

L.R. IMPERIAL, INC
Opposer,

Versus

BEL KENZ PHARMA, INC.
Respondent-Applicant
X-----X

IPC No. 14—2010-00168
Opposition to:

Appln. No. 4-2010-001228
Date Filed: 29 January 2010
Title: "FENOF"

Decision No. 2011-57

DECISION
BASED ON COMPROMISE AGREEMENT

L.R. IMPERIAL INC. ("Opposer") filed on 11 August 2010 an opposition to Trademark Application Serial No. 4-2010-001028. The application filed by BEL KENZ PHARMA, INC. ("Respondent-Applicant") covers the mark FENOF for use on goods under Class 05. The opposition is anchored on Section 123.1 Rep. Act. No.8293, otherwise known as the Intellectual Property Code of the Philippines.

The Respondent-Applicant filed its Answer on 19 November 2011 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 Settlement Period"), this Bureau issued on 03 February 2011 Order No.2011-76 referring the case to mediation.

On 05 July 2011 this Bureau received a "MEDIATOR'S REPORT" indicating the successful mediation of the instant case. Attached to the report is the parties' motion for judgment BASED ON COMPROMISE AGREEMENT submitted to the Bureau for approval. The Agreement states among other things.

FOR AND IN CONSIDERATION of the foregoing premises in the terms and conditions hereinafter provided, the Parties agree to enter as hereby enter into a compromise agreement to put and end to IPC No 14-2010-00168 with the following:

- A. Respondent-Applicants BELKENZ PHARMA INC. shall withdraw from the Intellectual Property Office each application for registration of the trademark or trade name "FENOF" within thirty (30) days from the execution of this Agreement.
- B. Respondent-Applicants shall cease and desist from using the trademark FENOF effective 10 May 2012 including in all promotional materials listing brochures, labels, flyers, advertisement and other paraphernalia whether in physical or electronic form, and shall no longer import, use distribute and sell in products under the trademark FENOF.
- C. Oppositor LR IMPERIAL INC hereby waives, renounces and abandon any and all rights to assail challenge object and oppose Respondent-Applicant BELKENZ PHARMA INC.'s application for registration of the trademark or tradename 'ZINOF 200' and printing and distribution of all promotional materials listing, brochures, labels, flyers, advertisement and other paraphernalia whether in physical or electronic form.
- D. The Parties hereby waived, renounce, abandon and quitclaim and any in all for damages which is party made a against the other Party arising from institution of the above entitled case and from use of the trademark or tradename "FENOF" by Respondent-Applicant BELKENZ INC, prior to 10 May 2012.

- E. The Parties shall bear each own cost and expenses incurred and carrying out each of the respective undertaking and obligation required by the Agreement.
- F. The Parties acknowledge that the respective signatories have full authority and/or have secured the necessary approval to execute, and do execute this Agreement on behalf of their principals and that the Parties have the authority to comply with the promises, obligations undertaking acknowledgements made in this agreement. The Parties hereto further acknowledge that they have executed this agreement voluntarily with full knowledge of each consequences under the law.
- G. This agreement shall be binding upon and inure to the benefit of the Parties, their affiliates, successors and assigns. The term and conditions of this agreement maybe amended in writing signed by the Parties of the respective assigns of their respective assigns or successors and interest.

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 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 accordingly in accordance with the pertinent rules of IPO and the Rules of Court, (Sec.5, Officer Order No.154, s, 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 be returned together with a copy of this Decision to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 06 July 2011.