

BARCLAY INTERNATIONAL MANU  
-FACTURING CORPORATION  
Opposer,

INTER PARTES CASE NO. 3229

OPPOSITION TO:

- versus -

Application Serial No. 56842  
Filed : July 12, 1985  
Applicant : Johnson & Johnson  
Trademark : AFFINITY  
Used on : Hair Shampoo

JOHNSON & JOHNSON  
Respondent-Applicant.

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DECISION NO. 89-27 (TM)  
May 19, 1989

### DECISION

On September 19, 1988, Barclay International Manufacturing Corporation filed a verified Notice of Opposition against the registration of the trademark "AFFINITY" used on hair shampoo applied for by Johnson & Johnson on July 12, 1985 under Application Serial No. 56842 and published in the Official Gazette on July 18, 1988.

Opposer is a domestic corporation organized under the Philippine law, with business address at No. 790 A. Arnaiz corner Pasong Tamo, Makati, Metro Manila, while Respondent-Applicant is a foreign corporation organized and existing under the laws of the State of New Jersey, U.S.A., with business address at One Johnson & Johnson Plaza, New Brunswick, New Jersey 03933-7001, U.S.A.

The grounds alleged in the Notice of Opposition are:

1. The Opposer has been in continuous use of the trademark "AFFINITY" since the year 1983 when the product was first introduced in the Philippine market.
2. The Opposer also had the labels, which have been and are still being used in the goods registered with the Bureau of Food and Drug way back in 1982. xxx
3. The products of the Opposer bearing the trademark "AFFINITY" had been sold and used in the Philippines clearly bearing the name of the manufacturer, BARCLAY. xxx
4. That the subject trademark due to the opposer`s long use thereof in the Philippines is well-known as the product of and is always being associated/identified with the manufacturer Barclay.

xxx

8. The registration of respondent-applicant`s alleged trademark "AFFINITY" will clearly mislead the public, causing confusion to the public as well as damage to the opposer`s business. xxx"

The Bureau sent to Respondent on September 28, 1988 a Notice to Answer the herein Notice of Opposition.

Respondent-Applicant filed two (2) Ex-Parte Motions for extension of time to file its Answer which were both granted in Order No. 88-435 dated October 18, 1988, and Order No. 88-512 dated November 15, 1988, respectively.

For failure to file its Answer on time, Opposer by counsel filed on March 2, 1989 a motion to declare Respondent-Applicant in default.

Before a default order could be issued, Respondent-Applicant filed on April 11, 1989 a Manifestation informing the Bureau that "Respondent-Applicant Johnson & Johnson is no longer interested in prosecuting Application Serial No. 56842 covering the trademark "AFFINITY" for use on hair shampoo".

WHEREFORE, premises considered, this Opposition case is GRANTED. Respondent's Application Serial No. 56842, subject of herein Opposition, is hereby declared expressly and voluntarily Abandoned.

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

SO ORDERED.

IGNACIO S. SAPALO  
Director