

ROGELIO TAN,
Junior Party Applicant,

INTER PARTES CASE NO. 1983

INTERFERENCE BETWEEN:

Application Serial No. D-5804
Filed : October 31, 1985
Applicant : Rogelio Tan
For : WALL DECORATIVE
ARTICLE

- versus -

- and -

Application Serial No. D-5800
Filed : October 28, 1985
Applicant : Sy Eng Kai
For : WALL DÉCOR

SY ENG KAI
Senior Party Applicant.
x-----x

Decision No. 88-92 (PAT.)
August 22, 1988

DECISION

Captioned case refers to an interference between Application Serial No. D-5800 filed on October 28, 1985 by Sy Eng-Kai, a Filipino citizen, for "WALL DECOR" and Application Serial No. D-5804 filed on October 31, 1985 by Rogelio Tan, likewise a Filipino citizen, for "WALL DECORATIVE ARTICLE".

On March 26, 1986, Notices of Interference were sent to both parties directing them to submit the required Preliminary Statement within fifteen (15) days from receipt. On April 8, 1986, Junior Party Applicant, Rogelio Tan, filed his Preliminary Statement. On April 21, 1986, Senior Party Applicant, Sy Eng Kai, filed an Ex Parte Motion for Extension of Time to Submit Preliminary Statement asking for an extension of fifteen (15) days from April 23, 1986, which motion was granted (Order No. 86-106). To date, however, the Senior Party Applicant had not filed his Preliminary Statement.

On May 3, 1986, the Junior Party Applicant filed a Motion to Dismiss the interference on the ground that the Senior Party Applicant has withdrawn his application for letters patent for the "WALL DÉCOR" product, per an alleged letter dated April 17, 1986. The case was set for hearing on April 22, 1987 to verify the existence of said letter.

At the scheduled hearing, the Senior Party Applicant and his counsel failed to appear despite due notice. The Junior Party Applicant's counsel, on the other hand, appeared and reiterated his Motion to Dismiss the interference and furnished this Bureau with a copy of the above-mentioned letter signed by the Senior Party Applicant, which letter reads as follows:

"This is in connection with my application for Letters Patent for the wall décor product known as the 'Chinese 4-Lucky Seasons', which is still pending consideration and unacted upon by your good office.

It has come to my knowledge that the same product has been previously granted Letters Patent No. 3207 on 21 December 1983 in favor of Designer LUIS D. GO, who, in turn, has duly assigned all his rights over the production and marketing of the same in favor of Mr. ROBERTO TAN TING.

In view of the above, I respectfully now withdraw and recall my said application for Letters Patent for the similar product to avoid any possible criminal and/ or civil liabilities to the lawful parties.”

WHEREFORE, the Motion to Dismiss is GRANTED. Accordingly, Application Serial No. D-5804 is given due course.

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

SO ORDERED.

IGNACIO S. SAPALO
Director