

AMERICAN HOME PRODUCTS
CORPORATION,
Opposer,

INTER PARTES CASE NO. 2039

- versus -

OPPOSITION TO:
Application Serial No. 43103
Filed : November 7, 1980
Applicant : American Cyanamid Co.
Trademark : ADAMYCIN
Used on : Antibiotic preparation

AMERICAN CYANAMID
COMPANY,
Respondent-Applicant.

DECISION No. 88-112 (TM)
December 1, 1988

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DECISION

American home Products Corporation, an American corporation, filed an opposition to Application Serial No. 43103 for the trademark "ADAMYCIN" used on antibiotic preparation (Class 5), which application was filed by American Cyanamid Company, also an American corporation.

Records show that Opposer filed a Motion to Withdraw Opposition in view of a Pre-Right Declaration executed between Opposer as Proprietors of the trademark, "AYERMYCIN" (Cert. of Regn. No. 18311) and Respondent-Applicant as Applicants of the trademark "ADAMYCIN" (Application Serial No. 43103), which Pre-Right Declaration reads as follows:

"1. The Applicants undertake to refrain from asserting rights deriving from the registration and use of their trademark against the trademark of the Proprietors and also to tolerate new registrations as well as registrations of modifications of the prior trademark.

2. The Proprietors undertake to consent to the registration and use of the trademark applied for by the Applicants, under the provisions as stipulated under 1.

3. This Pre-Right Declaration shall be valid for all countries, where the Proprietors have or acquire prior rights.

4. In countries where the Applicants are entitled to or will acquire the prior rights, they shall allow the Proprietors to register and use their trademark under equivalent provisions.

5. This Pre-Right Declaration shall also apply to associated companies which have registered or use identical trademarks for the same products. Furthermore, the parties undertake to impose the obligations under this Declaration upon any legal successors."

Finding the above motion to be in order and not contrary to law, the same is GRANTED.

WHEREFORE, the Opposition is DISMISSED; Application Serial No. 43103 is given due course.

Let the records of this case be remanded to the Application, Issuance and Publication Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO
Director