



MEDICHEM PHARMACEUTICALS, INC.,  
Opposer,

-versus-

WESCRIB COMPANY,  
Respondent-Applicant.

X-----X

} IPC No. 14-2011-00145  
} Opposition to:  
} Appln. Serial No. 4-2010-006163  
} Date Filed: 08 June 2010  
} TM: "CLOCEL"  
}  
}  
}  
}  
}

### NOTICE OF DECISION

**OCHAVE & ESCALONA**  
Counsel for the Opposer  
No. 66 United Street  
Mandaluyong City


**MARIA AURORA R. MANONGAS**  
**WESCRIB COMPANY**  
Respondent-Applicant  
Unit 114 SJB Condominium  
Panay Avenue, Quezon City

#### GREETINGS:

Please be informed that Decision No. 2013 - 137 dated July 19, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, July 19, 2013.

For the Director:

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



**MEDICHEM PHARMACEUTICALS, INC.,**  
Opposer,

IPC No. 14-2011-00145

-versus-

Opposition to:  
Serial No. 4-2010-006163  
Date Filed: 08 June 2010

**WESCRIB COMPANY,**  
Respondent-Applicant.

Trademark: "**CLOCEL**"  
Decision No. 2013- 137

x ----- x

### **DECISION BASED ON COMPROMISE AGREEMENT**

Medichem Pharmaceuticals, Inc.<sup>1</sup> ("Opposer") filed on 15 April 2011 an opposition to Trademark Application Serial No. 4-2010-006163. The contested application, filed by Wescrib Company<sup>2</sup> ("Respondent-Applicant"), covers the mark "CLOCEL" for use on "*pharmaceutical preparation –cefactor suspension and drops*" under Class 05 of the International Classification of Goods<sup>3</sup>.

This Bureau issued a Notice to Answer on 20 May 2011 and served a copy thereof to Respondent-Applicant. The Respondent-Applicant filed its Answer on 15 August 2011.

In compliance to Office Order No. 154, s. 2010 ("*Rules of Procedure of IPO Mediation Proceedings*") and Office Order No. 197, s. 2010 ("*Mechanics for IPO Mediation Settlement Period*"), this Bureau issued Order No. 2011-257 on 23 August 2011 referring the case to mediation. On 19 September 2011, the ADR Services of this Bureau issued a report that the parties are not willing to undergo mediation because of the mediation fee and agreed to terminate the proceedings.

On 14 June 2013, a Notice of Preliminary Conference was issued by the Hearing Officer setting the preliminary conference on 10 July 2013. On the date of the preliminary conference, however, the parties requested that the same be reset on 16 July 2013 for possible amicable settlement of the case. On the said date, the parties submitted a JOINT MOTION TO APPROVE COMPROMISE AGREEMENT, the pertinent portion of which reads as follows:

"1. Upon the execution of this Compromise Agreement, Respondent-Applicant WESCRIB undertakes to cause the withdrawal of its Trademark Application

<sup>1</sup> A corporation duly organized and existing under the laws of the Philippines, with office address at 108 Rada Street, Legaspi Village, Makati City, Philippines.

<sup>2</sup> Appears to be a domestic corporation with office address at Unit 114 SJB Condominium, Panay Avenue, Quezon City, Philippines.

<sup>3</sup> 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.

No. 4-2010-006163 for the mark 'CLOCEL' with the Bureau of Trademarks, Intellectual Property Office.

2. Opposer MEDICHEM hereby grants Respondent-Applicant WESCRIB the right to exhaust and sell its existing stocks of the products bearing the mark 'CLOCEL' until March 31, 2014. Thereafter, Respondent-Applicant WESCRIB undertakes to cause the withdrawal from the market any and all of its products bearing the mark 'CLOCEL', such as but not limited to Clocel Drops, Clocel 125mg Suspension, Clocel 250mg Suspension, including all materials, listings, brochures, labels, inserts, flyers, and other paraphernalia, whether in physical or electronic form bearing the mark 'CLOCEL'.

3. Respondent-Applicant WESCRIB hereby undertakes not to apply in the future the registration of the mark 'CLOCEL' for any goods with the Bureau of Trademarks, Intellectual Property Office.

4. Each party shall bear its own costs and expenses incurred in carrying out each of their respective undertakings and obligations required by this Agreement.

5. The terms and conditions of this Compromise Agreement entered into by Opposer MEDICHEM and Respondent-Applicant WESCRIB are not contrary to law, morals, good customs, public order and public policy."

This Bureau evaluated the Compromise Agreement and finds that the same has been duly entered 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 merits and shall be enforced accordingly in accordance with the pertinent rules of the IPO and the Rules of Court.<sup>4</sup>

**WHEREFORE**, premises considered, the instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2010-006163 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 19 July 2013.

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

<sup>4</sup> Office Order No. 154, series of 2010.