

RAFAEL L. CHU, doing business
under the Warne and style of NID's
EXPRESS BINALOT,

Appellant,

-versus-

BINALOT FIESTA FOODS, INC.,
Appellee.

x-----x

Appeal No. 10-2011-0001

IPV No. 10-2007-00013

For: Trademark Infringement and/ or
Unfair Competition and Damages
With prayer for Preliminary
Injunction

ORDER

On 20 April 2011, this Office issued an Order giving the Appellee and the Director of the Bureau of Legal Affairs ("Director") thirty (30) days from receipt of the Order to submit comment to the appeal and to forward the records of this case to this Office, respectively. Records show that the Appellee and the Director received a copy of the Order on 27 April 2011.

On 18 May 2011, the Director forwarded to this Office the records of this case. The next day, 19 May 2011, the IPOPHL Mediation Office furnished this Office copies of the "MEDIATOR'S REPORT" on Inter Partes Case Nos. 14-2010-00092 and 142010-00119 and a "COMPROMISE AGREEMENT" executed by the Appellant and the Appellee indicating their settlement not only of the two Inter Partes cases but also of the instant appeal.

The COMPROMISE AGREEMENT states in part that:

1. Respondent-Appellant hereby withdraws its appeal from Bureau of Legal Affairs' Decision No. 2009-05 promulgated on November 27, 2009. x x x

In this regard, the Decision No. 2009-05 referred in the COMPROMISE AGREEMENT is the assailed decision in this appeal. This Office did not refer to mediation this case as the Appellee has not yet filed its comment to the appeal. Pursuant to Office Order No. 154, Series of 2010, Rules of Procedure for IPO Mediation Proceedings, an appeal to the Director General shall be referred to mediation only after the filing of comment to the appeal.¹

Nonetheless, this Office takes notice of the COMPROMISE AGREEMENT that expressly indicates the voluntary withdrawal of the Appellant of the instant appeal. The Appellee's execution of the COMPROMISE AGREEMENT also shows its conformity to the Appellant's withdrawal of the appeal. Moreover, the records did not show that the Appellee filed a comment to the appeal which renders the case as deemed submitted for decision pursuant to Section 8² of the Uniform Rules on Appeals, as amended.

Wherefore, premises considered, the COMPROMISE AGREEMENT is hereby noted and included in the records of this case. Accordingly, the appeal is hereby DISMISSED. Let a copy of this Order and the records of this case be furnished and returned to the Director of the Bureau of Legal Affairs for appropriate action. Further, let the IPOPHL Mediation Office and the library of the Documentation, Information and Technology Transfer Bureau be furnished a copy of this Order for information, guidance, and records purposes.

¹ See Section 3 of Office Order No. 154, Series of 2010, Rules of Procedure for IPO Mediation Proceedings.

SO ORDERED.

August 08, 2011, Makati City.

RICARDO R. BLANCAFLOR
Director General

² Section 8. Submission for Decision.- The case is deemed submitted for decision upon filing of the memoranda and draft decisions, if any, or the parties or the filing of the last pleading required by these Rules or by the Director General.

The case is also deemed submitted for decision after the lapse of the period prescribed by these rules or by the Director General whether or not the parties submitted the last pleading required.