



ELIZABETH ARDEN INC.,
Opposer,

-versus-

HEALTHWELL NUTRACEUTICALS, INC.,
Respondent-Applicant.

X-----X

} IPC No. 14-2012-00376
} Opposition to:
} Appln. Serial No. 4-2012-005050
} Date filed: 25 April 2012
} TM: "PREVAGE"
}
}
}
}

NOTICE OF DECISION

VERA LAW
(DEL ROSARIO RABOCA GONZALES GRASPARIL)
Counsel for Opposer
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Legaspi Village, Makati City

FILIPINO & ASSOCIATES
Counsel for the Respondent-Applicant
B6 L46 Aphrodite Street, Villa Olympia 6
4023 San Pedro, Laguna

GREETINGS:

Please be informed that Decision No. 2013 - 119 dated June 27, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, June 27, 2013.

For the Director:

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



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<i>Opposer,</i>	}	Opposition to:
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HEALTHWELL NUTRACEUTICALS, INC.,	}	
<i>Respondent-Applicant.</i>	}	
x-----x		Decision No. 2013- <u>119</u>

DECISION BASED ON COMPROMISE AGREEMENT

ELIZABETH ARDEN INC. ("Opposer"), filed on 25 October 2012 an opposition to Trademark Application Serial No. 4-2012-005050. The application filed by HEALTHWELL NUTRACEUTICALS, INC. ("Respondent-Applicant") covers the mark PREVAGE for use on goods under Class 3. The opposition is anchored on Section 123.1 (d), (e), (f) and (g) of Republic Act No. 8293, otherwise known as The Intellectual Property Code of the Philippines.

This Bureau issued a Notice to Answer and served upon a copy thereof to Respondent-Applicant on 27 December 2012. The Respondent-Applicant filed its Answer on 22 February 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 06 March 2013 Order No. 2013-69 referring the case to mediation.

On 25 June 2013, the ADR Services of this Bureau submitted a Mediation 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:

"NOW, THEREFORE, for and in contemplation of the foregoing premises and the terms and conditions hereinafter set forth, the PARTIES have agreed as follows:

"1. The FIRST PARTY hereby withdraws its aforementioned Verified Notice of Opposition to the mark "PREVAGE";

"2. The SECOND PARTY shall assign its present application "PREVAGE" to the FIRST PARTY. The SECOND PARTY shall undertake not to use and/or

register said term "PREVAGE" or any similar or identical mark thereto, from the time of settlement agreement is made and in the future, either in the Philippines or elsewhere in the world;

"3. This Agreement fully and completely settles any and all causes of action, claims, disputes, complaints or grievances of any kind whatsoever, whether civil, criminal or otherwise, which The Parties may have against each other relative only to the subject matter of the Case.

"4. By signing this Agreement, the SECOND PARTY, their assigns, agents or successors-in-interest acknowledge that they have no cause or right of action, complaint, claim or demand whatsoever against the FIRST PARTY in connection with any matter relating to the subject matter of the Case.

"5. The PARTIES warrant that they have full power and authority to sign this Agreement and to perform their respective obligations herein and that the same are their free and voluntary acts and deeds, and that they are fully aware of the consequences of their acts. The PARTIES also warrant that this Agreement is binding and enforceable against one another, their representatives, agents, successors-in-interest and assigns.

"6. The PARTIES agree to each bear their own costs, taxes and expenses incurred by each of them arising from or in connection with, the execution of this Agreement without recourse to the other party.

"7. This Agreement is the complete and exclusive statement of the agreement between the PARTIES and supersedes all other proposals, statements, conducts, representations, prior agreements, whether oral, written or implied, between the PARTIES.

"8. The PARTIES hereby agree and warrant to keep the terms and conditions of this Agreement, including the accompanying documents, strictly confidential in all respects and shall not disclose any terms or provisions hereof to third parties or the public without the prior consent of the other party except when required by law, pursuant to a court order, when necessary to enforce the rights of the PARTIES and in the implementation of the terms and provisions of this Agreement.

"9. The PARTIES agree to ask the Honorable Office to approve this Compromise Agreement and to enjoin the PARTIES to comply with their respective obligation thereunder.

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

¹ Office Order No. 154 Series of 2010.

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. 4-2012-005050 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 27 June 2013.


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



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