

WD-40 COMPANY	}	IPC No. 14-2008-00015
<i>Opposer,</i>	}	Opposition to:
	}	
-versus-	}	Serial No. 4-2007-007635
	}	Date filed: July 18, 2007
CHARTER CHEMICAL AND COATING CORPORATION,	}	
<i>Respondent-Applicant.</i>	}	Trademark: 3 IN 1
	}	
x-----x	}	Decision No. 2008-226

JUDGMENT BASED ON COMPROMISE AGREEMENT

Submitted for consideration is the parties' Joint Motion to Dismiss filed on 12 December 2008 on the basis of the Compromise Agreement executed by the parties on December 11, 2008.

In the Compromise Agreement executed by and between Opposer WD-40 COMPANY (referred to as the FIRST PARTY) and Respondent-Applicant CHARTER CHEMICAL AND COATING CORPORATION (referred to as the SECOND PARTY) the parties agreed as follows:

"1. The SECOND PARTY undertakes not to secure trademark registration for the mark "3 IN 1" or variants thereof, e.g., "THREE IN ONE", "3 IN ONE", "THREE IN 1", for goods that are covered by existing trademark registrations and applications for the said marks in the name of FIRST PARTY as of the date of this Agreement, as follows:

"1.1 Trademark registration no. 4-1997-116856 issued on May 8, 2001 in the name of WD-40 Company for the mark "3 IN 1 3-IN-ONE AND DESIGN, in class 3 for the goods cleaning preparations for use on metal surfaces;"

"1.2 Trademark registration no. 4-1997-116857 issued on Dec. 5, 2004 in the name of WD-40 Company for the mark "3 IN 1 3-IN-ONE AND DESIGN, in class 4 for the goods lubricating oil and penetrating oil;"

"1.3 Trademark registration no. 4-12207-012918 issued on August 25, 2008 in the name of WD-40 Company for the mark "3 IN 1 3-IN-ONE AND DESIGN, in class 2 for the goods anti-rust oil, and in class 3 for the goods cleaning preparations for use on metal surfaces;"

"1.4 Trademark application no. 4-2008-500016 filed on January 8, n the name of WD-40 Company for the mark "3 IN 1 3-IN-ONE & DESIGN, in class 2 for the goods anti-rust oil."

"2. The FIRST PARTY undertakes to do the following:

"2.1 To withdraw its opposition to trademark application no. 4-2007-007635 in the name of the SECOND PARTY";

"2.2 Not to secure trademark registration for the mark "3 IN 1" or variants thereof, e.g., "THREE IN ONE", "3 IN ONE", "THREE IN 1", for the goods paints and related paint products such as putty, thinners and primers."

"3. This Agreement shall bind the parties and their assigns, successors, agents, officers and employees."

WHEREFORE, finding the parties' Compromise Agreement to have been duly executed and signed by the parties and the terms and conditions thereof to be in consonance with law, morals, and good customs, public policy or public order, the same is hereby APPROVED. Accordingly, the parties are JOINT MOTION TO DISMISS is GRANTED. Consequently, the parties are hereby enjoined to faithfully comply with the terms and conditions of the Amended Compromise Agreement, failure of which shall be cause for erring party to be cited for indirect contempt after proper charge and hearing.

Let the filewrapper of the trademark "3 IN 1" subject matter of this case together with this Decision be forwarded to the Bureau of Trademarks (BOT) for appropriate action.

SO ORDERED.

Makati City, 17 December 2008.

ESTRELLITA BELTRAN-ABELARDO  
Director, Bureau of Legal Affairs  
Intellectual Property Office