

REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
Manila

GINEBRA SAN MIGUEL, INC.
Petitioner,

- versus -

CA-G.R. SP No. 132366

HON. RICARDO R. BLANCAFLOR,
in his capacity as DIRECTOR GENERAL
of the INTELLECTUAL PROPERTY
OFFICE OF THE PHILIPPINES
(IPOPHL),
Respondents,

NOTICE OF DECISION

May 19, 2017

Sir/Madam:

Please take notice that on May 17, 2017*, a DECISION, copy attached, was rendered by the SPECIAL FIRST DIVISION, Court of Appeals, in the above-entitled case, the original of which is now on file in this Office.

You are hereby required to inform this Court within five (5) days from receipt hereof of the date you received the Notice, with copy of the Decision.

Very truly yours,

ATTY. VENUS B. MAGLAYA-TALOMA
Division Clerk of Court

COPY FURNISHED:

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*4:10 pm. (time of receipt)

Please NOTIFY the Court of any change in your address

Republic of the Philippines
Court of Appeals
Manila

SPECIAL FIRST DIVISION

GINEBRA SAN MIGUEL, INC. CA-G.R. SP NO. 132366
Petitioner,

- versus -

Members:

HON. RICARDO R.
BLANCAFLOR, in his capacity
as DIRECTOR GENERAL of the
INTELLECTUAL PROPERTY
OFFICE OF THE PHILIPPINES
(IPOPFI),

BALTAZAR-PADILLA, P.J.
Chairperson,
GARCIA-FERNANDEZ, M.V., and
AZCARRAGA-JACOB, M.C., J.J.

Promulgated:

Respondents.

MAY 17 2017

x

x

DECISION

CERTIFIED TRUE COPY:

GARCIA-FERNANDEZ, J.:

ATTY. VENUS B. MACLAYA-TALOM
Division Clerk of Court

This is a petition for review¹ filed by Ginebra San Miguel, Inc. under Rule 43 of the Rules of Court, as amended, seeking to reverse and set aside the decision² of the respondent Director General of the Intellectual Property Office of the Philippines (ODG-IPOPFI) dated September 24, 2013 in Appeal No. 04 2010-0005.

The facts based on the findings of respondent ODG-IPOPFI in

¹ Designated as Third Member vice P.J. Andres B. Reyes, Jr. per Raffle dated May 9, 2017.

² Rollo, pp. 10-66.

³ Rollo, pp. 71-77.

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its decision are as follows:

Records show that the Appellant (petitioner Ginebra San Miguel, Inc.) filed Trademark Application No. 4-2003-001683 on 21 February 2003 for "GINEBRA SAN MIGUEL SINCE 1834" for gin products. Subsequently, the Examiner issued official actions which required the Appellant to disclaim the words "GINEBRA" and "SINCE 1834". According to the Examiner, "GINEBRA" is a generic term while "SINCE 1834" does not function as a trademark and should be disclaimed pursuant to Rule 608 of the Trademark Regulations.

On 29 May 2008, the Appellant filed a "PETITION TO THE DIRECTOR (in accordance with Rule 1101 of the Trademark Regulations)" seeking to set aside the official actions of the Examiner and asking the Director to issue an order allowing the publication of GINEBRA SAN MIGUEL SINCE 1834. The Director (Bureau of Trademarks) denied the petition and sustained the action of the Examiner. Not satisfied, the Appellant filed on 07 May 2010 an "APPEAL MEMORANDUM" contending that the Director erred in holding that the word "GINEBRA" is a generic term and that the terms "GINEBRA" and "SINCE 1834" are incapable of functioning as trademarks.

The Appellant argues that the word "GINEBRA" should not be confined to its dictionary definition given its long-standing presence in the Philippine context and that dictionary definitions alone cannot be conclusive that the term is generic. The Appellant claims that "GINEBRA" is associated or identified by ordinary Filipino gin consumers with the Appellant as indicated in a survey conducted on gin drinkers in Greater Manila Area, North Luzon, and South Luzon by NFO Trends, an internationally accredited market researcher firm. According to the Appellant, this shows that "GINEBRA" has primary significance as a trademark. The Appellant maintains that "GINEBRA" and "[SINCE 1834]" have become distinctive by its existence, continued, substantial, and exclusive use since 1834 and that these terms have acquired secondary meaning.

On 07 July 2010, the Director filed her "COMMENT" claiming that there is no dispute to the dictionary meaning of "Ginebra"

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which is the Spanish word for "Gin". The Director maintains that "Ginebra" is a generic word which is not protected as trademark because to do so would be akin to granting a monopoly of the product itself. Not in a word or symbol. The Director argues that the phrase "since 1834" cannot function as a trademark because it merely refers to the year when the goods were initially placed in the market. According to the Director, other goods or services that originated in the same year have equal rights to use "since 1834".³

On September 24, 2013, the ODG-IPOPHE issued the challenged decision dismissing petitioner's appeal. The ODG-IPOPHE upheld the findings of the Examiner and the Director of the Bureau of Trademarks (BOT) that "GINEBRA" and "SINCE 1834" must be disclaimed. The ODG-IPOPHE agreed with the BOT Director and Examiner that "GINEBRA" is a generic term which is not capable of registration under Section 123.1 (h) of the Intellectual Property Code of the Philippines (IP Code). With regard to the term "SINCE 1834", the ODG-IPOPHE sustained the ruling of the BOT Director and Examiner that the same cannot function as a trademark because it does not point out distinctly the origin of the mark but only indicates the date when the product was first used. The decision of the ODG-IPOPHE states the following:

The law is explicit that signs that are generic cannot be registered as a mark. In other words, marks which consist exclusively of generic words cannot be registered. Generic terms are those which constitute the common descriptive name of an article or substance or comprise the genus of which the particular product is a specie or are commonly used as the name or

3. Rollo, pp. 71-72.

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description of a kind of goods, or imply reference to every member of a genus and the exclusion of individualizing characters, and are not legally protectable.

In this case, "GINEBRA" is a Spanish word and its English translation is the word "gin" which is defined as an alcoholic spirit distilled from grain and flavored with juniper berries. The word "gin" is, thus, a generic term and is the common name given to alcoholic spirits distilled from grain and flavored with juniper berries.

Words or phrases which have been in common use and which indicate the character, kind, quality and composition of the thing, may not be appropriated by any one to his exclusive use. In the exclusive use of them the law will not protect. The reason for this is because generic words are considered to be in the public domain and free for all to use. To allow an individual or an entity to register a generic term would give the registrant the exclusive right to use the term to the prejudice of others who are using the same generic words in their similar trade or services.

Thus, in this case, to allow the Appellant to register its mark without disclaiming the word "GINEBRA" in its trademark application would prevent other gin manufacturers and producers from using the term "gin" or "ginebra". The Examiner and the Director are, therefore, correct in requiring the Appellant to disclaim "GINEBRA". Similarly, the official action issued by the Examiner and sustained by the Director requiring the Appellant to disclaim the terms "SINCE 1834" is proper. As correctly pointed out by the Director:

The term "since 1834" cannot function as a trademark because it merely refers to the year when the goods were initially placed in the market. Other goods or services that originated in the same year have equal rights to use the term "since 1834".

xxx

Finally, the Appellant's contention that "GINEBRA" and "SINCE 1834" have acquired secondary meaning deserves scant consideration. The doctrine of secondary meaning is only applicable to descriptive marks as provided in Sec. 123.2 of the IP

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Code. "GINI.BRA" is a generic word for gin products while "SINCL 1834" is not distinctive and does not function as a trademark. Hence, the doctrine of secondary meaning is not applicable in this case.

WHEREFORE, premises considered, the appeal is hereby DISMISSED. Let a copy of this Decision as well as the trademark application and records be furnished and returned to the Director of the Bureau of Trademarks for appropriate action. Let a copy of this Decision be furnished also the library of the Documentation, Information and Technology Transfer Bureau for its information and records purposes.

SO ORDERED.⁴

Petitioner filed the instant petition for review raising the following issues:

WHETHER THE HONORABLE DIRECTOR GENERAL ERRED IN UPHOLDING THE RULING OF THE BOT DIRECTOR THAT "GINI.BRA" IS GENERIC AND MUST BE DISCLAIMED.

(a) "GINI.BRA" has acquired primary significance as a trademark in the minds of the relevant consuming public, and therefore, is not a "generic" mark within the purview of law and jurisprudence.

(b) Granting without admitting that "GINI.BRA" was a generic mark, "GINI.BRA" has become distinctive and has over time acquired secondary meaning by virtue of its extensive, continued, and exclusive use since 1834.

WHETHER THE HONORABLE DIRECTOR GENERAL ERRED IN UPHOLDING THE RULING OF THE BOT DIRECTOR THAT "SINCL 1834" MUST BE DISCLAIMED BECAUSE IT DOES NOT FUNCTION AS A TRADE MARK.⁵

4. Rollo, pp. 72-74.

5. Rollo, p. 24.

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The petition is partly meritorious.

Petitioner stated in its verification and certification⁶ attached to the petition that its trademark application for the mark "GINEBRA SAN MIGUEL FLAVORED GIN LABEL DESIGN" (Application No. 4-2008-500326) is also subject of another petition for review before this Court. On March 21, 2016, petitioner filed a manifestation⁷ stating that this Court, through its Former Twelfth Division⁸ rendered a decision in CA-G.R. SP No. 132365 entitled *Ginebra San Miguel, Inc. vs. Office of the Director General and/or Director of the Bureau of Trademarks, Intellectual Property of the Philippines* involving Application No. 4-2008-500326 for the mark "GINEBRA SAN MIGUEL FLAVORED GIN LABEL DESIGN". Copies of the decision⁹ dated March 27, 2015 and Entry of Judgment¹⁰ showing that the decision became final and executory on May 11, 2015 were attached to the manifestation.

A perusal of the decision in CA-G.R. SP No. 132365 shows that the issues resolved in said petition are the same issues in the instant petition, particularly, whether petitioner can apply for the registration of the mark "GINEBRA". In CA-G.R. SP No. 132365, the OIG-

6 Rollo, pp. 65-66.

7 Rollo, pp. 497-501.

8 Composed of Justice Mariflor P. Punzalan Castillo, Justice Florito Macalino, and Justice Zenaida T. Cahapate-Laguiller.

9 Rollo, pp. 502-518.

10 Rollo, p. 520.

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IPOP/II upheld the following findings of the BOT Director: 1) that "GINEBRA" is generic and must be disclaimed; and 2) that the doctrine of secondary meaning is inapplicable because the same only applies to descriptive marks as provided under Section 123.2 of the IP Code.¹¹ This Court (Former Twelfth Division) in CA-G.R. SP No. 132366 reversed and set aside the decision of the ODG IPOP/II and ruled in favor of petitioner, to wit:

The sole issue in the present petition is whether or not the IPOP/II Director General erred in upholding the ruling of the BOT Director that the mark "GINEBRA" is generic, hence, must be disclaimed. The assailed Decision of the Director General must be set aside, for the reasons set forth below.

xxx

In the instant petition, the applicability of the doctrine of secondary meaning to the mark "GINEBRA" is evident. First, the mark "GINEBRA" has been used exclusively by GSMI and its predecessors with reference to its gin products since 1834. Second, as a consequence thereof, the purchasing public has come to link the term "GINEBRA" to GSMI. Otherwise stated, the word "GINEBRA" has come to mean that the article was a product of GSMI due to the latter's exclusive and continuous use of the mark.

xxx

The assailed Decision stated that "the doctrine of secondary meaning is only applicable to descriptive marks as provided in Section 123.2 of the IP Code." Nevertheless, based on Philippine jurisprudence, it appears that the acquisition of secondary meaning is not limited to marks described under Section 123.1 (j), (k), and (l) of the IP Code. Certain generic marks as described in Section 123.1 (h) have become distinctive and entitled to protection due to

¹¹ Rollo, p. 7A.

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its "substantially exclusive and continuous use" over a long period of time. In *Ang v. Teodoro*, the Supreme Court ruled as follows:

xxx We have said that the phrase "Ang Tibay," being neither geographic nor descriptive, was originally capable of exclusive appropriation as a trade-mark. But were it not so, the application of the doctrine of secondary meaning made by the Court of Appeals could nevertheless be fully sustained because, in any event, by respondent's long and exclusive use of said phrase with reference to his products and his business, it has acquired a proprietary connotation.

xxx

xxx As may be readily noted from what he have heretofore said, the proprietary connotation that a trade-mark or trade-name has acquired is of more paramount consideration. The Court of Appeals found in this case that by uninterrupted and exclusive use since 1910 of respondent's registered trade-mark on slippers and shoes manufactured by him, it has come to indicate the origin and ownership of said goods.

Applying the foregoing case to the instant petition, regardless of whether "GINEBRA" is generic or originally incapable of exclusive appropriation for being a non-descriptive term, it has now acquired a proprietary connotation due to GSMP's long and exclusive use of the mark "GINEBRA" with reference to its business. Similar to the aforesaid case, through GSMP's uninterrupted and exclusive use since 1834 of the mark "GINEBRA" on its gin products and in its persistent advertising schemes, the term has come to indicate the origin and ownership of said goods.

In *Lyceum of the Philippines, Inc. v. Court of Appeals, et. al.*, it was explained that the term "Lyceum" is the Latin word for the Greek *lykeion* referring to a locality in ancient Athens which was a frequent venue for exercise and teaching, and that at present, the word pertains to "a school or institution of learning". The Supreme Court held that "[n]o evidence was ever presented xxx which sufficiently proved that the word 'Lyceum' has indeed acquired secondary meaning". The Supreme Court further ruled that "[t]he number alone of the private respondents in the case at bar suggests strongly that petitioner's use of the word 'Lyceum' has not

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been attended with the exclusivity essential for applicability of the doctrine of secondary meaning". From the foregoing statements, it could be inferred that the doctrine of secondary meaning could have been applicable to the word "Lyceum" had the petitioner only presented evidence that its use of the mark had "been attended with the exclusivity essential for applicability of the doctrine of secondary meaning". xxx Thus, it appears that the doctrine of secondary meaning could have been applicable to a foreign word such as "Lyceum", so long as the requirement of long and exclusive use of the mark is present. In the instant petition, such requirement had been complied with, in view of GSMI's exclusive use of the mark "GINEBRA" for a long period of time. We also give credence to the petitioner's reliance on the U.S. case of *Re Pan Tex Hotel Corp.*, where "LA POSADA motor hotel" was not deemed generic despite the fact that the Spanish term "la posada" means "the inn" in English. Furthermore, in *Philippine Nut Industry, Inc. v. Standard Brands Incorporated and Valle*, the Supreme Court ruled that "[w]hile it is true that PLANTERS is an ordinary word, nevertheless it is used in the labels not to describe the nature of the product, but to project the source or origin of the salted peanuts contained in the cans. The word PLANTERS xxx catches the eye of the ordinary consumer and it is that word and none other that sticks in his mind when he thinks of salted peanuts." Similar to the *Planters* case, while GINEBRA may seem like a generic word, it has been used in GSMI's labels and promotional campaigns to project the source or origin of the gin. When the word GINEBRA is noticed by the ordinary gin consumer, he immediately associates the term to GSMI's products. The foregoing premise is supported by the findings of the NIO Trends survey wherein ninety percent (90%) of the respondents, representing a population universe of 6,203,643 gin drinkers in Greater Manila Area, North Luzon and South Luzon, associated the mark "GINEBRA" with "Ginebra San Miguel", "San Miguel", or "La Tonderia". xxx

Applying the *Planters* case to the instant petition, GSMI has also presented sufficient evidence in the form of affidavits, surveys, advertising materials, and newspaper clippings on the history of "GINEBRA" and GSMI, showing that the word "GINEBRA" has been used and closely associated with GSMI for its gin products since 1834. Indeed, the foregoing pieces of evidence support the petitioner's claim that "GINEBRA" has become a distinctive mark or symbol in the Philippines. The mark "GINEBRA" has been utilized

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by GSMI and its predecessors as early as 1834. Hence, "[i]n due time, because of these advertising schemes, the mind of the buying public had come to learn to associate the word" with GSMI's goods. Indeed, petitioner GSMI need not disclaim the word "GINEBRA". GSMI has acquired a right to appropriate the mark since the same has become "distinctive of the applicant's or owner's goods, business or services" after the lapse of almost two (2) centuries. xxx

To reiterate, GSMI's use of the term "GINEBRA" has become distinctive of its goods and business, as evidenced by the surveys conducted by NFO Trends/INS Trends showing that most gin drinkers associated the mark "GINEBRA" with "Ginebra San Miguel", "San Miguel", or "La Tondeña". GSMI's PBA team known as "GINEBRA", "Ginebra San Miguel" or "Barangay Ginebra Kings" as well as various media advertisements, which include Ginebra's own songs and the participation of Filipino workers and famous personalities, all appealed to the emotions of Filipino consumers and have contributed to the mark's acquisition of distinctiveness after many decades.¹² (citations removed)

Settled is the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on points and matters determined in the former suit.¹³ This Court's decision in CA-G.R. SP No. 132365 already resolved with finality the issue of whether the term "GINEBRA" is generic and must be disclaimed. This Court made the following findings in that decision, to wit: 1) The doctrine of secondary meaning is applicable to certain generic marks that have become distinctive and entitled to protection due to its substantially exclusive and continuous use over a long period of time; 2)

12. Roilo, pp. 512-516.

13. Wilfred N. Chiek vs. People of the Philippines and Rufina Chua, G.R. No. 179814, December 7, 2015; Vilma Quintos, et al. vs. Pelagia I. Nicolas, et al., G.R. No. 210252, June 16, 2014.

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Petitioner's continuous and exclusive use of the term "GINEBRA" since 1834 has become distinctive of its goods and business; 3) Most gin drinkers associated the mark "GINEBRA" with "Ginebra San Miguel", "San Miguel", or "La Tondeña"; and 4) Petitioner need not disclaim the mark "GINEBRA" as it had acquired a right to appropriate the mark since the same has become distinctive of petitioner's goods and business after the lapse of almost two (2) centuries. These matters that were already determined with finality in CA-G.R. SP No. 132365 should not be disturbed and should therefore be adopted in the determination of the instant case.

However, with regard to the mark "SINCE 1834", this Court finds that the ODC IPOPHL did not err in upholding the ruling of the BOT Director that the same must be disclaimed because it does not serve the function of a trademark. In *Mirpuri vs. Court of Appeals*¹⁴, the Supreme Court exhaustively discussed the function and historical development of trademarks and trademark law, to wit:

A "trademark" is defined under R.A. 166, the Trademark Law, as including "any word, name, symbol, emblem, sign or device or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured, sold or dealt in by others." This definition has been simplified in R.A. No. 8293, the Intellectual Property Code of the Philippines, which defines a "trademark" as "any visible sign capable of distinguishing goods." In Philippine jurisprudence, 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,

14 G.R. No. 114508, November 19, 1999.

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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.

Modern authorities on trademark law view trademarks as performing three distinct functions: (1) they indicate origin or ownership of the articles to which they are attached; (2) they guarantee that those articles come up to a certain standard of quality; and (3) they advertise the articles they symbolize.

Symbols have been used to identify the ownership or origin of articles for several centuries. As early as 5,000 B.C., markings on pottery have been found by archaeologists. Cave drawings in southwestern Europe show bison with symbols on their flanks. Archaeological discoveries of ancient Greek and Roman inscriptions on sculptural works, paintings, vases, precious stones, glassworks, bricks, etc. reveal some features which are thought to be marks or symbols. These marks were affixed by the creator or maker of the article, or by public authorities as indicators for the payment of tax, for disclosing state monopoly, or devices for the settlement of accounts between an entrepreneur and his workmen.

In the Middle Ages, the use of many kinds of marks on a variety of goods was commonplace. Fifteenth century England saw the compulsory use of identifying marks in certain trades. There were the baker's mark on bread, bottlemaker's marks, smith's marks, fanner's marks, watermarks on paper, etc. Every guild had its own mark and every master belonging to it had a special mark of his own. The marks were not trademarks but police marks compulsorily imposed by the sovereign to let the public know that the goods were not "foreign" goods smuggled into an area where the guild had a monopoly, as well as to aid in tracing defective work or poor craftsmanship to the artisan. For a similar reason, merchants also used merchants' marks. Merchants dealt in goods acquired from many sources and the marks enabled them to identify and reclaim their goods upon recovery after shipwreck or piracy.

With constant use, the mark acquired popularity and became

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voluntarily adopted. It was not intended to create or continue monopoly but to give the customer an index or guarantee of quality. It was in the late 18th century when the industrial revolution gave rise to mass production and distribution of consumer goods that the mark became an important instrumentality of trade and commerce. By this time, trademarks did not merely identify the goods; they also indicated the goods to be of satisfactory quality, and thereby stimulated further purchases by the consuming public. Eventually, they came to symbolize the goodwill and business reputation of the owner of the product and became a property right protected by law. The common law developed the doctrine of trademarks and tradenames "to prevent a person from palming off his goods as another's, from getting another's business or injuring his reputation by unfair means, and, from defrauding the public." Subsequently, England and the United States enacted national legislation on trademarks as part of the law regulating unfair trade. It became the right of the trademark owner to exclude others from the use of his mark, or of a confusingly similar mark where confusion resulted in diversion of trade or financial injury. At the same time, the trademark served as a warning against the imitation or faking of products to prevent the imposition of fraud upon the public.

Today, the trademark is not merely a symbol of origin and goodwill; it is often the most effective agent for the actual creation and protection of goodwill. It imprints upon the public mind an anonymous and impersonal guaranty of satisfaction, creating a desire for further satisfaction. In other words, the mark actually sells the goods. The mark has become the "silent salesman," the conduit through which direct contact between the trademark owner and the consumer is assured. It has invaded popular culture in ways never anticipated that it has become a more convincing selling point than even the quality of the article to which it refers. In the last half century, the unparalleled growth of industry and the rapid development of communications technology have enabled trademarks, tradenames and other distinctive signs of a product to penetrate regions where the owner does not actually manufacture or sell the product itself. Goodwill is no longer confined to the territory of actual market penetration; it extends to zones where the marked article has been fixed in the public mind through advertising. Whether in the print, broadcast or electronic communications medium, particularly on the

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Internet, advertising has paved the way for growth and expansion of the product by creating and earning a reputation that crosses over borders, virtually turning the whole world into one vast marketplace.

This Court agrees with the ODG-IPOPHL that the term "SINCE 1834" does not distinctively point to the origin or ownership of the goods. Petitioner cannot appropriate for itself the term "SINCE 1834" because it merely signifies the period or year when the goods were first used. Hence, all other manufacturers or producers with goods or services originating in the same year have equal rights to use the term "SINCE 1834". The term "SINCE 1834" does not serve the function of a trademark and must be disclaimed. This Court therefore quotes with approval the following ruling of the ODG-IPOPHL with regard to the term "SINCE 1834", to wit:

xxx "[T]he official action issued by the Examiner and sustained by the Director requiring the Appellant to disclaim the terms "SINCE 1834" is proper. As correctly pointed out by the Director:

The term "since 1834" cannot function as a trademark because it merely refers to the year when the goods were initially placed in the market. Other goods or services that originated in the same year have equal rights to use the term "since 1834".

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 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 a genuine article; to prevent fraud and imposition; and to protect the

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manufacturer against substitution and sale of an inferior and different article as his product.

In this instance, the Appellant's use of "SINCE 1834" does *not point out distinctly the origin or ownership* of the mark but only indicates the date it started using the product. A trademark is any visible sign capable of distinguishing the goods of an enterprise. The terms "SINCE 1834" do not distinguish the Appellant's goods.¹⁵

WHEREFORE, the petition for review is **PARTLY GRANTED**. The decision¹⁶ of the Office of the Director General of the Intellectual Property Office of the Philippines dated September 24, 2013 in Appeal No. 04-2010-0005 is **REVERSED** and **SET ASIDE** insofar as it requires petitioner Ginebra San Miguel, Inc. to disclaim the term "GINEBRA" in Trademark Application No. 4-2003-001683. The rest of the decision is **AFFIRMED**.

SO ORDERED.

ORIGINAL SIGNED

MYRA V. GARCIA-FERNANDEZ
Associate Justice

WE CONCUR:

ORIGINAL SIGNED

PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

¹⁵ Rollo, p. 74.

¹⁶ Rollo, pp. 71-74.

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ORIGINAL SIGNED

MARIE CHRISTINE AZCARRAGA-JACOB
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ORIGINAL SIGNED

PRISCILLA J. BALTAZAR-PADILLA
Associate Justice
Chairperson, Special 1st Division