

****Title:**** Fredco Manufacturing Corporation vs. President and Fellows of Harvard College (Harvard University)

****Facts:****

Fredco Manufacturing Corporation (Fredco), a Philippine corporation, filed a petition for cancellation of Registration No. 56561 (the “Harvard Veritas Shield Symbol” mark) with the Intellectual Property Office (IPO) against Harvard University. Fredco argued that it, through its predecessor-in-interest New York Garments, used the mark “Harvard” in the Philippines before Harvard University. Harvard University contested, emphasizing its international recognition and prior use of the “Harvard” mark globally, including in Class 25 goods since 1953. The IPO Bureau of Legal Affairs initially granted Fredco’s petition, which was later reversed by the Office of the Director General of the IPO. Fredco appealed to the Court of Appeals, which affirmed the IPO Director General’s decision. Fredco then brought the case to the Philippine Supreme Court.

****Issues:****

1. Whether Fredco’s use of the “Harvard” mark constituted a false suggestion of a connection with Harvard University.
2. Whether Harvard University’s international use and registration of the “Harvard” mark accorded it protection under Philippine law despite the lack of actual use in the Philippines.

****Court’s Decision:****

The Supreme Court denied Fredco’s petition, affirming the Court of Appeals’ decision. The Court held that Fredco’s use of the “Harvard” mark falsely suggested a connection with Harvard University, violating Philippine law. It emphasized the principle of protecting internationally recognized marks under the Paris Convention and the Intellectual Property Code of the Philippines, noting that Harvard University’s “Harvard” mark qualified as a well-known mark internationally and in the Philippines. The Court also highlighted the importance of protecting trade names without the necessity of registration or actual use in the protecting country, as provided under the Paris Convention and corroborated by Philippine law.

****Doctrine:****

1. International trademarks that are well-known and recognized globally are entitled to protection in the Philippines even without registration or actual use in the country, based on the Paris Convention and local laws such as the Intellectual Property Code.
2. A mark that falsely suggests a connection with a well-known institution or individual is

barred from registration under the principle of protecting against unfair competition and misleading of the public.

****Class Notes:****

- Marks must be used in commerce in the Philippines for registration, but exceptions apply for internationally well-known marks (based on Section 2 of R.A. No. 166 and Section 123.1(e) of R.A. No. 8293).
- The Paris Convention principles incorporated in local laws protect well-known marks universally, requiring member countries to deny or cancel registrations that infringe on these well-known marks.
- The rights to trademarks can be established internationally, impacting trademark protection and registration in the Philippines.
- The principle of non-deceptive use is crucial; using a renowned mark like “Harvard” to suggest an undeserved or false association for commercial advantage is prohibited.

****Historical Background:****

This case underscores the convergence of Philippine trademark law with international norms, especially regarding the protection of well-known marks. The “Harvard” case illuminates the broader implications of globalization on intellectual property law, showcasing the balance between respecting local business initiatives and acknowledging the inherent rights of globally recognized entities. It exemplifies the Philippine judiciary’s adherence to international treaties such as the Paris Convention, reinforcing the country’s commitment to protect intellectual property rights in a global setting.