

TAN YAP TIAO,
Junior Party-Applicant,

INTER PARTES CASE NO. 2013

INTERFERENCE BETWEEN:

Application Serial No. 23267
Filed : February 1, 1973
Applicant : Tan Yap Tiao
Trademark : SPRING CREST
Used on : Men`s, boys` and
children`s underwears

-versus-

-and-

Application Serial No. 22947
Filed : November 17, 1972
Applicant : Ching Hee
Trademark : SPRING CREST
Used on : Undershirts

CHING HEE,
Senior Party-Applicant.

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DECISION NO. 88-105(TM)
October 13, 1988

DECISION

This interference case was declared by the Bureau between Application Serial No. 23267 filed on February 1, 1973 by Tan Yap Tiao, the herein Junior Party-Applicant, for the trademark 'SPRING CREST' used on men`s, boys` and children`s underwear, and Application Serial No. 22947 filed on November 17, 1972 by Ching Hee, the herein Senior Party-Applicant, for the same mark "SPRING CREST" used on undershirts.

The Junior Party-Applicant is a Chinese resident alien doing business at 2nd Floor, 585 Claro M. Recto Avenue, Tondo, Manila, while the Senior Party-Applicant is likewise a Chinese resident alien residing at Room 609 Mariano Uy Building, 650 La Insular Street, Binondo, Manila.

The Parties were directed to file within forty (40) days from receipt of the Notice of Interference to file a motion to dissolve or other motions, similar in character, pursuant to Rule 183 of the Rules of Practice in Trademark Cases.

On November 27, 1986, the Junior Party-Applicant filed its Compliance and manifested his desire to continue with the proceedings/litigation of the case. On the other hand, the Senior Party-Applicant failed to, or did not, comply with the office directive.

The case was set for pre-trial conference on September 13, 1988. The Senior Party-Applicant did not appear while the Junior Party-Applicant submitted to the Bureau the Senior Party-Applicant`s Waiver of Rights dated September 7, 1988 stating:

1. That he is the applicant of the trademark "SPRING CREST" used on undershirts, Serial No. 22947 filed on November 17, 1972;
2. That he is not using the said trademark and is therefore not interested in pursuing his said application subject for interference in Inter Partes Cases No. 2013; and

3. That he is, therefore, waiving his rights and interests over the said application in favor of Mr. Tan Yap Tiao, the Junior Party-Applicant for the same mark "SPRING CREST", Serial No 23267 filed on February 1, 1973.

The above document was notarized before Notary Public Juanito I. Vitug on September 7, 1988 in the City of Manila, duly recorded in his Notarial Register as Document No. 431, Page No. 88, Book LXV, Series of 1988.

WHEREFORE, this interference case is hereby DISSOLVED in favor of the Junior Party-Applicant. Accordingly, the Junior Party-Applicant's Application Serial No. 23267 for the mark "SPRING CREST" should be given due course and the Senior Party-Applicant's Application Serial No. 22947 for the same mark is declared VOLUNTARILY ABANDONED.

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

SO ORDERED.

IGNACIO S. SAPALO
Director