

HERBCARE CORP.
Petitioner.

Versus

GLOBAL BEER ZERO INC.
Respondent-Applicant
X-----X

IPV No. 10—2011-0001
Opposition to:

For : Violation of Sections 155
Of the Republic Act 8293 with
Application for Cease & Desist
Order

Decision No. 2011-05

DECISION
BASED ON COMPROMISE AGREEMENT

HERBCARE CORP. (“Complainant”) filed on 15 February 2011 a complaint for Violation of Sections 155, of Republic Act 8293 with Applications for a cease and a desist order against SANTE INTERNATIONAL, INC. (“Respondent”).

The Bureau issued on 21 March 2011 a Notice to Answer copies of when were served upon Respondent on 23 March 2011, The Respondent filed two Motions for Extension of Time to File Answer before finally filing on time to Answer on 04 April 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 21 January 2011 Order No.2011-21 referring the case to mediation.

On 27 June 2011, the Mediation Office submitted a Mediation Report including a settlement by the Parties’ of the case. Attached to the report is the parties’ “COMPROMISE AGREEMENT” pertinent portions of which read, as follows.

1. SANTE hereby voluntarily agrees to modify the dominant elements of the Trademark SANTE PURE BARELY NEW ZEALAND and its packaging subject f their trademark application to the following:
2. SANTE voluntarily agrees to cease using anywhere in the world, any and all signages, promotional brochures materials, listings, brochures, labels, flyers, advertisement and other paraphernalias whether in physical or electronic form, including any advertising and promotional materials in any websites involving the marks subject of the instant case and its packaging within 30 days from the date of execution of this agreement,
3. SANTE shall file an amendment and HERBCARE shall not oppose or file opposition to the filing/application for amendment of its trademark as indicated in paragraph.
4. The Parties shall abide by the terms and conditions of this Agreement in utmost good faith and to this end, shall not issue, state or make any derogatory, malicious or negative statements, announcements or press releases with respect to the other party.
5. The Parties shall not divulge or disclose any facts relating to this Agreement, including its existence and its specific terms and conditions, to any third parties, without the written consent of the other party notwithstanding the foregoing, the Parties are allowed to inform their employees and officers who have a need to know,

and their respective legal counsel, regarding the existence and terms of the Agreement.

6. Each Party shall bear its own cost and expenses incurred in carrying out each of their respective undertakings and obligations required by this Agreement.
7. The Parties acknowledge that their respective signatories have full authority and/or have occurred the necessary appropriate to execute and do execute, this Agreement on behalf of their principals and that the Parties have authority to comply with the promises, obligations, undertaking and acknowledgements, made in this Agreement. The Parties hereto further acknowledge that they have executed this Agreement voluntarily with full knowledge of its consequences under the law.
8. This Agreement shall be binding upon and inure to the benefit of the parties, their affiliates, successors and assigns. The terms and conditions of the Agreement may be amended; waived or modified only by agreement in writing signed by the Parties are their respective assigns or successors in interest.
9. The Parties acknowledge that they have read and understood the contents of this Agreement and that they signed the same willingly, voluntarily and with full acknowledge and with full knowledge of their rights and obligations.”

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

WHEREFORE, premises considered, the parties JOINT MOTION TO APPROVE COMPROMISE AGREEMENT is hereby APPROVED. Accordingly, the COMPROMISE AGREEMENT having the force and effect of a decision the Parties are hereby enjoined to comply with the terms and conditions set forth therein.

SO ORDERED.

Taguig City, 30 June 2011.