

PROCTER & GAMBLE COMPANY,  
Opposer,

INTER PARTES CASE NO. 2052

OPPOSITION TO:

- versus -

Appln. Serial No. 44680  
Filed : April 23, 1981  
Applicant : Henkel KGaA  
Trademark : TOPAX  
Used on : Household soaps,  
washing and bleaching  
agents, etc.

HENKEL KGaA,  
Respondent-Applicant.  
x-----x

DECISION NO. 88-5 (TM)  
February 2, 1988

DECISION

Captioned case pertains to an unverified Notice of Opposition filed by Messrs. Seguion Reyna, Montecillo & Ongsiako for and in behalf of Procter and Gamble Company against the registration of the trademark "TOPAX" bearing Application Serial No. 44680 for household soaps, washing and bleaching agents, rinsing agents for washing and crockery, scouring agents stain remover, cleaning of metals, wood, stone, porcelain, plastic and textile in Class 30 filed by Kenkel KGaA, West Germany.

Records show that Opposer, Procter & Gamble Company, is a corporation duly established and existing under the laws of the State of Ohio, handling exclusively all trademark matters of Richardson-Vicks, Inc., with address at P.O. Box 599. Cincinnati, Ohio 45201-0599, while Respondent-Applicant, Henkel KGaA is a foreign company existing under the laws of West Germany and represented in the Philippines by Messrs. Bito, Misa & Lozada, with business address at 140 Alfaro Street, Salcedo Village, Makati, Metro Manila, Philippines.

Upon receipt of the unverified Notice of Opposition, this Office prepared and sent a Notification of an Unverified Opposition to Messrs. Bito, Misa & Lozada (Respondent-Applicant's representative in the Philippines), notifying them of the filing thereof with this Office on March 11, 1987 by the law firm Messrs. Seguion Reyna, Montecillo & Ongsiako for and in behalf of Procter & Gamble Company and that as soon as the Verified Opposition is received by this Office, a copy thereof will be sent to it for answer.

To date, however, Opposer never filed a verified Opposition required under the Trademark Law.

Rule 187-c of the Revised Rules of Practice in Trademark Cases specifically provides as follows:

" 187. (a) x x x

(b) x x x

(c) Notice filed by attorney. - an unverified notice of opposition may be filed by a duly authorized attorney, but such opposition will be null and void unless verified by the opposer in person within sixty days after such filing. This period for verification may be extended by the Director for an additional thirty days, if the opposer is out of the

country, upon written request made by the attorney and upon payment of a surcharge fee of 150, the Director shall cause the applicant to be notified of the filing of any unverified notice of opposition and of any extension granted of the period for verifying the opposition, if any has been granted. (As amended by Patent Office Administrative Order No. 82-3, effective April 26, 1982)”

Considering the lapse of more than two hundred (200) days since March 11, 1987, the unverified Notice of Opposition filed by Messrs. Siguion Reyna, Montecillo & Ongsiako for and in behalf of Procter & Gamble Company is hereby DISMISSED. Consequently, Application Serial No. 44680 filed on April 23, 1981 by Henkel KGaA for the registration of the trademark “TOPAX” used on household soaps, washing and bleaching agents, rinsing agents for washing and crockery, scouring agents, stain removers, cleaning and polishing agents, chemicals products for the cleaning of metals, wood, stone, porcelain, plastics and textile is hereby given due course.

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