

Office Order No. 139 Series of 2004 Restoration of Cancelled Trademark Registrations

In line with the ruling of the Director General on the request of ABS-CBN Broadcasting Corporation for the reversal of the actions of the Director of Trademarks canceling the various trademark registrations issued under R.A. No. 166 in favor of said corporation, the pertinent portions of which read, to wit:

"Rule 921 of the Trademarks Regulations specifically states that for registrations issued under R.A. No. 166, the declaration and affidavit of use shall be submitted only one year after the 10th and 15th anniversary for those with a remaining duration as of 01 January 1998 of 6½ years. The marks in contention have remaining duration as of 01 January 1998 of more than 6½ years. Therefore, the registrant is required to file the declaration and affidavit of use only after the 10th and 15th anniversaries of these registrations.

"Indeed, the Director of Trademarks may have overlooked the import of Rule 921. The rule does not presupposes that the affidavit of use had been filed within one year following the fifth anniversary considering that 6 ½ years had already lapsed. The period 6 ½ years is not the period that has lapsed but refers to the remaining duration of the term of the registration as of 01 January 1998. Since the term of registration under RA 166 is 20 years from registration, a remaining duration of more than 6 ½ years could be from 6 ½ years plus one day up to 20 years minus one day. This means that the period that has elapsed from registration up to 01 January 1998 may be from one day up to the maximum of thirteen and one-half (13 ½) years minus one day. Hence, this clearly shows that the rule does not presuppose that an affidavit of use had been filed within one year following the 5th anniversary.

"Accordingly, this Office finds merit in your request. In view thereof, the same is hereby granted"

The Director of Trademarks is hereby enjoined from canceling trademark registrations issued under RA No. 166 and subsisting as of 01 January 1998 on the ground of failure to file declaration and affidavit of use within one year from fifth anniversary. Accordingly, all such trademark registrations previously cancelled for non-filing of declaration and affidavit of use within one year from fifth anniversary is hereby restored. The Director of Trademarks, as well as the Director of the Administrative, Financial and Human Resource Development Services Bureau and its Patent, Trademark Administrative Services Division shall employ appropriate actions to implement this directive.

23 December 2004, Makati City.

(sgd.)EMMA C. FRANCISCO
Director General