

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB MAY 10, 00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Starlight Nails & Beauty Supply, Inc.

v.

Inter-Continental Nail Products,
assignee of Dat Vinh Ma¹

Opposition No. 92,993
to application Serial No. 74/312,603
filed on September 11, 1992

Maxwell E. Lin for Starlight Nails & Beauty Supply, Inc.

Thomas R. Lampe of Bielen, Peterson & Lampe for Inter-
Continental Nail Products

Before Seeherman, Quinn and Holtzman, Administrative
Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Starlight Nails & Beauty Supply, Inc. brought this
opposition on the grounds of priority of use and likelihood

¹ In response to the Board's May 1, 1998 order, Inter-Continental Nail Products submitted a copy of an assignment of the mark INP, and application therefor, from Dat Vinh Ma to Inter-Continental Nail Products. This assignment was recorded in the Patent and Trademark Office on July 16, 1998. Accordingly,

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of confusion. In his answer, Dat Vinh Ma admitted that opposer has been engaged in the sale of nail grooming products, and that opposer is the owner of Application Serial No. 74/326,372 (for the trademark INP for nail grooming products).² All other allegations in the notice of opposition were denied.

On September 20, 1995 the Board issued a show cause order because opposer had failed to file a brief on the case. In response, opposer stated that the parties were attempting to negotiate a settlement. The Board thereupon treated the show cause order as discharged, and suspended proceedings in view of the parties' attempt to settle the case. Proceedings were subsequently resumed on March 25, 1996, and briefing dates were reset. Since that time opposer filed several requests for extensions of time to file its brief because of pending settlement negotiations, and also responded to a second show cause order which was issued because of opposer's failure to file a brief.

On February 9, 1998 opposer filed its trial brief. Applicant subsequently requested, and was granted, several extensions of time to file its brief. No brief was ever submitted.

Inter-Continental Nail Products has been substituted as applicant.

² Office records show that action on this application has been suspended since June 23, 1993.

A review of the record shows that opposer never filed any evidence during its testimony period.³ The admissions made by applicant in his answer are sufficient to establish opposer's standing. However, opposer has not submitted any evidence to show that opposer is the prior user of the trademark INP. Although opposer makes such assertions in its brief, there is no evidence of record to support these assertions.

In view of opposer's failure to establish prior rights in the mark INP, or in any mark with which applicant's mark INP is likely to cause confusion, the opposition is dismissed.

E. J. Seeherman

T. J. Quinn

T. E. Holtzman
Administrative Trademark Judges
Trademark Trial and Appeal Board

³ The Board recognizes that for many years after opposer's testimony period ended the Board granted opposer's and applicant's requests for extensions of time to file their trial briefs. Although applicant, after the close of opposer's testimony period, could have moved, pursuant to Trademark Rule 2,132(a), for dismissal of the proceeding because of opposer's failure to take testimony, it is not the general practice of the Board to issue a show cause order in such circumstances, since transcripts of testimony may be filed with the Board through the time of briefing, so long as the testimony deposition is taken within the appropriate testimony period.