



MAGNOLIA INCORPORATED,
Opposer,

-versus-

GOLD LABEL RESOURCES, INC.,
Respondent-Applicant.

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} **IPC No. 14-2011-00449**
} Opposition to:
} Appln. Serial No. 4-2010-009676
} Date filed: 03 September 2010
} **TM: "GOLD LABEL FAVORITO**
} **AND DEVICE"**

NOTICE OF DECISION

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ANG & ASSOCIATES

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GREETINGS:

Please be informed that Decision No. 2012 – 217 dated October 31, 2012 (copy enclosed) was promulgated in the above entitled case.

Taguig City, October 31, 2012.

For the Director:


Atty. PAUSI U. SAPAK
Hearing Officer



MAGNOLIA INCORPORATED,
Opposer,

IPC No. 14-2011-00449
Case Filed: 05 December 2011

-versus-

Opposition to:
Appln. No. : 4-2010-009676
Date Filed: 03 September 2010

GOLD LABEL RESOURCES, INC.,
Respondent-Applicant.

TM: "GOLD LABEL FAVORITO
AND DEVICE"

x-----x

Decision No. 2012- 217

**DECISION BASED ON
COMPROMISE AGREEMENT**

MAGNOLIA INCORPORATED, ("Opposer") filed on 05 December 2011 an opposition to Trademark Application Serial No. 4-2010-009676. The application filed by GOLD LABEL RESOURCES, INC. ("Respondent-Applicant") covers the mark "GOLD LABEL FAVORITO AND DEVICE" for use on goods under Class 30.

This Bureau issued a Notice to Answer dated 05 January 2012 and served upon a copy thereof to Respondent-Applicant on 13 January 2012. The Respondent-Applicant filed its Answer on 12 April 2012.

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 18 April 2012 Order No. 2012-92 referring the case to mediation.

On 16 October 2012 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;

1. The Parties mutually acknowledge and confirm that the use of their respective marks in connection with goods under Classes 30 and 29, i.e., MAGNOLIA's "GOLD LABEL" and "MAGNOLIA ICE CREAM GOLD LABEL DEVICE" marks ("GOLD LABEL Marks") [*vide Annexes "C", and "D"*] covered by Philippine Registration Nos. 4-2004-005579 and 4-2007-006303, respectively, and GLRI's mark "GOLD LABEL FAVORITO AND DEVICE" [*vide Annex "E"*] covered by Philippine Application 4-2010-009676, is likely to cause confusion among consumers on account of the visual and phonetic similarities between the said marks.

2. After seriously considering that protracted litigation is not beneficial to their respective interests, the Parties hereto have mutually decided to amicably settle, with finality, their trademark dispute subject of Inter Partes Case No. 14-2011-00449 entitled "*MAGNOLIA, INC. vs. GOLA LABEL RESOURCES INC.*" pending before the Bureau of Legal Affairs of the Intellectual Property Office, which involves GLRI's application for the registration of the mark "GOLD LABEL FAVORITO AND DEVICE", under the terms and conditions hereinafter set forth:

a. Upon execution of this Compromise Agreement, GLRI will immediately cease production or manufacture of the labels or packaging using "GOLD LABEL FAVORITO AND DEVICE" mark.

b. GLRI shall continue to use its existing packaging and labels bearing the "GOLD LABEL FAVORITO AND DEVICE" mark subject of the opposition for a period not longer than one (1) year after the date of this Compromise Agreement in accordance with the representations as submitted in its trademark application with the Intellectual Property Office, as illustrated in Annex "E", *for the sole purpose of disposing and selling off of all its actual existing stocks of packaging and labels bearing the "GOLD LABEL FAVORITO AND DEVICE" mark as of the date of this Compromise Agreement.* An inventory list of GLRI's actual existing stocks as of the date of this Compromise Agreement is attached hereto and made an integral part hereof as Annex "F".

c. At the end of the one-year period, GLRI will discontinue its use of the "GOLD LABEL FAVORITO AND DEVICE" mark.

d. GLRI will modify the appearance of its "GOLD LABEL FAVORITO AND DEVICE" mark as it is used in its packaging and labels bearing the mark by indicating the complete name of its company, "Gold Label Resources Inc." using the same font size and rendered in one line, in order to differentiate its products from the "GOLD LABEL" products manufactured and sourced from MAGNOLIA or from any of the San Miguel Corporation related companies. Attached hereto as Annex "G" is an image rendering of the modified mark and/or packaging label to be used by GLRI, which has been accepted by MAGNOLIA. The modified mark of GLRI shall be used upon expiration of the period mentioned in Paragraph 3 (b) above.

e. GLRI will continue its use of the modified "GOLD LABEL FAVORITO AND DEVICE" mark to the specific goods listed in its application namely, "noodles".

f. In the future, GLRI may only file applications for the registration of marks indicating the complete name of its company, "Gold Label Resources Inc." using the same font size and rendered in one line.

5. The Parties hereby agree that each shall shoulder their respective expenses and costs incurred in the Inter Partes Case No. 14-2011-00449, including, without limitation, all attorney's fees and costs.

6. The Parties mutually acknowledge and agree that this Compromise Agreement does not in any manner constitute an admission of liability or fault whatsoever by either Party and is made solely for the purpose of amicably settling the trademark dispute between the Parties.

7. This Compromise Agreement shall enter into force when the same has been executed by both Parties and shall continue in full force and effect until terminated by a subsequent agreement of the Parties.

8. This Compromise Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties, successors, assigns, and their respective affiliates, divisions, agents, parents, and those persons and/or entities over whom they exercise control or by whom they are controlled, and the respective successors and assigns of each Party.

9. The Parties mutually acknowledge that this Compromise Agreement, together with it attached Annexes "A", "B", "C", "D", "E", "F", and "G", contain the entire understanding of the Parties with respect to the subject matter hereof, and that there are no other agreements or understanding, written or oral, between the Parties with respect to its subject matter; nor have there been any representations, express or implied, as to the subject matter herein. This

Compromise Agreement may be amended, varied, or modified only by written document executed by the Parties.

10. In the event of a breach by any of the terms of this Compromise Agreement, the aggrieved party shall be entitled to an immediate injunction from the courts to ensure compliance with the provisions of this Compromise Agreement, and to other remedies available under the circumstances and provided by law, and to such damages as may be proven.

11. This Compromise Agreement shall be construed and enforced in accordance with the applicable laws of the Philippines.

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

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. 4-2010-009676 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 31 October 2012.


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



/joanne

¹ Office Order No. 154 Series of 2010