



GLAXO GROUP LIMITED,  
Opposer,

-versus-

SCORT PHARMACEUTICALS, INC.,  
Respondent-Applicant.

X-----X

IPC No. 14-2011-00350  
Opposition to:  
Appln. Serial No. 4-2010-014043  
Date filed: 29 Dec. 2010  
TM: "SCORT PHARMACEUTICAL  
(WORK MARK)"

**NOTICE OF DECISION**

**TAW AND ASSOCIATES**  
Counsel for the Opposer  
Suite 1002-B Fort Legend Towers  
3<sup>rd</sup> Avenue corner  
31<sup>st</sup> Street, Bonifacio Global City  
Taguig City

**Atty. CHRISTINE V. PANGALINAN-CANLAPAN**  
Counsel for Respondent-Applicant  
Unit 1103 City & Land Mega Plaza Building  
ADB Avenue corner Garnet Road  
Ortigas Center, Pasig City

**GREETINGS:**

Please be informed that Decision No. 2012 – 194 dated October 05, 2012 ( copy enclosed) was promulgated in the above entitled case.

Taguig City, October 05, 2012.

For the Director:

**CERTIFIED TRUE COPY**

MARILYN F. REMOTAL

IPRS IV, Bureau of Legal Affairs, IPPHL

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



GLAXO GROUP LIMITED,  
Opposer,

IPC No. 14-2011-00350  
Case Filed: 04 October 2011

-versus-

Opposition to:  
Appln. Serial No. : 4-2010-014043  
Date Filed: 29 December 2010

SCORT PHARMACEUTICALS,  
INC.,  
Respondent.

TM: "SCORT PHARMACEUTICAL  
(WORD MARK)"

x-----x

Decision No. 2012- 194

**DECISION BASED ON  
COMPROMISE AGREEMENT**

GLAXO GROUP LIMITED ("Opposer") filed on 04 October 2011 an opposition to Trademark Application Serial No. 4-2010-014043. The application filed by SCORT PHARMACEUTICALS, INC. ("Respondent-Applicant") covers the mark "SCORT PHARMACEUTICALS (WORD MARK)" for use on goods under Class 05.

This Bureau issued a Notice to Answer dated 15 November 2011 and served a copy thereof upon the Respondent-Applicant on 01 December 2011. The Respondent-Applicant filed his Answer on 21 March 2011.

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 03 April 2012 Order No. 2012-77 referring the case to mediation.

On 02 October 2012, this Bureau received a "MEDIATOR'S REPORT" indicating the successful mediation of the instant case. Attached to the report is the parties' "COMPROMISE AGREEMENT" submitted to this Bureau for approval. The Agreement states, among other things:

1. Scort Pharmaceuticals confirms and agrees that the marks "SCORT LUYANG DILAW" and "SCORT PHARMACEUTICALS" are not used and will not be used for 'cod liver oil and preparations containing cod liver oil';
2. Scort Pharmaceuticals hereby amends the specification of goods covered by Trademark Application No. 4-2010-014042 and Trademark Application No. 4-2010-014043 by excluding 'cod liver oil and preparations containing cod liver oil', as follows:

Mark	:	"SCORT LUYANG DILAW"
Application	:	4-2010-014042
No.	:	

Goods	:	Class 5 – Pharmaceutical products, namely, food supplements, <u>excluding cod liver oil and preparations containing cod liver oil.</u>
Mark	:	“SCORT PHARMACEUTICALS”
Application No.	:	4-2010-014043
Goods	:	Class 5 – Pharmaceuticals products, namely, medicine tablets for coughs and colds, food supplements, <u>excluding cod liver oil and preparations containing cod liver oil.</u>

3. Scort Pharmaceuticals agrees not to file oppositions and/or cancellation actions against Glaxo Group’s applications and registrations for SCOTT’S marks;
4. Scort Pharmaceuticals agrees not to seek the registration of marks identical and/or similar to SCOTT’S or SCOTT”s emulsion for use in cod liver oil and preparations containing cod liver oil only;
5. Glaxo Group agrees to reimburse Scort Pharmaceuticals the actual expenses incurred in amending the specification of goods of Application Nos. 4-2010-014042 and 4-2010-014043 up to USD300 for each application;
6. Glaxo Group hereby withdraws its Oppositions against Trademark Application Nos. 4-2010-014042 and 4-2010-014043 docketed as IPC Case Nos. 14-2011-00351 and 14-2011-00350, respectively;
7. Glaxo Group allows Scort Pharmaceuticals to use the marks “SCORT LUYANG DILAW” and “SCORT PHARMACEUTICALS” for goods other than cod liver oil and/or preparations made of cod liver oil;
8. Glaxo Group allows Scort Pharmaceuticals to engage in cod liver oil and preparations containing cod liver oil and to use any brand name on the same except “SCORT”, “SCOTT” and “SCOTT’S”;
9. Glaxo Group agrees not to file oppositions and/or cancellation actions against Scort Pharmaceuticals’ applications and registrations for SCORT marks for goods not including cod liver oil and preparations containing cod liver oil.

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.<sup>1</sup>

WHEREFORE, premises considered, the parties' COMPROMISE AGREEMENT is hereby APPROVED. Accordingly, the Compromise Agreement having the force and effect of a decision or judgment, the parties are hereby enjoined to comply with the terms and conditions set forth therein. Let the filewrapper of Trademark Application Serial No. 4-2010-014043 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 05 October 2012.

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

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<sup>1</sup> Sec. 5, Office Order No. 154 Series of 2010