



CELINE MARKETING CORPORATION,
Opposer,

-versus-

MICHELL CHENG YEUNG,
Respondent- Applicant.

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IPC No. 14-2013-00052
Opposition to:
Appln. Serial No. 4-2012-007235
Date filed: 15 June 2012
TM: "COMFIT AND DEVICE"

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NOTICE OF DECISION

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GREETINGS:

Please be informed that Decision No. 2013 - 223 dated November 21, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, November 21, 2013.

For the Director:

A blue ink signature of Atty. PAUSI U. SAPAK, consisting of several overlapping loops and a horizontal stroke.

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



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DECISION BASED ON COMPROMISE AGREEMENT

CELINE MARKETING CORPORATION, ("Opposer") filed on 08 April 2013 an opposition to Trademark Application Serial No. 4-2012-007235. The application, filed by MICHELL CHENG YEUNG ("Respondent-Applicant"), covers the mark "COMFIT AND DEVICE" for use on goods under Classes 9, 14, 18, 25 and 30.

This Bureau issued a Notice to Answer dated 16 April 2013 and served a copy thereof to Respondent-Applicant on 19 April 2013. The Respondent-Applicant filed its Answer on 17 July 2013.

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 1 August 2013 Order No. 2012-186 referring the case to mediation.

On 18 November 2013, the ADR Services of this Bureau submitted a Mediation Report submitting a copy of the parties' Compromise Agreement. The pertinent portions of the COMPROMISE AGREEMENT reads, as follows:

NOW, THEREFORE, the Parties have agreed, by way of amicable settlement, as follows:

"1. Respondent - Applicant hereby expressly recognizes the issuance and validity of Opposer's Registration No. 4-2012-006494 for the trademark "COMFEET FIT FOR A QUEEN" ISSUED ON September 6, 2012 for use on the following goods, namely:

- Class 3 - Foot and shoe disinfectant spray; foot powder;
- Class 10 - Soft gel foot care cushion; foot pad;
- Class 25 - Socks, stockings, shoes, slippers, sandals, boots.

"2. Opposer also recognizes and acknowledges Respondent- applicant's right to use, apply for, register, and maintain the trademark " COMFIT & DEVICE " covering goods under the following classes:

9 - Sunglasses

14 - Women's and children's fashion accessories, jewelry and imitation jewelry, namely: necklaces, earrings, bangles, rigs, bracelets, watches. Straps, brooches, finger rings, toe rings, anklets, pendants and chokers, and other jewelry and imitation jewelry and jewelry made out of or coated with gold, silver, pewter, ivory, and mother of pearl: men's and children's fashion accessories, jewelry and imitation jewelry namely: dog tags, necklaces , earrings, rings, watches, watch straps, pendants, and other men's jewelry and jewelry made out of or coated with gold, silver, pewter, ivory, and mother of pearl.

18 - Bags, women's men's and children's bags, namely: handbags, tote, bags, satchel bags, back packs, laptop bags, straw bags, clutch bags, messenger bags, purses, shoulder bags, wallets, duffel bags, hobo bags, bucket bags, book bags, brief cases, travel bags, luggages and traveling bags, made of leather and imitation leather, animal skins and hides.

25 - Footwear, women's shoes, namely: heels, platforms, office shoes, boots booties, knee high boots, loafers, sandals, ballet flats, ankle strap shoes, wedges, special occasion shoes, dress shoes, thigh high boots, flats, slippers, sneakers, rubber shoes, clogs, mules, stilettos, ankle high boots, sling backs, sandal heels, pumps, calf high boots, peep- toe shoes, athletic shoes, oxfords, brogues, boat shoes, flip flop, slide shoes, T-strap shoes, maryjanes, gladiators, moccasins, espadrille, rain boots, slouch, scuff, high tops, d'orsay, cleats, huarache, fisherman, saddle shoes, chukka, spectator, jelly shoes, gaiters, creepers, plain toes and cap-toes; men's shoes, namely: dress shoes, sneaker, office shoes, oxfords, lac-ups, rubber shoes, high tops, sandals, slippers, jelly shoes, boat shoes, loafers, mslip-ons, monk-straps, brogues, plain-toes, cap-toes, boots, espadrilles, moccasins, dogs, mules, flip flop, T-strap shoes, derby dress shoes, blucher dress shoes, black tie dress shoes, flat, athletic shoes, rain boots; children's shoes, namely dress shoes, sneaker, lace-ups, rubber shoes, high tops, sandals, slippers, jelly shoes, boat shoes, loafers, slip-ons, monk straps, brogues,, plain toes, cap-toes, boots, espadrilles, moccasins, clogs, mules, flip flips, T-strap shoes, derby dress shoes, blucher dress shoes, black tie dress shoes, flats, athletic shoes, and rain boots, women's, men's and children's clothing apparel namely: dresses, pants, skirts, t-shirts, jump suits, sweaters, tube dress, bolero, jackets, blazers, jackets, cardigans, overall, leggings, tops, shorts, jeans, slacks, tank tops, tunics, skinny jeans, sweat suits, boyfriend blazers, coats, blouses, vest, overalls, peasant blouse, maxi dresses, mini skirts, swimwear, underwear, intimates, boxers, briefs, dress shirts, board shorts, hoodies, sweat shirts, cocktail dresses, cargo pants, pencil skirt, poles, ties, and suits, belts wristbands and cuffs, women's, men's and children's headgear, namely: fedora, caps and hats.

30 - Baguettes

"3. In consideration of the foregoing, Opposer agrees to withdraw, as it hereby withdraws its Notice of Opposition (docketed, as Inter Partes Case No. 14 - 2013 - 00052) to respondent applicant's Application SN 4 - 2012 - 007235 and interposes no objection to its final approval.

"4. Further, Opposer agrees to allow Respondent-Applicant to use, apply for registration, register, and maintain the trademark "COMFIT", provided the terms and conditions of this Compromise Agreement are complied with.

"5. This Compromise Agreement shall be limited to the territory of the Philippines and shall bind the Parties, their assignees or successors-in-interest exclusively.

"6. 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 - 2013 - 00052.

"7. The parties undertake to observe the terms and conditions of this Agreement in utmost good faith.

"8. Each party shall bear its own expenses incurred in this case."

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, the instant opposition case is hereby DISMISSED. Let the filewrapper of Trademark Application Serial No. 4-2012-007235 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 21 November 2013.


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

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¹ Office Order No. 154 Series of 2010.