

TIU TIAN PO,
Junior Party Applicant,

INTER PARTES CASE NO. 1657

INTERFERENCE BETWEEN:

Appln. Serial No. UM-7100
Filed : March 27, 1981
/now Patent No. UM-4679
Issued : August 27, 1981/
Patentee : Tiu Tian Po
For : SANDAL STRAP

- versus -

- and -

Appln. Serial No. UM-6655
Filed : September 10, 1980
Applicant : Danilo, de Leon
Domingo
For : AN IMPROVED SANDAL
STRAP

DANILO DE LEON DOMINGO
Senior Party-Applciant.

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DECISION NO. 88-11 (PAT)
February 8, 1988

DECISION

Captioned case refers to an interference proceeding declared by this Office between Application Serial No. UM-6655 filed by Danilo de Leon Domingo on September 10, 1980 for "An Improved Sandal Strap" and Application Serial No. UM-7100 (now Patent No. UM-4679 issued August 27, 1981 in favor of Tiu Tian Po) for "Sandal Strap."

Danilo de Leon Domingo, who filed his application earlier, was named Senior Party Applicant, while Tiu Tian Po was designated Junior Party Applicant.

The Notice of Interference requiring both parties to file their respective preliminary statements on or before September 30, 1982 was mailed on September 2, 1982, which notice was duly received by both parties.

The pre-trial proceeding which was initially set for November 2, 1982 dragged due to postponements, mostly on agreement of both parties.

On March 14, 1984, Junior Party Applicant filed its motion for leave to admit preliminary statement. Through alleged inadvertence, the original sealed preliminary statement was not notarized. Junior Party Applicant thus had to subsequently file a notarized preliminary statement. On the other hand, Senior Party Applicant never filed a preliminary statement.

At the pre-trial conference on April 26, 1984, only counsel for Junior Party Applicant, Tiu Tian Po, was present. Despite due notice, neither Senior Party Applicant nor his counsel was present. Therefore, Junior Party Applicant reserved the right to file a written motion to declare Senior Party Applicant in default, which he did on May 16, 1984.

Considering that Senior Party Applicant, Danilo de Leon Domingo, failed to appear at several previous pre-trial conferences scheduled by this Office, more particularly on April 26,

1984, the motion of the Junior Party Applicant was granted and the former declared as in default and this case was set for the reception of evidence for Junior Party Applicant on August 14, 1984.

Junior Party Applicant, however, failed to appear and present his evidence despite several settings for ex-parte presentation of evidence counting from August 14, 1984 up to August 19, 1987.

On September 5, 1987, this Office - in line with the updating of records of pending inter partes cases -- sent a letter to both parties warning them that non-receipt of any Motion/Manifestation on the matter within fifteen (15) days from receipt of the letter will be taken to mean that they are no longer interested in the prosecution of this case.

On December 17, 1987, Junior Party Applicant through counsel filed a manifestation stating its lack of interest in prosecuting this case.

Furthermore, Letters Patent No. UM-7100 issued to Junior Party Applicant on August 27, 1981 expired last August 27, 1986.

WHEREFORE, this interference proceeding is, as it is hereby, DISSOLVED. Accordingly, Application Serial No. UM-6655 filed on September 10, 1980 for "An Improved Sandal Strap" by Danilo de Leon Domingo who has earlier been declared as in default is, as it is hereby, REJECTED.

Let the records of this case be forwarded to the Mechanical and Electrical Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO
Director