



JOLLIBEE FOODS CORPORATION,	}	IPC No. 14-2013-00225
Opposer,	}	Opposition to:
	}	
- versus -	}	Application Serial No. 4-2012-014340
	}	Date Filed: 23 November 2012
MICHAEL A. KHO,	}	Trademark: YUM-O
Respondent-Applicant.	}	
x-----x		Decision No. 2014 - <u>25</u>

**DECISION
BASED ON COMPROMISE AGREEMENT**

JOLLIBEE FOODS CORPORATION ("Opposer") filed an opposition to Trademark Application Serial No. 4-2012-014340. The application filed by MICHAEL A. KHO ("Respondent-Applicant") covers the mark YUM-O for use on goods under Class 30. The opposition is anchored on Sections 123.1 (d) of R.A. 8293 otherwise known as The Intellectual Property Code of the Philippines.

On 14 August 2013, the Respondent-Applicant filed its Answer refuting the material allegations of the Opposer.

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 11 October 2013 Order No. 2013-237 referring the case to mediation.

On 24 January 2014, 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 portion of which reads:

"NOW, THEREFORE, for and in consideration of the foregoing premises and mutual covenants contained in this Agreement,, the Parties hereby agree as follows:

"1. KHO recognizes and acknowledges JOLLIBEE's exclusive right, title and interest (including but not limited to the right to own and the right to register) in and to the YUM Trademarks and all associated logos, designs, symbols, emblems, insignia, slogans and signs, together with all of the goodwill associated therewith.

"2. KHO hereby agrees and undertakes the following:

2.1 He will withdraw his Trademark Application No. 4-2012-

014340 for YUM-O pending before the Bureau of Trademarks of the IPO;

2.2 He will never apply to register 'YUM', 'YUM-O', or any mark or logo that is identical or confusingly similar to the YUM Trademarks and all associated logos, designs, symbols, emblems, insignia, slogans and signs; and

2.3 He will never use 'YUM', 'YUM-O', or any mark or logo that is identical or confusingly similar to the YUM Trademarks and all associated logos, designs, symbols, emblems, insignia, slogans and signs.

"3. In consideration of KHO's foregoing undertakings, JOLLIBEE will no longer pursue IPC No. 14-2013-00225.

"4. KHO agrees that in the event of breach of any of the terms of this Agreement by him or by his relatives, associates, employees, agents, assignees, and/or successors-in-interests, he will pay JOLLIBEE, by way of liquidated damages, the sum of One Million Pesos (PHP1,000,000) per instance of breach, and fully indemnify JOLLIBEE and/or its franchisees and/or affiliates, for all legal fees and costs which may be incurred in acting against KHO and/or any or all of his relatives, associates, employees, agents, assignees, and/or successors-in-interest for such breach in relation thereto or in enforcing the terms hereof. Furthermore, JOLLIBEE shall be entitled to an immediate injunction from the courts to ensure compliance with the provisions of this Agreement without prejudice to other remedies available under the circumstances and to such other damages as may be proven.

"5. The Parties acknowledge that their respective signatories have full authority and/or have secured the necessary approvals to execute, and do execute, this Compromise Agreement on behalf of their principals and those acting under their principals' authority, and that the Parties have the authority to comply with the promises, obligations, undertakings and acknowledgments made in this Agreement. The Parties further acknowledge that they have executed this Agreement voluntarily with full knowledge of its consequences under the law.

"6. This Agreement shall be binding upon and inure to the benefit of the Parties, their affiliates, employees, agents, assignees, and/or successors-in-interest exclusively. The terms and conditions of this Agreement may be amended, waived or modified only by agreement in writing signed by the Parties or their respective assignees or successors-in-interest.

"7. The Parties hereby fully 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. 14-2013-00225.

"8. The Parties shall bear their respective costs and expenses incurred in the opposition case and in carrying out each of their respective undertakings and obligations required by this Agreement.

"9. The Parties undertake to observe the terms and conditions of this Agreement in utmost good faith.

"10. This Agreement shall be interpreted and construed exclusively under Philippine laws."

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

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. 4-2012-014340 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 28 January 2014.


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