



PEDIATRICA, INC.,
Opposer,

-versus-

NATRACARE, INC.,
Respondent-Applicant.

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}
} IPC No. 14-2012-00284
} Opposition to:
} Appln. Serial No. 4-2011-012720
} Date Filed: 21 October 2011
} TM: "KIDDIE MAX"

NOTICE OF DECISION

OCHAVE & ESCALONA
Counsel for the Opposer
66 United Street
Mandaluyong City

NATRACARE, INC.
Respondent-Applicant
Unit 300, 3rd Floor, Diamond Arcade
No. 873 Aurora Bvd. Cor. St. Mary Street
Cubao, Quezon City

GREETINGS:

Please be informed that Decision No. 2013 - 197 dated October 09, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, October 09, 2013.

For the Director:

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



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NATRACARE, INC.,
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IPC No. 14-2012-00284

Case Filed: 19 June 2012

Opposition to:

Appln. Serial No.: 4-2011-012720

Date Filed: 21 October 2011

TM: **KIDDIE MAX**

Decision No. 2013- 197

**DECISION BASED ON
COMPROMISE AGREEMENT**

PEDIATRICA, INC., ("Opposer") filed on 19 June 2013 an opposition to Trademark Application Serial No. 4-2011-012720. The application filed by **NATRACARE, INC.**, ("Respondent-Applicant") covers the mark "**KIDDIE MAX**" for use on goods under Class 05.

This Bureau issued a Notice to Answer dated 06 July 2012 and served a copy thereof upon the Respondent-Applicant on 21 March 2013. The Respondent-Applicant filed his Answer on 06 May 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 and Settlement Period*"), this Bureau issued on 13 June 2013 Order No. 2013-138 referring the case to mediation.

On 24 September 2013, this Bureau received a "MEDIATOR'S REPORT" indicating the successful mediation of the instant case. Attached to the report is the parties' "COMPROMISE AGREEMENT" submitted to this Bureau for approval. The Agreement states, among other things:

"NOW, THEREFORE, for and in consideration of the Parties' respective concessions herein below enumerated, by way of a compromise, the Parties mutually agree as follows:

"1. Upon the execution of this Agreement, NATRACARE undertakes to amend its Trademark Application No. 4-2011-012720 with the Bureau of Trademarks and limit the use of the mark "KIDDIE MAX" to the following goods under Class 05 of the International Classification of Goods:

Class 05 – Food supplements containing multivitamins.

"2. NATRACARE undertakes to use the mark "KIDDIEMAX" specifically only for the above-described goods under Class 05 of the International Classification of Goods. NATRACARE shall not apply in the future the registration of the mark "KIDDIEMAX" for any other class and goods other than those above-described.

"3. NATRACARE further undertakes the following:

- 3.1 It will not make its good bearing the mark "KIDDIEMAX" available in all drugstores.
- 3.2 It will limit its trade channel where it will sell its goods bearing the mark "KIDDIEMAX" to direct selling and on-line shopping.
- 3.3 It will not advertise its goods bearing the mark "KIDDIEMAX" in television and radio, and
- 3.4 It will limit its advertisements of the goods bearing the mark "KIDDIEMAX" only to advertorials, on-line shopping websites, and social media.

"4. In consideration of the foregoing undertakings, PEDIATRICA agrees to withdraw its opposition to NATRACARE's Trademark Application No. 4-2011-012720 for the mark "KIDDIEMAX" and consent to the registration of the same subject to the faithful compliance of the said undertakings.

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

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

"7. This Agreement shall apply to and be binding upon the Parties' related or associated companies, including the Parties' subsidiaries or affiliates.

Further, the Parties also undertake to impose the obligations under this Agreement upon any of their legal successors or assigns.



"8. The terms and conditions of this Compromise Agreement entered into by the Parties are not contrary to law, morals, good customs, public order or public policy.

This Bureau finds that the Compromise Agreement has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good custom, public order or public policy.

In this regard, 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 instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2011-12720 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 09 October 2013.


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