



WESTMONT PHARMACEUTICALS, INC., }
Opposer, }

-versus- }

NEW MARKETLINK PHARMACEUTICAL }
CORPORATION, }
Respondent-Applicant. }

X-----X

IPC NO. 14-2011-00242

Case Filed: 24 June 2011

Opposition to:

Appln. No. 4-2010-012914

Date filed: 30 November 2010

TM : "LEVONEX"

Decision No. 2012 - 38

**DECISION BASED ON
COMPROMISE AGREEMENT**

WESTMONT PHARMACEUTICALS, INC. ("Opposer"), filed on 24 June 2011 an Opposition to Application No. 4-2010-012914. This Bureau issued a Notice to Answer dated 08 July 2011 and served upon a copy thereof to NEW MARKETLINK PHARMACEUTICAL CORPORATION ("Respondent-Applicant"), on 20 July 2011. The Respondent-Applicant filed its Answer on 17 October 2011.

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 25 October 2011 Order No. 2011-305 referring the case to mediation.

On 10 February 2011 the Mediation Office submitted a Mediator's Report indicating a settlement by the parties' of the case. Attached to the report is the parties' COMPROMISE AGREEMENT the pertinent portions of which read, as follows;

"1. Upon the execution of this Agreement, NMPC hereby undertakes to cause the withdrawal of Application Serial No. 4-2010-012914 for the registration of the mark "LEVONEX" with the Bureau of Trademarks, Intellectual Property Office.

"2. WESTMONT hereby grants NMPC the right to exhaust its existing stocks of the product bearing the mark "LEVONEX" for a period of ten (10) months from the signing of this Agreement. Thereafter, NMPC hereby undertakes to cause the withdrawal from the market any and all of its products, including all promotional materials, listings, brochures, labels, flyers, advertisements and other paraphernalia, whether in physical or electronic form, bearing the mark "LEVONEX".

"3. NMPC hereby undertakes not apply in the future the registration of the mark "LEVONEX" for any goods with the Bureau of Trademarks, Intellectual Property Office.

"4. Each Party shall bear its own costs and expenses incurred in carrying out each of their respective undertakings and obligations required by this Agreement.

"5. 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 acknowledgements 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.

"6. This Agreement shall apply to and be binding upon the Parties' related or associated companies, including the Parties' subsidiaries or affiliates and their respective licencees (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.

"7. The Parties acknowledge that they have 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 evaluated the COMPROMISE AGREEMENT and finds that the same 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.

Accordingly, 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.¹

WHEREFORE, premises considered, the parties' COMPROMISE AGREEMENT is hereby **APPROVED**. Accordingly, with the approved COMPROMISE AGREEMENT having the force and effect of a decision or judgment, the parties are hereby enjoined to comply with the terms and conditions set forth therein. Let the filewrapper of Trademark Application Serial No. 4-2010-012914 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, 24 February 2012.


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

¹ Office Order No. 154, Series of 2010.