



BIOMEDIS, INC.,
Opposer,

-versus-

SANTEN PHARMACEUTICAL CO. LTD.,
Respondent-Applicant.

X-----X

}
} **IPC No. 14-2011-00508**
} Opposition to:
} Appln. Serial No. 4-2011-005732
} Date Filed: 18 May 2011
} Trademark: "TAPROS"

NOTICE OF DECISION

OCHAVE & ESCALONA
Counsel for the Opposer
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Mandaluyong City

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Counsel for Respondent-Applicant
G/F Chemphil Building
851 Antonio Arnaiz Avenue
Makati City

GREETINGS:

Please be informed that Decision No. 2012 – 169 dated September 11, 2012 (copy enclosed) was promulgated in the above entitled case.

Taguig City, September 11, 2012.

For the Director:

Atty. PAUSI U. SAPAK
Hearing Officer
Bureau of Legal Affairs

CERTIFIED TRUE COPY:
Sharon S. Alcantara
SHARON S. ALCANTARA
Records Officer II
Bureau of Legal Affairs, IPH



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Opposer,	}	Opposition to:
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**DECISION
BASED ON COMPROMISE AGREEMENT**

BIOMEDIS, INC. ("Opposer") filed on 09 November 2011 an opposition to Trademark Application Serial No. 4-2011-005732. The application filed by **SANTEN PHARMACEUTICAL CO. LTD.** ("Respondent-Applicant") covers the mark **TAPROS** for use on goods under Class 5. The opposition is anchored on Sections 123.1 (d) of R.A. 8293 otherwise known as The Intellectual Property Code of the Philippines.

On 05 March 2012, the Respondent-Applicant filed its Answer 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 19 March 2012 Order No. 2012-73 referring the case to mediation.

On 24 August 2012, the parties filed a Joint Motion to Approve and Issue Decision Based on Compromise Agreement. The pertinent portions of the document reads:

"1. The parties have vountarily and amicably settled their differences and that Opposer shall withdraw its opposition to the application of Respondent-Applicant under the following conditions, to wit:

1.1 Respondent-Applicant agrees to have the description or specification of goods in its trademark application No. 4-2010-005732 amended to the following:

"CLASS 5: PHARMACEUTICAL FORMULATIONS EXCEPT PHARMACEUTICAL PRODUCTS FOR PROSTATE DISORDERS, NAMELY, ANTIBIOTICS FORMULATIONS FOR OPHTHALMOLOGICAL PURPOSES, ANTI-INFLAMMATORY FORMULATIONS FOR OPHTHALMOLOGICAL PURPOSE, ANTI-INFECTIVE FORMULATIONS FOR OPHTHALMOLOGICAL PURPOSES, ANTI-GLAUCOMA FORMULATIONS AND DECONGESTANT FORMULATIONS; AGENTS FOR USE DURING OPHTHALMIC SURGERY; STERILE OINTMENTS; OCULAR WETTING SOLUTIONS FOR THE TREATMENT OF OCULAR INFLAMMATIONS OR ALLERGIC CONDITIONS; ARTIFICIAL TEARS FOR THE

TREATMENT OF OCULAR INFLAMMATIONS OR ALLERGIC CONDITIONS; PHARMACEUTICAL FORMULATIONS FOR THE TREATMENT OF ALLERGIC CONDITIONS, CONTACT LENS CLEANING, DISINFECTING, WETTING, WEARING, SOAKING, STORING AND/OR RINSING FORMULATIONS IN SOLUTIONS OR TABLET FORM; PHARMACEUTICAL FORMULATIONS FOR THE THERAPEUTIC TREATMENT OF NEUROLOGICAL DISORDERS.

1.2 Respondent-Applicant undertakes to file with the Bureau of Trademarks a request to amend its goods based on "1" above within five (5) working days from submission of this motion to the IPOPHL.

"2. In consideration of the foregoing undertakings made by Respondent-Applicant, Opposer hereby withdraws its opposition to the registration of Trademark Application No. 4-2010-005732 for the mark 'TAPROS'.

"3. The parties, in good faith, undertake to honor their respective commitments under this Compromise Agreement.

This Bureau finds that the Compromise 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**. With the approved Compromise Agreement having the force and effect of a decision or judgment, the parties are hereby enjoined to faithfully comply with the terms set forth therein. Accordingly, the instant opposition is hereby **DISMISSED**.

Let the filewrapper of Trademark Application Serial No. 4-2011-005732 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 11 September 2012.


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