

HENKEL AG & CO., KgA,
Opposer,
-versus-
WILFRO P. LIMUNLUM,
Respondent-Applicant.
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IPC NO. 14-2010-00091
Opposition to:
Appln. No. 4-2009-007529
Date Filed: 29 July 2009
Trademark: COLOURS

Decision No. 2011-21

DECISION
BASED ON COMPROMISE AGREEMENT

HENKEL AG & CO. KgA (“Opposer”) filed on 07 May 2010 an opposition to Trademark Application Serial No. 4-2009-007529. The application, filed by WILFRO P. LUMINLUM (“Respondent-Applicant”), covers the mark “COLOURS” for use on goods under Classes 03 and 05. The opposition is anchored on Sec. 123.1, paragraphs (h), (i) and (j) of Rep. Act No. 8293, also known as the Intellectual Property Code of the Philippines (“IP Code”).

The Respondent-Applicant filed his ANSWER on 25 August 2010 refuting the material allegations of the Opposer.

In compliance to Office Order No. 154, s. 2010 (“Rule of Procedure for IPO Mediation Proceedings”) and Office Order No. 197, s. 2010 (“Mechanics for IPO Mediation and Settlement Period”), this Bureau issued on 04 February 2011 Order No. 2011-81 referring the case to the mediation.

On 25 February 2011, this Bureau received the “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. The Agreement states, among other things:

“1. Respondent-Applicant will LIMIT, as he hereby LIMITS the goods covered by his Application Serial No. 4-2009-007529 to the following, namely:

Class 5 – Herb teas, asthmatic tea, absorbent cotton, camphor oil, confectionery (medicated), contraceptives, food for babies, germicides, liniments, medicinal alcohol, medicinal drinks, medicinal oils, medicinal roots, medicinal herbs, menthol, medicated candies, capsules for medicines, disinfectants (hygienic purposes), drugs for medical purposes, eyewash, fly paper, fungicides, hygienic bandages, petroleum jelly, milk sugar (lactose), panty liners, ointments (pharmaceutical purposes), insect repellents, sanitary napkins, sanitary pads, sanitary panties, sanitary towels, serums, suppositories, adhesive tapes for medical purposes, tranquilizers.

Class 3 – Soaps, perfumes, essential oils, astringents, dentifrices, deodorants, cologne, skin whitening, toothpastes, body lotions.

and DELETE the following goods, namely:

Toiletries, beauty masks, make-up, eye brow pencils, hair dyes, hair colorants, lipsticks, anti-pouch lifting essence, nail polish, make-up powder, creams, hair gel, shampoos, conditioners.

“2. In view of the foregoing amendment, Opposer agrees to withdraw, as it hereby withdraws its Notice of Opposition to Respondent-Applicant’s Application No. 4-2009-007529.”

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 custom, public order or 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 in accordance with the pertinent rules of the Intellectual Property Office of the Philippines 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 is hereby DISMISSED. Let the filewrapper of Trademark Application No. 4-2009-007529 be returned, together with the copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

MAKATI CITY. 28 February 2011.

NATHANIEL S. AREVALO
Director, Bureau of Legal Affairs
Intellectual Property Office