

AMERICAN CYANAMID COMPANY  
Opposer,

INTER PARTES CASE NO. 3328

OPPOSITION TO:

- versus -

Application Serial No. 62012  
Filed : July 1, 1987  
Applicant : Avon, Products, Inc.  
Trademark : SPECTRUM  
Used on : Cosmetics and perfumery  
products

AVON PRODUCTS, INC.,  
Respondent-Applicant.  
x-----x

DECISION NO. 89-26 (TM)

May 11, 1989

### DECISION

On January 19, 1989, the American Cyanamid Company filed a Notice of Opposition against the registration of the trademark "SPECTRUM" for cosmetics and perfumery products applied for by Avon Products, Inc. On July 1, 1987 under Application Serial No. 62012 published in the Bureau of Patents, Trademarks and Technology Transfer Official Gazette dated and issued for circulation on December 20, 1988.

Opposer is a foreign corporation duly organized under the laws of the State of Maine, U.S.A., with business offices at one Cyanamid Plaza, Wayne, New Jersey, U.S.A., while Respondent-Applicant is likewise a foreign corporation organized under the laws of the State of New York, with business address at 9 West 57<sup>th</sup> Street, New York, New York, U.S.A.

The grounds alleged in the Notice of Opposition are:

"1. Applicant is not entitled to register the trademark "SPECTRUM" which is identical with and an exact imitation of Opposer's trademark "SPECTRUM", which has been used in commerce and registered in the United States of America and other parts of the world long before Applicant's date of first use and alleged in the application and applied for registration in the Philippines on the bases of an earlier U.S. registration. Applicant's use of his above-mentioned trademark which is an exact imitation of Opposer's "SPECTRUM" trademark is likely to cause confusion or mistake on the part of the purchasing public.

2. The registration of the trademark "SPECTRUM" by Applicant will violate Section 37 of Republic Act No. 166, as amended, and Section 6bis and other provision of the Paris Convention for the protection of Industrial Property to which the Philippines, Netherlands, and the U.S.A. are parties.

3. The registration of and use by Applicant of the trademark "SPECTRUM" will diminish the distinctiveness and dilute the goodwill of Opposer's "SPECTRUM" trademark.

4. The registration of the trademark "SPECTRUM" in the name of the Applicant will contravene other provisions of Republic Act No. 166, as amended"

In its Answer filed on March 27, 1989, Respondent denied the material allegations made in the Notice of Opposition and presented several special and affirmative defenses.

On April 17, 1989, before the case could be set for pre-trial, Respondent-Applicant filed a Manifestation stating "that said Respondent-Applicant is no longer interested in pursuing Application Serial No. 3328 (62012) covering the mark "SPECTRUM" for cosmetics and perfumery products".

WHEREFORE, this opposition case is DISMISSED for having become moot. Accordingly, Application Serial No. 62012 filed by Respondent is hereby declared voluntarily and expressly ABANDONED.

Let the records of this case be forwarded to the Application, Issuance and Publication Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO  
Director