

THE UPJOHN COMPANY,  
Opposer,

INTER PARTES CASE NO. 3066

OPPOSITION TO:

- versus -

Appln. Serial No. 54282  
Filed : July 20, 1984  
Applicant : E. Merck  
Trademark : TIBICYN  
Used on : Pharmaceutical and  
veterinary medicinal  
products, as well as  
preparations for the  
hygiene

E. MERCK,  
Respondent-Applicant.  
x-----x

DECISION NO. 88-47 (TM)  
July 14, 1988

#### DECISION

The Upjohn Company filed on April 8, 1988 an Unverified Notice of Opposition to the registration of the trademark "TIBICYN" for pharmaceutical and veterinary products, as well as preparations for hygiene, under International Class 5 which was applied for on July 20, 1984 by E. Merck under Application Serial No. 54282 published for opposition in the Official Gazette, Vol. 1, Page 18, and released for circulation on March 8 1988.

Opposer is a foreign corporation organized and existing in accordance with the laws of the State of Michigan, U.S.A., with principal address at Kalamazoo, Michigan, U.S.A., while Respondent-Applicant is likewise a foreign corporation duly organized under the laws of the Federal Republic of Germany, located and doing business at Frankfurter Strasse 250, D-6100 Darmstadt, Federal Republic of Germany.

The grounds alleged in said Unverified Notice of Opposition are:

"1. The Opposer is the owner-registrant of the trademark 'TROBICIN' having been first to adopt and use the same in actual trade and commerce for pharmaceutical and medicinal preparations under International Class No. 5.

2. The trademark 'TROBICIN' for goods falling under International Class No. 5 was registered in the United States on 13 September 1960 with corresponding Registration No. 704, 199.

3. Herein Opposer applied for trademark registration in this jurisdiction for the mark 'TROBICIN' on June 1971 under Application Serial No. 20666 and was granted Philippine Trademark Certificate of Registration No. 19327 on 2 July 1973 for goods falling under the aforesaid class.

4. The trademark 'TROBICIN' which the Opposer has created and adopted is well-known in the Philippines and throughout the world for their good quality and high reputation."

On July 6, 1988, Respondent-Applicant through counsel filed a Manifestation stating that on May 9, 1988, it "received notice from Respondent-Applicant that it wishes to abandon its use

and trademark registration for the subject mark 'TIBICYN"', which was relayed to the Director of this Bureau on May 10, 1988 (see annexes).

WHEREFORE, Application Serial No. 54282 for the trademark "TIBICYN" is hereby declared voluntarily ABANDONED. Accordingly, this Opposition case is DISMISSED.

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

SO ORDERED.

IGNACIO S. SAPALO  
Director