

CARGILL PALM PRODUCTS SDN BHD,
Opposer,

-versus-

**PT. SINAR MAS AGRO RESOURCES &
TECHNOLOGY TBK.,**
Respondent-Applicant.

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IPC No. 14-2013-00445

Opposition to:
Appln. Serial No. 4-2012-013394
Date Filed: 05 November 2012

Trademark: **"I-SOC PREMIUM CF"**

Decision No. 2017- 122

DECISION

Cargill Palm Products¹ ("Opposer") filed an opposition to Trademark Application Serial No. 4-2012-013394. The application, filed by Pt. Sinar Mas Agro Resources & Technology Tbk. ("Respondent-Applicant")², covers the mark "I-SOC PREMIUM CF" for use on *"cocoa butter substitute; chocolate nut butter; bone oil (edible); butter (cocoa); butter (coconut); butter cream; coconut oil; corn oil; colza oil; colza oil for food; edible fats; edible oils; fat (coconut); fat containing mixtures for bread slices; lard for food; maize oil; palm kernel oil for food; palm oil for food; cooling oil; edible hardened oil and shortening; margarine; edible soybean oil; edible palm kernel oil; edible palm sunflower oil; edible maize oil; edible olive oil; meat; fish; poultry; and game; meat extract; preserved; dried and cooked fruits and vegetables; jellies; jams; compotes; eggs; milk and milk products"* under Class 29 of the International Classification of goods and services³.

The Opposer alleges, among other things, that the mark "I-SOC PREMIUM CF" is confusingly similar to the Opposer's registered "HYSOC" marks. According to the Opposer, the Respondent-Applicant's trademark application is contrary to Section 123.1, subparagraphs (d) of R.A. No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code").

The Respondent-Applicant, on the other hand, denies that the marks are confusing. It avers that it has registered the mark "I-SOC" under Certificate of Registration No. 4-2007-005477 issued on 25 August 2008 covering *"cocoa butter substitute"* under Class 29.

¹ A corporation duly organized and existing and by virtue of the laws of the Malaysia, with office address at Level 22, Menara TM, Off Jalan Pantai Baru, 59200 Kuala Lumpur, Malaysia.

² With office address at BII Plaza, Tower II, 30th Floor, JL. M.H. Thamrin No. 51, Jakarta 10350, Indonesia.

³ The Nice Classification is a classification of goods and services for the purpose of registering trademarks 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 Purpose of the Registration of Marks concluded in 1957.

Pursuant to Office Order No. 154, s. 2010, the Adjudication Officer referred the case to mediation. This Bureau's Alternative Dispute Resolution Services submitted a report that the parties refused to mediate. Accordingly, the Adjudication Officer conducted and terminated the preliminary conference on 16 September 2014 wherein the parties were directed to submit their respective position papers. After which, the case is deemed submitted for resolution.

The issue to be resolved is whether the Respondent-Applicant's mark "I-SOC PREMIUM CF" should be allowed registration.

Records reveal that at the time the Respondent-Applicant filed the contested application, the Opposer already has a valid and existing registration of the mark "HYSOC" issued as early as 18 December 2006.

This Adjudication Officer notes that the parties in this case is the same as that in IPC No. 14-2010-00097, wherein the Bureau cancelled the herein Respondent-Applicant's Registration No. 4-2007-005477 for the mark "I-SOC" on the ground that the same is confusingly similar with herein Opposer's mark "HYSOC".

The cancellation was upheld by the Director General in his ruling in Appeal No. 14-2011-0017. Dissatisfied, the Respondent-Applicant elevated the case to the Court of Appeals (CA-G.R. SP No. 132468). The Court's Sixth Division rendered a decision on 22 June 2015, to wit:

"ACCORDINGLY, the petition is DENIED. The October 10, 2013 Decision of the Office of the Director General, Intellectual Property Philippines, docketed as Appeal No. 14-2011-0017, which affirmed the September 22, 2011 Decision of the Intellectual Property Office Bureau of Legal Affairs, is AFFIRMED."

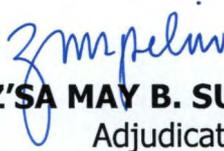
The subsequent motion for reconsideration was. The Respondent-Applicant again raised the case to the Supreme Court via petition for review on certiorari, but the same was also denied. Thereafter, the Supreme Court issued the corresponding Entry of Judgment.

Accordingly, there is no cogent reason for this Adjudication Officer to rule otherwise in this case. The Supreme Court has already upheld that the marks "I-SOC" and "HYSOC" are confusingly similar. That the mark in this case is "I-SOC PREMIUM CF" will not diminish the likelihood of confusion as the addition of the words "PREMIUM CF" is insufficient to lend the Respondent-Applicant's mark the distinctiveness required by law. The fact remains that it utilizes the contended word "I-SOC" in its applied mark, which has been ruled to be confusing with "HYSOC".

WHEREFORE, premises considered, the instant opposition is hereby **SUSTAINED**. Let the filewrapper of Trademark Application Serial No. 4-2012-013394 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, **18 APR 2017**


Atty. Z'SA MAY B. SUBEJANO-PE LIM
Adjudication Officer
Bureau of Legal Affairs