



**GLAXO GROUP LIMITED,**  
Opposer,

**-versus-**

**2 WORLD TRADERS SUBIC, INC.,**  
Respondent-Applicant.

X-----X

} **IPC No. 14-2011-00333**  
} Opposition to:  
} Appln. Serial No. 4-2010-005816  
} Date Filed: 31 May 2010  
} **TM: "ZINAF"**

### NOTICE OF DECISION

**ORTEGA BACORRO ODULIO  
CALMA & CARBONELL**

Counsel for Opposer  
5<sup>th</sup> & 6<sup>th</sup> Floors ALPAP I Bldg.,  
140 L.P. Leviste Street  
Salcedo Village, Makati City

**2 WORLD TRADERS SUBIC, INC.**  
Respondent-Applicant  
Unit 15 Gama, Commercial Complex  
# 47 Rizal Avenue cor. Manila Avenue  
Subic Free Port Zone 222  
Zambales

#### GREETINGS:

Please be informed that Decision No. 2013 - 152 dated July 30, 2013 ( copy enclosed) was promulgated in the above entitled case.

Taguig City, July 30, 2013.

For the Director.

  
**Atty. PAUST U. SAPAK**  
Hearing Officer  
Bureau of Legal Affairs



GLAXO GROUP LIMITED,	}	IPC No. 14-2011-00333
<i>Opposer,</i>	}	Opposition to :
	}	
- versus -	}	Appln. No. 4-2010-005816
	}	Date Filed: 31 May 2010
2 WORLD TRADERS SUBIC, INC.,	}	Trademark: ZINAF
<i>Respondent-Applicant.</i>	}	
x-----x		Decision No. 2013- 152

**DECISION**

GLAXO GROUP Limited, ("Opposer")<sup>1</sup> filed on 26 September 2011 an opposition to Trademark Application Serial No. 4-2010-005816. The application filed by 2 WORLD TRADERS SUBIC, INC., ("Respondent-Applicant")<sup>2</sup> which covers the mark "ZINAF" used on pharmaceuticals as powder for injection under class 5 of the International Classification of Goods and Services.<sup>3</sup>

Opposer alleges among other things, the following:

- "1. Opposer is the owner of the mark "ZINNAT" registered under Philippine Trademark Registration No. 041714 on November 14, 1988 in class 5 for pharmaceutical preparation and substances.
- "2. The Respondent-Applicant's mark "ZINAF" for pharmaceuticals as powder for injection in class 5 nearly resembles Opposer's mark "ZINNAT", hence registration in proscribed under Sec. 123.1 (d) of R. A. 8293.

Opposer's evidence consists of the following:

- Exhibit "A" - Affidavit executed by Mr. David Butler
- Exhibit "B" - Pages from the website [www.gsk.com/about/history.htm](http://www.gsk.com/about/history.htm)
- Exhibit "C" - Certified true copy of the Certificate of Malaysia Trademark Registration No. 86/00280 for ZINNAT, with verified English translation
- Exhibit "C-2" - Certified true copy of the certificate of Vietnam Trademark registration No. 9210 for ZINNAT, with verified English

1 A company duly organized and existing under the laws of England, with business address at GLAXO Wellcome House, Berkely Avenue, Greenford, Middlesley UB8 3NN.

2 With business address at Unit J Anglo Asia Bldg., Commitment St., Subic Bay Industrial Park, Freeport Zone, Olongapo City and principal office address at Unit 15 Gama, Commercial Complex, # 47 Rizal Avenue, cor. Manila Avenue, Subic Free Port Zone 222, Zambales.

3 The Nice Classification is a classification of goods and services for the purpose of registering trademark and services marks, based on the multilateral treaty administered by the World Intellectual Property Organization. The treaty is called the Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks concluded in 1957.

translation

- Exhibit "C-3" - Certified true copy of the certificate of Saudi Arabia Trademark Registration No. 176/70 for ZINNAT, with verified English translation
- Exhibit "C-4" - Certified true copy of the certificate of Mexico Trademark Registration No. 332693 for ZINNAT
- Exhibit "C-5" - Certified true copy of the certificate of France Trademark Registration No. 1232281 for ZINNAT, with verified English translation
- Exhibit "C-6" - Certified true copy of the certificate of United Arab Emirates Trademark Registration No. 9325 for ZINNAT, with English translation
- Exhibit "C-7" - Certified true copy of the certificate of Spain Trademark Registration No. 10202218 for ZINNAT
- Exhibit "C-8" - Certified true copy of the certificate of Hungary Trademark Registration No. 126 396 for ZINNAT
- Exhibit "C-9" - Certified true copy of the certificate of Benelux Trademark Registration No. 0427769 for ZINNAT, with verified English translation
- Exhibit "D" - A printout from the IPO database of the trademark details of Philippine Trademark Registration No. 041714 for ZINNAT
- Exhibit "E" - Product samples, product information printouts, packaging, and package inserts bearing the trademark ZINNAT
- Exhibit "F" - Certified true copy of the certificate of product Registration (CPR) No. DI-002151 issued by the Food and Drug Administration (FDA) of the Philippines on November 17, 2009 for the brand name ZINNAT
- Exhibit "F-1" - Certified true copy of the certificate of product Registration (CPR) No. DI-002149 issued by the Food and Drug Administration (FDA) of the Philippines on January 28, 2010 for the brand name ZINNAT
- Exhibit "F-2" - Certified true copy certificate of product Registration (CPR) No. DJ-02617 issued by the Food and Drug Administration (FDA) of the Philippines on August 17, 2010 for the brand name ZINNAT
- Exhibit "F-3" - Certified true copy of the certificate of product Registration (CPR) No. DJ-04205 issued by the Food and Drug Administration (FDA) of the Philippines on November 30, 2010 for the brand name ZINNAT
- Exhibit "G" - Print-outs of the information on the ZINNAT products from the following websites:

[www.gsk.com.au/products\\_prescription-medicines](http://www.gsk.com.au/products_prescription-medicines)

[\\_details.aspx?view=150;](#)

[http://www.itsahealthguide.com/c25/p4620/zinnat\\_tablets.html](http://www.itsahealthguide.com/c25/p4620/zinnat_tablets.html);and

[http://www.medical-explorer.com/drugs-z/zinnat\\_1.html](http://www.medical-explorer.com/drugs-z/zinnat_1.html)

Exhibit "H" -

Sample promotional materials for the products bearing the trademark ZINNAT in the Philippines

This Bureau issued a Notice to Answer and served a copy thereof upon the Respondent-Applicant on 13 October 2011. The Respondent-Applicant, however, did not file an Answer. Hence, the instant case is deemed submitted for decision based on the opposition and evidence submitted by the opposer. There is no dispute that the competing marks are identical or at least confusingly similar. The goods or services indicated in the Respondent-Applicant's trademark application are also similar and/or closely related to the Opposer's.

The records however, show that in IPC No. 14-2011-00332<sup>4</sup>, which involves the subject trademark application, this Bureau already rendered a decision<sup>5</sup>, the dispositive portion of which provides, to wit:

"WHEREFORE, premises considered, the instant Opposition is hereby SUSTAINED. Let the file wrapper of Trademark Application No. 4-2010-005816 be returned, together with a copy of this Decision, to the Bureau of Trademark for information and appropriate action."


The Respondent-Applicant did not seek reconsideration nor appeal the above-quoted decision, thus, on 26 December 2012, this Bureau issued an Entry of Judgment/Execution of Decision stating that Decision No. 2012-168 became final and executory on 23 October 2012 and is hereby recorded in this Bureau's Book of Entries of Judgments. Consequently, the filewrapper of the subject trademark application has already been returned to the Bureau of Trademarks for appropriate action pursuant to the said decision.

With the finality of the said decision rejecting the Respondent-Applicant's trademark application for the mark ZINAF, there is no more trademark application to oppose.

WHEREFORE, premises considered, the instant opposition case is hereby DISMISSED for the reason stated above.

**SO ORDERED.**

Taguig City, 30 July 2013.

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

4 Natrapharm, Inc. v. 2 World Traders Subic Inc.

5 Decision No. 2012-168 dated 10 September 2012.