



MERCK KGaA,
Opposer,

-versus-

MSD CONSUMER CARE, INC.,
Respondent-Applicant.

X-----X

}
} **IPC No. 14-2012-00452**
} Opposition to:
} Appln. Serial No. 4-2012-005879
} Date filed: 16 May 2012
} **TM: "AFRIN"**
}
}
}

NOTICE OF DECISION

BUCOY POBLADOR & ASSOCIATES

Counsel for the Opposer
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Salcedo Village, Makati City

SANTOS PILAPIL & ASSOCIATES

Counsel for the Respondent-Applicant
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F. Ortigas, Jr. Road, Ortigas Center
Pasig City

GREETINGS:

Please be informed that Decision No. 2013 - 189 dated October 07, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, October 07, 2013.

For the Director:

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



MERCK KGaA,	}	IPC No. 14-2012-00452
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	}	Opposition to:
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x-----x		Decision No. 2013- 189

DECISION BASED ON COMPROMISE AGREEMENT

MERCK KGaA, ("Opposer") filed on 21 November 2012 an opposition to Trademark Application Serial No. 4-2012-005879. The application, filed by MSD CONSUMER CARE, INC., ("Respondent-Applicant"), covers the mark "AFRIN" for use on goods under International Class 05.

This Bureau issued a Notice to Answer dated 21 March 2013 and served upon a copy thereof to Respondent-Applicant on 25 March 2013. The Respondent-Applicant filed its Answer on 19 June 2013.

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 09 July 2013 Order No. 2013-065 referring the case to mediation.

On 24 September 2013, the ADR Services of this Bureau submitted a Mediation Report submitting a copy of the parties' Compromise Agreement. The pertinent portions of the COMPROMISE AGREEMENT reads, as follows:

"1. Respondent-Applicant hereby agrees to amend, as it hereby amends, the specification of goods covered by its Trademark Application No. 4-2012-005879 filed on 16 May 2012 for the mark " AFRIN" to read as follows:

"Nasal Preparations, Nasal Decongestants and Nasal Moisturizers"

"2. Opposer on the other hand undertakes not to use and/or apply for registration its "AFORDIN" trademark on "Nasal Preparations, Nasal Decongestants and Nasal Moisturizers".

1.3. In view of the foregoing, Opposer hereby agrees to withdraw, as it hereby withdraws with the consent and approval of the respondent-applicant, the instant opposition.


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 instant opposition case is hereby DISMISSED. Let the filewrapper of Trademark Application No. 4-2012-005879 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 07 October 2013.


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

/s/nj.PUS

¹ Office Order No. 154 Series of 2010.