



HOCO TECHNOLOGY	}	IPC No. 14-2016-00631
DEVELOPMENT (SHENZHEN)	}	Opposition to:
CO., LTD.,	}	
Opposer,	}	
	}	Application No. 4-2016-00001176
-versus-	}	Date Filed: 03 February 2016
	}	
SHAOBIN CHEN ONG,	}	Trademark: HOCO.
Respondent-Applicant.	}	Order No. 2017 - <u>45</u> (D)
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### ORDER

HOCO TECHNOLOGY DEVELOPMENT (SHENZHEN) CO., LTD. ("Opposer") filed on 02 February 2017 a Verified Notice of Opposition to Trademark Application No. 4-2016-00001176. In its Motion as well as in the Verified Notice of Opposition, the Opposer alleges that the subject trademark application was published for opposition in the IPO e-Gazette on 03 October 2016.

Prior thereto, the Opposer filed on 26 October 2016 a Motion for Extension of Time to File Verified Notice of Opposition requesting for an extension of one (1) month from 02 November 2016 or until 02 December 2016 within which to file the Verified Opposition and supporting documents. In an Order No. 2016-1912 dated 18 November 2016, this Bureau granted the Opposer's motion giving the latter an extension of thirty (30) days from 02 November 2016 or until 02 December 2016 within which to file the Verified Opposition. Subsequently, the Opposer filed on 01 December 2016 a Second Motion for Extension of Time to File Verified Notice of Opposition seeking another extension of one (1) month from 02 December 2016 or until 01 January 2017. This Bureau granted the Opposer's second motion for extension by virtue of Order No. 2016-2125 dated 15 December 2016 thereby giving the Opposer a second extension of thirty (30) days from 02 December 2016 or until 01 January 2017. Anticipating that the Verified Notice of Opposition with supporting documents and materials will not be completed for submission on 01 January 2017, the Opposer filed again a Third Motion for Extension seeking a further extension of one (1) month from 01 January 2017 or until 31 January 2017. Again, in an Order No. 2017-122 dated 12 January 2017, this Bureau granted the Opposer a third and final extension of thirty (30) days from 01 January 2017 or until 31 January 2017 within which to file its Verified Notice of Opposition.

The Opposer filed its Verified Notice of Opposition only on 02 February 2017.

Section 134 of R. A. No. 8293, otherwise known as the Intellectual Property Code of the Philippines ("IP Code") provides that:

Sec. 134. Opposition. Any person who believes that he would be damaged by the registration of a mark may, upon payment of the

required fee and within thirty (30) days after the publication referred to in Subsection 133.2, file with the Office an opposition to the application. Such opposition shall be in writing and verified by the oppositor or by any person on his behalf who knows the facts, and shall specify the grounds on which it is based and include a statement of the facts relied upon. Copies of certificates of registration of marks registered in other countries or other supporting documents mentioned in the opposition shall be filed therewith, together with the translation in English, if not in the English language. For good cause shown and upon payment of the required surcharge, the time for filing an opposition may be extended by the Director of Legal Affairs, who shall notify the applicant of such extension. The Regulations shall fix the maximum period of time within which to file the opposition.

Corollarily thereto, Rule 2, Section 12 of the IPOPHL Memorandum Circular No. 16-007, *Revised Rules and Regulations on Inter Partes Proceedings*, provides the period for filing the opposition, to wit:

*“Section 2. Period to file opposition. - The verified notice of opposition must be filed within 30 days from the date of the publication of the trademark application in the IPOPHL “Gazette”. Upon proper motion anchored on meritorious grounds which must be expressly indicated in the motion, and the payment of the filing fee for opposition and other applicable fees, the Bureau may grant an additional period of 30 days within which to file the opposition. A second motion for extension of 30 days may also be granted on meritorious grounds and upon payment of the applicable fees. A third and last motion for extension of 30 days may be granted on compelling grounds and upon payment of the applicable fees; *Provided*, that in no case will the filing of the opposition exceed one hundred and twenty (120) days from the date of the aforementioned publication; *Provided, further*, that if the last day for filing of the verified opposition or motion for extension falls on a Saturday, Sunday, holiday, non-working day or on a day when the Office or the Bureau is closed for business as may be declared by the Director General, the filing must be done the next succeeding working day.”*

Since the subject trademark application was published for opposition on 03 October 2016, the first extension of thirty days commences from 02 November 2016 or until 02 December 2016. The second and third extensions of thirty (30) days each cover the period from 02 December 2016 until 01 January 2017 and from 01 January 2017 or until 31 January 2017, respectively.

In this regard, Rule 2, Section 8 (b) of Office Order No. 99, series of 2011, provides that:

*“Section 8. Action on the Notice of Opposition or Motion for Extension to File Notice of Opposition and Petition. - x x x (b) The notice of opposition or*

*end*

petition may be dismissed outright and/or motu proprio for having been filed out of time, due to lack of jurisdiction, and/or failure to state a cause of action. Likewise, a motion for extension of time to file notice of opposition shall be denied outright if the opposer fails to state meritorious grounds." [Emphasis supplied]

The filing, therefore, of the Opposer's Verified Notice of Opposition beyond the reglementary period or only on 02 February 2017 is sanctioned by the dismissal of the opposition.

**WHEREFORE**, premises considered, the instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2016-00001176 be returned, together with a copy of this Order, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, **22 FEB 2017**

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