

WESTMONT PHARMACEUTICALS, INC.,)	IPC 14-2010-00159
Opposer,)	Opposition to:
)	
- versus -)	Appln. No.: 4-2010-012329
)	Date Filed: 15 November 2010
)	Trademark: MORELAC
PHARMCARE PRODUCTS CORP.,)	
Respondent-Applicant.)	
x-----x		Decision No. 2012-15

DECISION
BASED ON COMPROMISE AGREEMENT

WESTMONT PHARMACEUTICALS, INC. (“Opposer”) filed on 25 April 2011 an opposition to Trademark Application Serial No. 4-2010-012329. The application, filed by PHARMCARE PRODUCTS CORP. (“Respondent-Applicant”), covers the mark “MORELAC” for use on goods under Class 5. The opposition is anchored on Section 123 of Republic Act No. 8293 otherwise known as The Intellectual Property Code of the Philippines.

The Respondent-Applicant filed its Answer on 11 August 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 and Settlement Period*”), this Bureau issued on 15 August 2011 Order No. 2011-248 referring the case to mediation.

On 17 January 2012, this Bureau received a “MEDIATOR’S REPORT” indicating the successful mediation of the instant case. Attached to the report is the parties’ “COMPROMISE AGREEMENT” submitted to this Bureau for approval. The agreement states, among other things:

“NOW, THEREFORE, in view of the above premises and for other good and valid considerations, the Parties hereby agree as follows:

- “1. The parties recognize and acknowledge each other’s right to use, apply for, register and maintain their trademarks “MOVELAX” and “MORELAC” in connection with their respective goods as so stipulated in this agreement.
- “2. PHARMACARE hereby undertakes that:
 - a. The use and registration of its “MORELAC” trademark in relation to goods under Class 5 covering Malunggay products, shall be limited to what is enumerated and depicted in its Trademark Application No. 42010012929.
 - b. PHARMACARE shall neither oppose any application that WESTMONT will file with the IPO for the registration of WESTMONT’s “MOVELAX” trademark nor seek the cancellation of WESTMONT’s existing registration for “MOVELAX” trademark.
 - c. PHARMACARE shall pay WESTMONT the amount of Twelve Thousand Three Hundred Twenty Two Pesos (Php12, 322.00)
- “3. WESMONT, on the other hand, agrees:

- a. To allow the registration of the trademark MORELAC but limited only to class 5; Malunggay products;
- “4. This Compromise Agreement shall be limited to the territory of the Philippines and shall bind the parties, their assignees or successors-in-interest exclusively.
- “5. The parties hereby release, waive and quitclaim any and all claims or causes of action against each other related to or involved in any of the matters alleged in IPC No. 14-2011-00159.
- “6. The parties undertake to observe the terms and conditions of this Agreement in utmost good faith.
- “7. Each party shall bear its respective expenses incurred in this case.
- “8. This Agreement shall become effective and enforceable immediately upon approval by this Honorable Office of a duly signed copy thereof.

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 custom, 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, Office Order No. 154, s. 2010)

WHEREOF, premises considered, the submitted Compromise Agreement is hereby APPROVED. Accordingly, with the approved COMPROMISE AGREEMENT having the force and effect of a decision or judgment, the parties are enjoined to faithfully comply with the terms set forth therein. 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, 24 January 2012.

ATTY. NATHANIEL S. AREVALO
Director IV
Bureau of Legal Affairs