

PARFUM CIRO, INC.,  
Opposer,

INTER PARTES CASE NO. 175

OPPOSITION TO:

Appln. Serial No. 6988  
Filed : April 21, 1959  
Applicant : Juan Acuña,  
assignee of  
Roman Hao  
Trademark : SPIRO  
Used on : Lotion,  
perfumes, etc.

- versus

JUAN ACUÑA, assignee of  
Roman Hao,  
Respondent-Applicant.  
x-----x

DECISION NO. 88-3 (TM)  
January 20, 1988

#### DECISION

This pertains to an Opposition lodged by the herein Opposer, Parfum Ciro, Inc., a corporation duly organized under the laws of the State of Delaware, U.S.A., against Application Serial No. 6988, which was filed by Roman Hao on April 21, 1959 for the registration of the trademark "SPIRO" used on lotion, pomade and face powder, and which was subsequently assigned to Juan Acuña, the Respondent-Applicant herein, who is a Filipino citizen and a resident of Tiwala, Polo, Bulacan, Philippines.

The records disclosed that on July 25, 1961, Respondent-Applicant, pursuant to a Notice to Answer sent by the Office on June 30, 1961, filed his Answer to the verified Notice of Opposition duly submitted by the Opposer on March 17, 1960.

Issues having been joined, the Office set the case for hearing on February 20, 1962, on which date the hearing of the case was reset to March 21, 1962. Thereafter, several postponements and resettings were made with the agreement of the parties that they would submit a stipulation of facts to facilitate the deliberation and disposition of the case. In the meantime, Myers Laboratories, Inc. filed an application for the registration of the trademark "SPIRO" against which Respondent-Applicant lodged his Opposition denominated as Inter Partes Case No. 235. Subsequently, Myers Laboratories, Inc. filed on February 11, 1963 a motion seeking the consolidation of the instant case with Inter Partes Case No. 235. This motion, however, was opposed by the Opposer and Respondent-Applicant herein and was denied by the Office in its Order dated March 18, 1963.

Consequently, the hearing of the case was set for April 4, 1963. Later, postponements were again made. At this juncture, it must be pointed out that in spite of the agreement hereinbefore mentioned, the parties failed to file the stipulation of facts. Thus, the case remained inactive for some time.

Unexpectedly, on February 7, 1966, the Opposer filed a lengthy objection to the authority of the Hearing Officer to hear the case, citing as basis not only Sections 8 and 9 of the Trademark Law and Rule 168 of the Rules of Practice in Trademark Cases, but also provisions of pertinent laws and jurisprudence. This objection, however, was overruled for lack of merit by the Office in its Order dated February 28, 1966.

Thereafter, the hearing of the case was scheduled to be held on March 21, 1966. Unfortunately, it was again reset to April 18, 1966. On this date, an Order was made in open court by the Hearing Officer postponing indefinitely the hearing of the case until further notice due to the pendency of Civil Case No. 2-9926 between the parties herein in a civil court.

From that time on the instant case became dormant. Neither of the parties made any attempt to continue the prosecution of the case to finality. They did not even bother to inform the Office of any development in the aforesated civil case.

Because of the continuing policy to update and/or activate all pending inter partes cases with the end in view of finally disposing them, the Office sent a letter to both parties requiring them to notify the Office within fifteen (15) days from receipt of the letter of their interest in pursuing the case so that the necessary action will be made.

To date, no communication, response or comment whatsoever has been received from the parties herein. Under the existing circumstances, the Office is constrained to construe the unreasonable lack of concern manifested by both parties as a total loss of interest in the case on the part of the Opposer and a voluntary abandonment of application on the part of Respondent-Applicant.

WHEREFORE, in view of the foregoing premises, the herein Opposition is, as it is hereby, considered TERMINATED and/or DISMISSED, while Application Serial No. 6988 of Respondent-Applicant is, as it is hereby, REJECTED and/or declared ABANDONED.

SO ORDERED.

IGNACIO S. SAPALO  
Director