

BIOMEDIS INC.  
Opposer,

-versus-

BIOSTRATA PHARMACEUTICALS, INC.  
Respondent-Applicant.  
X-----X

IPC NO. 14-2010-00199

Opposition to:

Appl.No.4-2010-003817  
Date Filed: 13 April 2010  
Trademark: "BIORETIC"  
Decision No. 2011-20

DECISION  
BASED ON COMPROMISE AGREEMENT

BIOMEDIS INC. ("Opposer") filed on 08 September 2010 an opposition to Trademark Application Serial No. 4-2010-003817. The application filed by BIOSTRATA PHARMACEUTICALS, INC. (Respondent-Applicant") covers the mark BIORETIC for use on pharmaceutical preparation for human use under Class 05. The opposition is anchored on Section 123.1 (d) of Republic Act 8293, also known as the Intellectual Property Code of the Philippines.

The Respondent-Applicant filed its Answer on 17 December 2010 refuting the material allegations of the Opposer;

In compliance to Office Order No. 154, s. 2010 ("*Rules of Procedure for IPO Mediation Proceedings*") and Office Order No. 197 s. 2010 ("*Mechanics for IPO Mediation and Settlement Period*"). This Bureau issued on 20 January 2011 Order No, 2011-30 refuting the case to Mediation.

On 25 February 2011, this Bureau received a "Mediator's Report" indicating the successful mediation of the instant case. Attached to the report is the parties' COMPROMISE AGREEMENT submitted to this Bureau for approval. This Agreement state among other things:

1. For business and other practical considerations, Respondent-Applicant shall no longer pursue its application for the Trademark Registration "BIORETIC."
2. Respondent-Applicant warrants that:  
  
It has absolutely and unconditionally ceased using the BIORETIC mark; and  
It shall not in, the future, use the BIORETIC mark.
3. In consideration of the foregoing herein Opposer and Respondent-Applicant hereby mutually release and waived any and all rights, causes of action claims or interest of whatever nature which is party herein may have against the other as a result of the subject matter of the opposition of any rights, causes of action, or claims arising out of or related thereto or in connection therewith.
4. Opposer and Respondent-Applicant shall shoulder all the respective cost and expenses of whatever nature including Attorney's Fees and Filing fees.
5. This Compromise Agreement maybe pleaded as c complete bar to any action of whatever nature which has been filed or maybe filed against each party herein, in connection with or arising from the instant case.
6. Each party herein shall strictly comply with the terms and conditions of this Compromise Agreement,

7. Each party warrants that they are duly authorized to execute the foregoing COMPROMISE AGREEMENT.

This Bureau finds that the agreement has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good customs, public order and public policy. In this regard, an approved Compromise Agreement shall have the effect of a Decision or judgment on the case and shall be enforced accordingly in accordance with the pertinent rules of IPO and the Rules of Court (Sec. 5, Office Order No. 154, s. 2010)

WHEREFORE, premises considered the submitted Compromise Agreement is hereby APPROVED. Accordingly, the instant opposition case is hereby DISMISSED. Let the filewrapper of the subject trademark application No. 4-2010-003817 be returned together with a copy of this Decision to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Makati City, 28 February 2011.