

ARMSTORONG BROS. TOOL CO.,  
Opposer,

INTER PARTES CASE NO. 3009

OPPOSITION TO,

- versus

Application Serial No. 40068  
Filed : November 28, 1979  
Applicant : Armstrong Cork Co.  
Trademark : ARMSTRONG  
Used on : machinery and machine  
parts, laying tools and equipment for use  
in the installation of linoleum floor and wall  
coverings and other like goods in Class 27

ARMSTRONG CORK CO.,  
Respondent-Applicant.

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DECISION NO. 88-71 (TM)  
August 10, 1988

### DECISION

This is an opposition filed on February 29, 1988 by Armstrong Bros. Tool Co. against the registration of Application Serial No. 40068 filed on November 28, 1979 by Armstrong Cork Co. for trademark 'ARMSTRONG' used on machinery and machine, laying tools and equipment for use in the installation of linoleum floor and wall coverings and other goods in Class 27, which application was published in the Official gazette that was released for circulation on October 29, 1987.

Opposer is a corporation organized under the laws of the United States of America with principal place of business at 5200 W. Armstrong Avenue, Chicago, Illinois 60646, U.S.A., while Respondent-Applicant likewise is a corporation organized under the laws of the United States of America with business address at Liberty and Charlotte Streets, Lancaster, Pennsylvania, U.S.A.

After the Notice of Opposition has been filed, parties through their respective counsel filed on April 6, 1988 a Compromise Agreement, which reads:

"PARTIES, represented by their respective counsel, who are both duly authorized to enter into compromise, have reached an agreement and hereby pray for its approval by this Honorable Office. Agreement is as follows:

1. Respondent shall amend the application subject of this opposition with respect to the description of the goods covered by its application to the following:

"foamed plastic and rigid temperature insulating materials; machinery and machine parts - namely, finished and substantially finished rolls, roll covers, cots, drafting aprons, take up rolls, brake band strips for textile looms; cot assembly machines, cot buffing machines, especially for textile mill usage; laying tools and equipment for use in the installation of linoleum floor and wall coverings, resilient tiles and other similar surface coverings, and floor installing tools such as scribing tools, linoleum knives, notched metal trowels, notched metal paste spreaders, seam rollers and linoleum roller.'

2. By reason of the above undertaking, Opposer consents and hereby moves for the dismissal of this opposition, it being understood that should Respondent fail to comply with its undertaking, Respondent shall abandon and/or forfeit any right or claim to subject application and shall lose the right to file in the future another application for the same trademarks covering the same or similar goods.
3. This Agreement shall be binding on the parties and their respective agents, employees, representatives, successors and/ or assigns, and to this end each party shall guarantee that their successors and/ or assigns shall respect this Agreement.”

Finding the Compromise Agreement not contrary to law, rules and regulations, the same is hereby APPROVED by this Bureau.

WHEREFORE, premises considered, the herein Notice of Opposition is DISMISSED. Accordingly, the description of the goods covered by Application Serial No. 40068 is hereby amended to read:

“foamed plastic and rigid temperature insulating materials; machinery and machine parts – namely, finished and substantially finished rolls, roll covers, cots, drafting aprons, take up rolls, brake band strips for textile looms; cot assembly machines, cot buffing machines, especially for textile mill usage; laying tools and equipment for use in the installation of linoleum floor and wall coverings, resilient tiles and other similar surface coverings, and floor installing tools such as scribing tools, linoleum knives, notched metal trowels, notched metal paste spreaders, seam rollers and linoleum roller.”

Let the records of this case be remanded to the Trademark Examining Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO  
Director