

NIKE INTERNATIONAL INC.
Opposer,

-versus-

MERLIN MARKETING CORP.

Respondent-Applicant.

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IPC NO. 14-2011-00092
Opposition to:

Appln.No.4-2009-003572

Date Filed: 13 April 2009

Trademark: "JORDAN AND
DEVICE"

Order No.2011-82

DECISION
BASED ON COMPROMISE AGREEMENT

NIKE INTERNATIONAL INC. ("Opposer") filed on 15 March 2011 an opposition to Application Serial No. 4-2009-003572. This Bureau issued a Notice to Answer dated 31 May 2011 and served upon a copy thereof a Notice to Answer dated 31 May 2011 and served upon a copy of thereof to MERLIN MARKETING CORP. (" Respondent- Applicant") on 06 June 2011. The Respondent- Applicant filed its Answer on July 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 and Settlement Period"). This Bureau issued on 08 12 August 2011 Order No, 2011-252 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, follows:

1. MMC represents that the MMC Applications are the only advice applications filed by the MMC in the Philippines and elsewhere in the world for marks that contain or comprise the JORDAN marks and further represents that the MMC owns no other active trademarks filings, including registrations in the Philippines and anywhere in the world for marks that comprise or contain the JORDAN marks.
2. Simultaneously to the signing of this Agreement, MMC will file the IPOPHIL's Bureau of Trademarks, Voluntary withdrawals of the MMC Applications, furnishing copies thereof to the BLA and NIL's counsel, the CJSV Law Offices.
3. MMC will immediately cease all use of the JORDAN marks and will not use seek to register, register or authorize or allow others to use, seek to register or register any mark containing or comprising the JORDAN marks in any font, stylization, design or component's thereof, or in any form, manner or context that is likely to be confused with the JORDAN marks in any class of goods and/or services in the Philippines or anywhere else in the world, or to suggest that MMC or its goods and/or services are associated or affiliated with, endorsed or sponsorship by or that MMC is a sponsor of Nike/NIL and/or their affiliates.
4. MMC will not oppose or attempt to oppose, cancel or attempt to cancel. Object to or otherwise interfere in any manner with Nike Inc's/NIL's and their affiliates' use and/or registration of the JORDAN marks in connection with any sponsor and all goods and services

5. Upon receipt by the CJSV Law Offices of the IPOPHIL received a voluntary Withdrawal of the MMC Applications cited in the Clause 2, above and in consideration of the actions and forbearances of MMC, NIL will withdraw its Oppositions to the MMC Applications and submit to the BLA for its approval this Compromise Agreement. The CJSV Law Offices will furnish MMC's legal counsel with a copy of the complete set of submissions made bearing the BLA-IPOPHIL's receipt thereof.
6. The Parties agree to bear their own cost in connection with this Agreement and with respect to the undertakings made by either Party pursuant to and referred to in clause 2 and 5 of this Agreement.
7. Subject to MMC's compliance with the terms of this Agreement, NIL absolutely and forever waives, discharges, release and quitclaims from any and whatever claims, monetary or otherwise and cause of action, suits and proceedings whatsoever. MMC and/or the latte's owners, parent companies, affiliates, subsidiaries and their respective agents, directors, shareholders, officers, managers, operators, employees, and successors-in-interest, arising from or in connection with any and all of the abovementioned Opposition Cases.
8. MMC fully understands and accepts that in the event of any proven breach of its foregoing undertakings that it will remain liable to any other suit or legal proceeding that NIL, and/or any of its affiliates may take against MMC, in relation to such breach including indemnification of NIL and/or its affiliates for all cost incurred by the letter, in the enforcement of MMC's foregoing Undertakings
9. This Agreement sets forth the entire agreement between parties, there being no other oral or written terms hereof. No Agreement amending superseding or terminating the Agreement or any provisions hereof shall be valid unless made in writing and signed by both Parties. No waiver or any breach of this Agreement shall be construed as a continuing waiver or consent to any subsequent breach hereof. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity of enforceability of the other provisions.
10. This Agreement shall inure to the benefit of and shall be binding upon the Parties, their officers, directors, shareholders, partners, members, agents, representatives, servants, employees, licensees, franchisees, attorneys, parent companies, subsidiaries, related and affiliated companies successors and assigns and all entities operated and/or controlled by any of the them or in active concert or participation with any of them.
11. The undersigned individuals hereby warrant and represent that they have full authority to execute this Agreement on behalf of the Party for which they are assigned.

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 and public policy

WHEREFORE, premises considered the submitted 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. 4-2009-003572 be returned, together with s copy of this Order to the Bureau of Trademark (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, 18 October 2011.