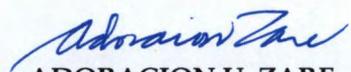
**WHEREFORE**, premises considered, the instant petition is hereby **DISMISSED**.

Let the filewrapper of Trademark Registration No. 4-2012-00780055 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for information and appropriate action.

**SO ORDERED.**

Taguig City,

**16 DEC 2016**

  
Atty. ADORACION U. ZARE  
Adjudication Officer, Bureau of Legal Affairs