



BIOMEDIS, INC.,  
Opposer,

-versus-

HERSIL S.A. LABORATORIOS  
INDUSTRIALES FARMACEUTICOS,  
Respondent-Applicant.

x-----x

} IPC No. 14-2013-00083  
} Opposition to:  
} Appln. Serial No. 4-2012-012204  
} Date filed: 04 October 2012  
} TM: "OSTEOVIT D3"

**NOTICE OF DECISION**

**OCHAVE & ESCALONA**  
Counsel for Opposer  
No. 66 United Street  
Mandaluyong City

**MARIA LUISA P. BUNAGAN, Rph**  
Agent of Respondent-Applicant  
Buerkli Pharma, Inc.  
Unit 204 One Corporate Plaza  
845 Arnaiz Avenue, Legaspi Village  
Makati City

**GREETINGS:**

Please be informed that Decision No. 2013 - 80 dated May 08, 2013 ( copy enclosed) was promulgated in the above entitled case.

Taguig City, May 08, 2013.

For the Director:

*Edwin A. Dating*  
**Atty. EDWIN DANILO A. DATING**  
Director III  
Bureau of Legal Affairs



BIOMEDIS, INC.,	}	IPC No. 14-2013-00083
Opposer,	}	Opposition to:
	}	
- versus -	}	Appln. Serial No. 4-2012-012204
	}	Date Filed: 04 October 2012
HERSIL S.A. LABORATORIOS	}	
INDUSTRIALES FARMACEUTICOS,	}	Trademark: OSTEOVIT D3
Respondent-Applicant.	}	
x-----x	x	Decision No. 2013 - <u>80</u>

**DECISION BASED ON  
COMPROMISE AGREEMENT**

BIOMEDIS, INC. ("Opposer") filed on 27 February 2013 an opposition to Trademark Application No. 4-2012-012204. The application, filed by HERSIL S. A. LABORATORIOS INDUSTRIALES FARMACEUTICOS ("Respondent-Applicant"), covers the mark OSTEOVIT D3 for use on "*food supplement*" under Class 05.

This Bureau issued a Notice to Answer dated 11 March 2013 and served upon a copy thereof to Respondent-Applicant on 15 March 2013. On 06 May 2013, the parties filed a Joint Motion to Approve Compromise Agreement stating that:

"1. BIOMEDIS hereby withdraws its opposition to HERSIL's Trademark Application No. 4-2012-012204 for the mark OSTEOVIT D3 and consent to the registration of the same subject to the terms and conditions set forth below;

"2. Upon the execution of this Compromise Agreement and within five (5) days thereof, HERSIL undertakes to amend its Trademark Application No. 4-2012-012204 and limit the use of the mark OSTEOVIT D3 for the following goods under Class 05 of the International Classification of Goods:

Class 05 - Food Supplement to promote bone health

"3. HERSIL undertakes to use the mark OSTEOVIT D3 specifically only for the above-described goods under Class 05 of the International Classification of Goods. HERSIL shall not apply in the future the registration of the mark OSTEOVIT D3 for any other goods other than those above-described;

"4. HERSIL acknowledges BIOMEDIS' ownership of the trademark OSTEOMET. As such, HERSIL undertakes not to challenge, at any time, BIOMEDIS' rights and interest over the trademark OSTEOMET;

"5. The terms and conditions of this Compromise Agreement entered into by BIOMEDIS and HERSIL are not contrary to law, morals, good customs, public order or public policy."


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.

**WHEREFORE**, premises considered, the parties' Compromise Agreement is hereby **APPROVED**. Accordingly, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2012-012204 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 08 May 2013.



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