

BORA CREATIONS S.L.,  
Opposer

Versus

INNOVITELLE, INC.,  
Respondent-Applicant  
X-----X

IPV No. 14-2010-00293  
Opposition to:

Appln. No. 4-2009-0011047  
Date Filed: 28 Oct. 2010  
TM: "YOUTH ESSENCE"

Decision No. 2011-79

DECISION  
COMPROMISE AGREEMENT

BORA CREATIONS S.L., ("Opposer") filed on 30 November 2010 an Opposition to Application No. 4-2009-0011047. This Bureau issued a Notice to Answer dated 04 February 2011 and served upon a copy thereof to INNOVITELLE, INC., ("Respondent-Applicant") on 14 February 2011. The Respondent-Applicant filed its answer on 14 June 2011.

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 Settlement Period"), this Bureau issued on 01 April 2011 Order No. 2011-201 referring the case to mediation.

On 19 September 2011 the Mediation Office submitted a Mediation Report indicating a settlement by the parties' of the case. Attached to the report is the parties' COMPROMISE AGREEMENT the pertinent portions of which read, as follows;

1. BORA CREATIONS S. L. agrees to withdraw its opposition against INNOVITELLE INC.'S trademark application No. 4-2009-011047 for the mark "YOUTH ESSENCE" and consent to the registration of the same.
2. INNOVITELLE, INC., undertakes to limit the use of the trademark "YOUTH ESSENCE" for the following goods: (a) under International Class 3 identified in its application, specifically: "face cream/wash, body lotion/wash", (b) under International Class 5 identified in its application, specifically: "vitamins", and (c) under International Class 32 identified in its application, specifically: 'fruit/vegetable flavored powder drinks'.
3. INNOVITELLE, INC. shall not file any petition for cancellation of BORA CREATIONS S.L.'s registered trademarks 'ESSENCE' & 'ESSENCE AND DEVICE' for use in goods under International Class 3, nor interpose any opposition in the event that BORA CREATIONS S.L. shall need to resubmit its application for registration such trademarks in any class.
4. Upon signing of this Agreement, BORA CREATIONS S.L. through its authorized representative, Atty. Celso L. Cruz an Atty. Cristine Michelle A. Halcon of Siguion Reyna Montecillo and Ongsiako Law Offices, shall withdraw its opposition and shall move for the dismissal of IPC No. 4-2010-00293 pending before the Bureau of Legal Affairs, Intellectual Property Office.

This Bureau evaluated the COMPROMISE AGREEMENT and finds that the same has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals good customs, public order or public policy.

Accordingly, an approved Compromise Agreement shall have the effect of a decision or judgment on the case and shall be enforced accordingly in the accordance with the pertinent rules of IPO and the Rules of Court.

WHEREFORE, premises considered, the parties' COMPROMISE AGREEMENT is hereby APPROVED. Accordingly, the COMPROMISE AGREEMENT having the force and effect of a decision or judgment, the parties' are hereby enjoined to comply with the terms and conditions set forth therein. Let the filewrapper of trademark Application Serial No. 4-2009-00110047 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, 28 September 2011.