



DISNEY ENTERPRISES, INC.,
Opposer,

-versus-

TWIN OAKS FOODS CORPORATION,
Respondent-Applicant.

X-----X

} **IPC No. 14-2011-00521**
} Opposition to:
} Appln. Serial No. 4-2011-004199
} Date Filed: 12 April 2011
} **TM: "CHOCO CARS MILK**
} **CHOCOLATE"**

NOTICE OF ORDER

QUISUMBING TORRES

Counsel for the Opposer
12th Floor, Net One Center
26th Street corner 3rd Avenue
Crescent Park West, Bonifacio Global City
Taguig, Metro Manila

JERRY D. ALFONSO

Counsel for Respondent-Applicant
Suite 1402 Manila Astral Tower
Faura corner Taft Avenue
Excolta, Manila

GREETINGS:

Please be informed that Order No. 2013 - 144 (D) dated August 08, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, August 08, 2013.

For the Director:

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



DISNEY ENTERPRISES, INC.,	}	IPC No. 14-2011-00521
<i>Opposer,</i>	}	
	}	Opposition to:
-versus-	}	Appln. No. : 4-2011-004199
	}	Date Filed: 12 April 2011
TWIN OAKS FOODS CORPORATION,	}	TM: CHOCO CARS MILK
<i>Respondent-Applicant.</i>	}	CHOCOLATE
x-----x		Order No. 2013- <u>144</u>

ORDER

DISNEY ENTERPRISES, INC. ("Opposer") filed on 31 January 2012 an opposition to Trademark Application Serial No. 4-2011-004199. The application, filed by TWIN OAKS FOODS CORPORATION ("Respondent-Applicant"), covers the mark "CHOCO CARS MILK CHOCOLATE" for use on goods under Class 30.

This Bureau issued a Notice to Answer dated 2 February 2012 and served upon a copy thereof to Respondent-Applicant on 13 February 2012. The Respondent-Applicant filed its Answer on 13 April 2012.

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 22 November 2012 Order No. 2012-217 referring the case to mediation.

On 23 July 2013, the ADR Services of this Bureau submitted a Mediation Report submitting a copy of the parties' Joint Manifestation and Motion. The pertinent portions of the Joint Manifestation and Motion reads, as follows:

"1. In a letter dated 22 July 2013, Respondent confirmed that it was no longer interested in registering the CHOCO CARS MILK CHOCOLATE trademark subject of this opposition proceeding (the "Original Trademark"), and that said application should be deemed by the Bureau of Trademarks as abandoned. x x x A copy of the foregoing letter is attached as Annex "A" hereof, while the original thereof has been submitted to the Bureau of Trademarks for immediate action.

"2. In lieu of the abandoned trademark application above-mentioned, Respondent has filed a new trademark application for registration. A copy of which is attached as Annex "B" and made an integral part hereof. x x x

"3. In light of the foregoing, and only in order to avoid a protracted litigation of claims, Opposer hereby manifests that it shall not oppose the trademark application for the Amended Trademark in the event that it shall be published for opposition in the Intellectual Property Office's Official Gazette.

"4. Opposer likewise agrees to waive all claims arising from Respondent's use of the trademark subject of these proceedings, namely the Original Trademark, provided that Respondent immediately:

(a) Cease and desist from using the Original Trademark, or any other mark similar to the Opposer's trademarks, in connection with its business and the goods and/or services that it sells, distributes or manufactures;

(b) Remove the Original Trademark or any other mark similar to Opposer's trademarks from all its materials, including, but not limited to, product labels, flyers, advertisements in any form, and other paraphernalia, and immediately destroy the same.

"5. In compliance with the foregoing, Respondent has executed an Undertaking under oath, confirming that it has complied with the conditions under Paragraph 4 (a) and (b) hereof, a copy of which is attached as Annex "C" and made an integral part hereof.


"6. In view of the foregoing, Opposer and Respondent hereby respectfully jointly move that Trademark Application No. 4-2011-004199 for CHOCO CARS MILK CHOCOLATE be deemed abandoned and that this case be deemed moot solely on account of the foregoing premises.

With the withdrawal by the Respondent-Applicant of its trademark application, there is no more reason nor basis to proceed with this case.

WHEREFORE, premises considered, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2011-004199 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 08 August 2013.


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