

LTS INDUSTRIAL DEV. CORP.	)	INTER PARTES CASE NO. 3681
	)	
Petitioner,	)	PETITION FOR CANCELLATION:
	)	
	)	Cert. of Regn. No. 51425
	)	Issued : September 4, 1991
	)	Registrant : Zosimo A. Acha
- versus -	)	Trademark : NATURE'S TOUCH
	)	Used on : Shampoo, cologne
	)	lotion, condi-
	)	tioners, soap
	)	
	)	<u>DECISION NO. 92-14 (TM)</u>
	)	
ZOSIMO A. ACHA,	)	July 9, 1992
Respondent-Registrant.	)	
x-----x	)	

DECISION

On 16 July 1991, a Petition for Cancellation of Certificate of Trademark Registration No. 66309 for the trademark "NATURE'S TOUCH" in the name of Zosimo A. Acha was filed by LTS INDUSTRIAL DEV. CORP. claiming that the said mark violates the latter's right over its trademark NATURE'S WAY ALOE VERA under Certificate of Registration No. 35870. In its Answer, Zosimo A. Acha countered, among others, that Petitioner has no cause of action because No. 66309 refers to a serial number for a pending application and not a certificate number for a registered trademark. Thereupon, an order was issued by this Office directing Petitioner to amend its petition. Upon amendment and proper joinder of issues, the parties and their respective counsels were summoned for a pre-trial conference. For five (5) scheduled hearing dates, both parties pleaded the possibility of amicable settlement.

On 15 June 1992, a Joint Motion for Judgment Based on Compromise Agreement was filed by the parties assisted by their respective counsels. The Compromise Agreement provides the following provisions:

1. Upon execution of this COMPROMISE AGREEMENT, whenever the Respondent-Registrant used the trademarks "NATURE'S TOUCH", he shall place the word "ZAA" immediately preceding all such "NATURE'S TOUCH" trademarks, bottles, labels, cartons, print and media commercial and advertisement including those shown in movie houses and theater, delivery truck and other vehicles. Respondent-Registrant undertakes that the letter Z, A and A shall be at least seventy (70%) percent of the height and width as that of the trademark "NATURE'S TOUCH" and must undoubtedly convey the idea that the word "ZAA" is an integral part of "NATURE'S TOUCH". official format of this revision is hereto attached as Annex "A" and made an integral of this Compromise Agreement;
2. Within six (6) months from execution of this Compromise Agreement, Respondent-Registrant shall commence disposing of labels, bottles, cartons, and all other packaging materials not having the required "ZAA" as required in the preceding paragraph;
3. Within ninety (90) days from execution of this Compromise Agreement, Respondent-Registrant shall effect the necessary changes and or editing in all its print and media commercials and advertisements including those shown in movie

houses and theaters to reflect the required "ZAA" as required in paragraph 1 hereof;

4. Petitioner hereby waives all its claims against Respondent-Registrant under the above-entitled Petition and vice-versa. Respondent-Registrant hereby waives all its counterclaims, right and interest against herein Petitioner;

5. This Compromise Agreement shall extend to all trademark registrations of the parties involving the word "NATURE'S" such as Registration No. 35970 for "NATURE'S WAY ALOE VERA" and Registration No. 51425 for "NATURE'S TOUCH" and all variants thereof already in existence or still in its developmental stage."

Considering that the confusing similarity between the two contending marks, if ever there is, is considerably trimmed down by the incorporation of the Respondent's initials "ZAA" in his mark being opposed registration, this Office has no recourse but to approve the Compromise Agreement and render judgment based thereon.

WHEREFORE, the Petition for Cancellation of Certificate of Registration No. 51425 is hereby DISMISSED. Certificate of Registration No. 51425 shall remain valid and effective subject to the amendments contained in paragraph 1 of the above-cited Compromise Agreement. Accordingly, Respondent-Registrant Zosimo A. Acha is hereby ordered to carry out the necessary amendment in the records of this Office within thirty (30) days from issuance of this Decision.

SO ORDERED.

IGNACIO S. SAPALO  
Director