



UNITED AMERICAN PHARMACEUTICALS INC., Opposer,	}	IPC No. 14-2011-00148
	}	
- versus -	}	Opposition to:
	}	
INNOVISION PHARMA INC., Respondent-Applicant.	}	Appln. No. 4-2010-012873
	}	Date Filed: 26 November 2010
	}	Trademark: ALLEROF
x-----x		Decision No. 2012 - <u>45</u>

**DECISION  
BASED ON COMPROMISE AGREEMENT**

UNITED AMERICAN PHARMACEUTICALS, INC. ("Opposer"), filed on 15 April 2011 an opposition to Trademark Application Serial No.4-2010-012873. The application filed by INNOVISION PHARMA INC. ("Respondent-Applicant") covers the mark "**ALLEROF**" 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 July 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 18 July 2011 Order No. 2011-220 referring the case to mediation.

On 16 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, for and in consideration of the Parties' respective concessions herein below enumerated, by way of a compromise, the Parties mutually agree as follows:

"1. UAP hereby agrees to withdraw its opposition to INNOVISION's Trademark Application No. 4-2010-012873 for the mark "ALLEROF" and consent to the registration of the same subject to the conditions set forth below.

"2. INNOVISION hereby agrees to limit the use of the mark "ALLEROF" for the following goods:

**Class 05 - "Pharmaceutical Preparations namely,  
Ophthalmic Solution (Drops), Anti-Histamine"**

"3. INNOVISION undertakes to use the mark "ALLEROF" specifically only for the above-described goods.

"4. INNOVISION shall not apply in the future for the registration of the mark "ALLEROF" for goods other than those above-described goods.

"5. The Parties further agree that all claims and demands that each has or may have against the other Party with respect to the aforementioned case are, by the due execution of this Compromise Agreement, satisfied, discharged and settled. At this juncture, it is hereby agreed that each Party shall shoulder their respective attorney's fees, costs of litigation, and other related expenses.

"6. The Parties acknowledge that their respective signatories have full authority and/or have secured the necessary approvals 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 and acknowledgments 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.

"7. This Agreement shall apply to and be binding upon the Parties' related or associated companies, including the Parties' subsidiaries or affiliates and their respective licensees (i.e. importer, distributor, etc.) in the Philippines. Further, the Parties also undertake to impose the obligations under this Agreement upon any of their legal successors or assigns.

"8. The Parties shall regard as confidential this Agreement and all the information communicated to or received by it, whether directly or indirectly, by the Parties and their representatives, pursuant to or in connection with this Agreement. The obligations of confidentiality assumed under this Agreement shall not apply to the extent that a Party is required to disclose the Agreement under any applicable law, regulation or an order from a court, regulatory agency or other governmental authority having competent jurisdiction.

"9. In the event that any provision of this Agreement or portions thereof are held by a court of competent jurisdiction to be unenforceable or invalid, the validity and enforceability of the remaining provisions shall not be adversely affected and shall be enforceable as if said invalid or unenforceable portion was never included herein, and the parties or court shall substitute for the invalid or unenforceable provision a new provision that realizes the parties' intent as expressed herein as nearly as possible without being invalid or unenforceable. Nothing herein shall release the parties from any obligations imposed by this Agreement and the parties shall not challenge the validity or enforceability of any of

their respective obligations.

"10. In the event of any dispute, controversy, or claim arising out of or relating to this Agreement or the subject matter of this Agreement, or the breach, termination or invalidity thereof, either Party may give to the other Party a notice in writing of such dispute and request for negotiations to resolve the dispute. The Parties shall attempt to resolve the dispute through amicable negotiation in good faith and by all reasonable and appropriate means within a period of 30 days from the receipt of notice thereof.

"11. This Agreement and its attachments constitutes the entire agreement of the Parties with respect to the subject matter hereof, and shall supersede any prior expressions of intent or understanding with respect to the transactions herein contemplated. This Agreement may not be changed orally, and may only be amended by an agreement in writing signed by both Parties.

"12. The Parties acknowledge that they read and understood the contents of this Agreement and that they have signed the same willingly, voluntarily, and with full knowledge of their rights and obligations.


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)

**WHEREFORE**, 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, 01 March 2012.

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