



HEARST COMMUNICATIONS, INC.,
Opposer,

-versus-

CHEUNG YING LUI,
Respondent-Applicant.

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}
} IPC No. 14-2011-00374

}
} Opposition to:

}
} Appln. Serial No. 4-2011-001249

}
} Date Filed: 03 February 2011

}
} TM: "COSMOPOLITAN HAIR AND
} BODY SALON CD DEVICE"

NOTICE OF DECISION

SAPALO VELEZ BUNDANG & BULILAN

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GREETINGS:

Please be informed that Decision No. 2013 - 30 dated February 06, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, February 06, 2013.

For the Director:

Edwin A. Dating
Atty. EDWIN DANILO A. DATING

Director III

Bureau of Legal Affairs



HEARST COMMUNICATIONS, INC.,	}	IPC No. 14-2011-00374
Opposer,	}	Opposition to:
	}	
- versus -	}	Application Serial No. 4-2011-001249
	}	Date Filed: 03 February 2011
CHEUNG YING LUI,	}	Trademark: COSMOPOLITAN HAIR AND
Respondent-Applicant.	}	BODY SALON CD DEVICE
x-----x	}	Decision No. 2013 - <u>30</u>

DECISION BASED ON COMPROMISE AGREEMENT

HEARST COMMUNICATIONS, INC. ("Opposer") filed on 30 September 2011 an opposition to Trademark Application Serial No. 4-2011-001249. The application filed by CHEUNG YING LUI ("Respondent-Applicant") covers the mark **COSMOPOLITAN HAIR AND BODY SALON CD DEVICE** for use on goods under Class 44.

This Bureau issued a Notice to Answer dated 07 October 2011 and served upon a copy thereof to Respondent-Applicant on 17 October 2011. The Respondent-Applicant filed its Answer on 16 January 2012.

In compliance to Office Order No. 154, s. 2012 ("*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 02 February 2012 Order No. 2012-34 referring the case to mediation.

On 18 December 2012, the ADR Services of this Bureau submitted a Mediation Report indicating a settlement by the parties. Attached to the report is the parties' COMPROMISE AGREEMENT, the pertinent portions of which read:

"NOW, THEREFORE, in view of the above premises and for other good and valid considerations, the Parties hereby agree as follows:

"1. CHEUNG YING LUI recognizes and acknowledges HCI's exclusive rights and sole ownership of the various 'COSMOPOLITAN', 'COSMO' and their derivative trademarks registered before the Intellectual Property Office (IPOP HL) for goods and services under international classes 3, 9, 14, 16, 18, 24, 25, 36, 38 and 41.

"2. CHEUNG YING LUI hereby undertakes and agrees to immediately withdraw its pending Application No. 4-2011-001249 for 'COSMOPOLITAN HAIR AND BODY SALON AND C DEVICE' mark.

"3. Subject to CHEUNG YING LUI's compliance with its undertaking under the immediate preceding paragraph, HCI will allow CHEUNG YING LUI to

continue with his current use of 'COSMOPOLITAN HAIR AND BODY SALON AND C DEVICE' mark in his salon business in the Philippines for thirty (30) months from November 13, 2012 or until May 13, 2015 only, without further extension subject to the following limitations:

a. The use of the 'COSMOPOLITAN HAIR AND BODY SALON AND C DEVICE' trademark/trade name will be limited to current and existing franchisees with valid and existing Franchise Agreements as of date of this Compromise Agreement, as identified in the list hereto attached as 'Annex D'.

b. The use of the words 'COSMOPOLITAN HAIR AND BODY SALON AND C DEVICE' mark shall be limited to the style, appearance, font design, order, and color depicted in the subject Application No. 4-2011-001249 as below.



c. The use of the 'COSMOPOLITAN HAIR AND BODY SALON AND C DEVICE' mark shall be for 'salon service' only under class 44, and further limited to use as signages for said salon service.

d. CHEUNG YING LUI and his franchisees will not file at anytime any application for registration of trademark (s) that may be identical or confusingly similar to HCI's 'COSMOPOLITAN', 'COSMO' and derivative trademarks.

e. CHEUNG YING LUI and his franchisees will not oppose or cancel the registrations and applications for registration of HCI's 'COSMOPOLITAN', 'COSMO' and derivative trademarks.

"4. HCI shall withdraw the subject opposition case docketed as IPC No. 14-2011-00374 once CHEUNG YING LUI's trademark Application No. 4-2011-001249 before the IPOPHL's for the 'COSMOPOLITAN HAIR AND BODY SALON AND C DEVICE' mark is withdrawn with finality from the Bureau of Trademarks.

"5. The parties hereby mutually 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. 14-2011-00374.

"6. The parties undertake to observe the terms and conditions of this Agreement in utmost good faith. Failure of either parties to comply with the terms of this Compromise Agreement is enforceable by appropriate

legal action.

"7. Each party shall bear its respective expenses incurred in this case.

"8. This Agreement shall be effective on November 13, 2012."


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. 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 (Sec. 5, Office Order No. 154, s. 2010).

In this regard, the records of the Bureau of Trademarks in relation to the subject trademark application, show that a "voluntary withdrawal" was filed on 14 December 2012.

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. 4-2011-001249 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 06 February 2013.


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