



MERCK KGaA,
Opposer,

-versus-

DIMENSION10 INC.,
Respondent-Applicant.

x-----x

} IPC No. 14-2011-00575
} Opposition to:
} Appln. Serial No. 4-2011-010278
} Date filed: 31 Aug. 2011
} TM: "AFFORDIMED"

NOTICE OF ORDER

OCHAVE & ESCALONA

Counsel for Opposer
66 United Street
Mandaluyong City

GALANG JORVINA MUNEZ & ASSOCIATES LAW OFFICES


Counsel for Respondent-Applicant
Unit 504 Centerpoint Condominium
Dona Julia Vargas Avenue corner Garnet Road
Ortigas Center, Pasig City

GREETINGS:

Please be informed that Order No. 2012 - 118 (D) dated July 23, 2012 (copy enclosed) was promulgated in the above entitled case.

Taguig City, July 23, 2012.

For the Director:


Atty. PAUSI U. SAPAK
Hearing Officer, BLA

Republic of the Philippines
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MERCK KGaA,	}	IPC No. 14-2011-00575
Opposer,	}	Opposition to:
	}	
- versus -	}	Appln. Serial No. 4-2011-010278
	}	Date Filed: 31 August 2011
DIMENSION10 INC.,	}	Trademark: AFFORDIMED
Respondent-Applicant.	}	
x-----x	}	Order No. 2012 - 118 (D)

ORDER

MERCK KGaA (Opposer)¹, filed on 27 February 2012 an opposition to Trademark Application Serial No. 4-2011-010278. The application filed by DIMENSION10 INC. (Respondent-Applicant)², which covers the mark "AFFORDIMED) used on essential drugs for cough, cold and analgesic under Class 5 of the International Classification of Goods and Services³.

The Opposer anchors its opposition on the ground that the Respondent-Applicant's mark so resembles the dominant component of its marks, hence registration is proscribed under Section 123.1 (d) of R. A. No. 8293, also known as the Intellectual Property Code of the Philippines.

This Bureau issued a Notice to Answer and served upon the Respondent-Applicant on 16 March 2012. However, the Respondent-Applicant did not file the required Answer. Hence, the instant case is considered submitted for Decision on the basis of the opposition and evidence submitted by the Opposer.


Records show that the Respondent-Applicant's application was the subject of an opposition case docketed as IPC No. 14-2011-00574. On 28 March 2012, this Bureau issued Order No. 2012-74(D) dismissing the said case because the Respondent-Applicant withdrew the trademark application on 27 February 2012.

With the withdrawal by the Respondent-Applicant of its trademark application, there is also no more legal or factual basis to proceed with the case.

WHEREFORE, premises considered, this case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2011-010278 be returned, together with a copy of this Order, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 23 July 2012.


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

cpb

- 1 A German Corporation with general partners with business address at Frankfurter Strasse 250, 64293 Darmstadt, Germany.
- 2 A Philippine Corporation with address at No. 80 e. Rodriguez Jr. Avenue, (C5) Bagumbayan, Libis, Quezon City.
- 3 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.

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