



PEDIATRICA INC.,
Opposer,

-versus-

RECKITT BENKISER LLC.,
Respondent-Applicant.

X-----X

} IPC No. 14-2012-00112
} Opposition to:
} Appln. Serial No. 4-2011-501633
} Date filed: 28 October 2011
} TM: "MUCINEX"
}
}
}
}

NOTICE OF DECISION

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


ORTEGA BACORRO ODULIO CALMA & CARBONELL
Counsel for the Respondent-Applicant
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140 L.P. Leviste Street, Salcedo Village
Makati City

GREETINGS:

Please be informed that Decision No. 2013 - 116 dated June 21, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, June 21, 2013.

For the Director:


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



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| PEDIATRICA, INC., | } | IPC No. 14-2012-00112 |
| <i>Opposer,</i> | } | Opposition to: |
| | } | |
| - versus - | } | Appln. No. 4-2011-501633 |
| | } | Date Filed: 28 October 2011 |
| RECKITT BENKISER LLC., | } | Trademark: MUCINEX |
| <i>Respondent-Applicant.</i> | } | |
| x-----x | | Decision No. 2013- <u>116</u> |

DECISION BASED ON COMPROMISE AGREEMENT

PEDIATRICA, INC. ("Opposer"), filed on 07 March 2012 an opposition to Trademark Application Serial No. 4-2011-501633. The application filed by RECKITT BENKISER LLC ("Respondent-Applicant") covers the mark MUCINEX for use on goods under Class 05. The opposition is anchored on Section 123 of Republic Act No. 8293, otherwise known as The Intellectual Property Code of the Philippines.

This Bureau issued a Notice to Answer and served upon a copy thereof to Respondent-Applicant on 26 March 2012. The Respondent-Applicant filed its Answer on 25 June 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 15 January 2013 Order No. 2013-007 referring the case to mediation.

On 21 June 2013, 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' SETTLEMENT AGREEMENT, the pertinent portions of which read, as follows:

"THUS, THE PARTIES HEREBY AGREE AS FOLLOWS:

"Section 1. *Pediatrica, Inc., its heirs, assigns, representatives or any person acting under its authority, undertakes:*

"a) To withdraw its opposition against Philippine Trademark Application No. 4-2011-501633 for MUCINEX, covering goods under class 5, namely: "*Pharmaceutical preparations and substances; cough and cold preparations; preparations for the treatment of respiratory and pulmonary conditions; expectorants; decongestants*";

"b) Not to challenge any registration, application or use of the mark MUCINEX for the above goods in the Philippines in the future.

"Section 2. In consideration of Section 1 hereof, Reckitt Benckiser LLC, its heirs, assigns, representatives or any person acting under its authority, undertakes:

a) Not to seek the cancellation of Pediatrica's Philippine Trademark Registration No. 020428 for MUCOLEX covering goods under class 5, namely: *mucolectic-expectorant syrup specially formulated for infants and children*";

b) Not to challenge any registration, application or use of the mark MUCOLEX for the above goods in the Philippines in the future;

c) To limit the use of its mark MUCINEX under class 5, specifically: *"Pharmaceutical preparations and substances; cough and cold preparations; preparations for the treatment of respiratory and pulmonary conditions; expectorants; decongestants"*;

"Section 3. Each party undertakes to use its best endeavours to distinguish the packaging of its product from that of the other party's product and not to use packaging for its product which is confusingly similar to that of the other party's product.

"Section 4. Both parties shall jointly move for the dismissal of this Agreement and the dismissal of IPC No. 14-2012-00112.

"Section 5. Each party shall bear their own costs and expenses, including attorney's fees, incurred in connection with the instant opposition.

"Section 6. This Agreement shall take effect immediately upon execution by both parties.

"Section 7. This Agreement, which is limited within the Philippines, shall bind both parties and their respective representatives, heirs, assigns and successors-in-interest.

"Section 8. The parties can make amendments and supplements to this Agreement in writing, which must be signed by the parties or their respective authorized representatives.

"Section 9. Further, this Compromise Agreement shall constitute the entire agreement between the parties, and supersedes all prior communications and understanding relating to the subject matter, whether oral or written."

This Bureau evaluated the SETTLEMENT 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

¹ Office Order No. 154 Series of 2010.

WHEREFORE, premises considered, the parties' Settlement Agreement is hereby APPROVED. Accordingly, the instant opposition case is hereby DISMISSED. Let the filewrapper of Trademark Application Serial No. 4-2011-501633 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 21 June 2013.



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

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