

****Title:** Kolin Electronics Co., Inc. vs. Kolin Philippines International, Inc.: A discourse on Trademark Registrability and the Determination of Likelihood of Confusion******

****Facts:****

This case revolves around the conflicting claims to the “KOLIN” trademark between Kolin Electronics Co., Inc. (KECI) and Kolin Philippines International, Inc. (KPII). The crux of the lawsuit lies in who owns the rights to use and register the “KOLIN” trademark for their respective goods under Class 9, leading to a legal battle across various forums, from the Intellectual Property Office (IPO) to the Supreme Court.

The **Genesis of Disputes**: The controversy began when KECI opposed KPII’s application for registering “KOLIN” for their product range under Class 9, including televisions and DVD players. KECI claimed ownership and prior use of the “KOLIN” mark based on an assignment from its precursor, KEIS, dating back to its use since 1989 and its subsequent registration in 1993. Conversely, KPII endeavored to register the same mark for a different range of products under the same class.

The IPO initially ruled against KPII, recognizing KECI’s prior adoption, continuous usage, and registration of the “KOLIN” mark. However, the case pivoted upon the appellate court’s interference, which favored KPII, relying on the Supreme Court’s decision in a related Taiwan Kolin case. The legal tussle culminated in the Supreme Court, where a re-examination of the issue vis-à-vis reverence to the Intellectual Property Code ensued.

****Issues:****

1. Whether the principle of res judicata applies to this case considering the relationship between KPII and TKC in light of the Taiwan Kolin case.
2. Whether KPII’s trademark application for “kolin” should be registered, considering the claims of likelihood of confusion and potential damage to KECI.

****Court’s Decision:****

The Supreme Court granted KECI’s petition, resulting in the rejection of KPII’s application for the “kolin” mark. The Court deliberated on several fronts:

1. ****Res Judicata****: It held that the doctrine of res judicata in its strict sense does not apply

to trademark registration cases under the IP Code, primarily due to the absence of total congruity in parties, subject matter, and issues across the related cases. The Court distinguished between the present case and the Taiwan Kolin case, emphasizing different subject marks and causes of action.

2. **Likelihood of Confusion**: The Court extensively analyzed factors contributing to the likelihood of confusion, including the dominance and resemblance of the marks, product relatedness, and actual confusion evidenced by consumer correspondence with KECI regarding KPII's products.

3. **Doctrine Established**: It underscored the principle that the registrability of a trademark is contingent upon the absence of a likelihood of confusion regarding the origin of goods or services—a touchstone safeguarded under the IP Code to protect consumer welfare and logical market operations.

Class Notes:

- The “Dominancy Test” is pivotal in determining trademark infringement, focusing on the dominant features of competing marks.
- The principle of “likelihood of confusion” plays a central role in adjudicating trademark disputes, facilitated by multifactor analysis.
- The rights to a trademark are acquired through registration conforming to the IP Code, highlighting the essence of prior usage, distinctiveness, and non-confusion.
- Section 123.1(d) of the IP Code outlines conditions under which a mark cannot be registered, especially if it is likely to deceive or cause confusion relative to an earlier registered mark.
- The Supreme Court’s role in interpreting the IP Code underscores a dynamic balance between maintaining legal precedent and adapting to evolving jurisprudential standards.

Historical Background:

This case echoes the broader narrative of trademark law evolution in the Philippines, navigating the tension between legal formalism and equitable considerations in intellectual property disputes. From the inception of the Trademark Law (Republic Act No. 166) to the promulgation of the Intellectual Property Code (Republic Act No. 8293), the jurisprudence on trademark has morphed, embodying both the constancy of core principles, such as the protection against consumer confusion, and the adaptability in confronting new challenges posed by market expansion and technological advancements. This case, situated in this legal

lineage, not only delineates the boundaries of trademark rights and registrability but also reinforces the judiciary's interpretative authority in aligning legal doctrines with contemporary exigencies.