

**\*\*Title: Forietrans Manufacturing Corp., Agerico Calaquian, and Alvin Montero vs. Davidoff Et. Cie SA & Japan Tobacco, Inc.\*\***

**### Facts:**

Davidoff Et. Cie SA (Davidoff) and Japan Tobacco, Inc. (JTI) are non-resident foreign corporations holding trademarks. They retained SyCip Law Firm and Business Profiles, Inc. (BPI) in the Philippines for enforcing their trademark rights. Reportedly, Forietrans Manufacturing Corporation (FMC) was found manufacturing and storing counterfeit Davidoff and JTI products. Following BPI's report, Criminal Investigation and Detection Group (CIDG) secured search warrants for FMC's warehouses, which upon search, revealed counterfeit products and equipment for manufacturing cigarettes, leading to Agerico Calaquian's apprehension.

Subsequent complaints were filed against FMC for trademark infringement and false designation of origin under the Philippines' Intellectual Property Code (IP Code). However, the Provincial Prosecutor dismissed the complaints due to insufficiency of evidence and lack of confusing similarity between the counterfeit and original products. This decision was upheld by the Secretary of Justice, leading the respondents to file a petition for certiorari with the Court of Appeals (CA), which reversed the earlier decisions, finding probable cause to charge the petitioners.

**### Issues:**

1. Whether the CA erred in ruling that the Secretary of Justice committed grave abuse of discretion in finding no probable cause for trademark infringement and false designation of origin.
2. Whether evidentiary matters concerning the seizure and similarity of counterfeit products can be determined in a preliminary investigation.

**### Court's Decision:**

The Supreme Court denied the petition, affirming the CA's decision. It emphasized that "probable cause" for filing a criminal case does not necessitate an inquiry into the sufficiency for conviction but merely requires prima facie evidence of the crime. The Court found that there were prima facie cases for both trademark infringement and false designation of origin against the petitioners, grounded on the similarities between the packaging of the counterfeit and genuine products and the false representation of the products' origin. The initial dismissal by the Secretary of Justice was deemed a grave abuse of discretion due to the disregarding of evidence presented during the preliminary

investigation.

### ### Doctrine:

1. The essence of trademark infringement lies in the “likelihood of confusion” test.
2. Preliminary investigations should primarily focus on determining the presence of prima facie evidence, not on the sufficiency of evidence for conviction.

### ### Class Notes:

- **Trademark Infringement:** Requires a showing of likely confusion among the consuming public due to the usage of a reproduction or imitation of a registered trademark.
- **Relevant Provisions:** Section 155 of the IP Code.
- **False Designation of Origin:** Committed when goods or services, or their containers bear a false indication of origin which may mislead as to their actual origin.
- **Relevant Provisions:** Section 169 of the IP Code.
- **Prima Facie Evidence:** Evidence that, in the absence of rebuttal, is sufficient to prove a particular proposition or fact.

### ### Historical Background:

This case underscores the Philippines’ commitment to enforcing intellectual property rights and delineates the procedural nuances involved in determining probable cause for the filing of criminal charges in the context of intellectual property infringement. The interplay between executive discretion and judicial review in this domain highlights the balance between protecting rights holders and ensuring due process for accused infringers.