



SAMMONTANA S. p. A.,
Opposer,

-versus-

MICHAEL A. KHO,
Respondent –Applicant.

X-----X

} **IPC No. 14-2013-00291**
}
} Opposition to:
} Appln. Serial No. 4-2012-014334
} Date Filed: 23 November 2012
} **TM: "TRES MARIAS"**

NOTICE OF DECISION

**CARAG JAMORA SOMERA & VILLAREAL
LAW OFFICES**

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Makati City

MICHAEL A. KHO

Respondent-Applicant
949 Llano Road, Brgy. Llano
Caloocan City

GREETINGS:

Please be informed that Decision No. 2014 - 55 dated February 24, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, February 24, 2014.

For the Director:


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



SAMMONTANA S. p. A.,	}	IPC No. 14-2013-00291
Opposer,	}	Opposition to:
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- versus -	}	Application Serial No. 4-2012-014334
	}	Date Filed: 23 November 2012
MICHAEL A. KHO,	}	Trademark: TRES MARIAS
Respondent-Applicant.	}	
x-----x		Decision No. 2014 - <u>55</u>

**DECISION
BASED ON COMPROMISE AGREEMENT**

SAMMONTANA S. p. A. ("Opposer") filed an opposition to Trademark Application Serial No. 4-2012-014334. The application filed by **MICHAEL A. KHO** ("Respondent-Applicant") covers the mark **TRES MARIAS** for use on goods under Class 30. The opposition is anchored on Sections 123.1 (d) and (e) of R.A. 8293 otherwise known as The Intellectual Property Code of the Philippines.

On 11 November 2013, the Respondent-Applicant filed its Answer refuting the material allegations of the Opposer.

In compliance to Office Order No. 154, s. 2012 (*"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 26 November 2013 Order No. 2013-253 referring the case to mediation.

On 04 February 2014, the ADR Services of this Bureau submitted a Mediation Report indicating a settlement by the parties. Attached to the report is the parties' COMPROMISE AGREEMENT, the pertinent portion of which reads:

"NOW THEREFORE IN CONSIDERATION WITH THE FOREGOING RECITALS WHICH ARE AN INTEGRAL PART OF THE PRESENT AGREEMENT THE PARTIES AGREE AS FOLLOWS:

"1. The Respondent states that he does not own any trademark and/or trademark application including the wording 'TRE MARIE' with the exception of the Opposed Application.

"2. The Respondent undertakes to file a signed and notarized Voluntary Abandonment of Application of the Opposed Mark at the Bureau of Trademarks of the IPOPHL ('BOT-IPOPHIL') within ten (10) business days as

from the submission of the present Agreement. The Respondent undertakes to send copies of the IPOPHL's notations of receipt and of the payment of the IPOPHL's official fee to the BLA, to the IPOPHL's Mediation Office, as well as to the CJSV Law Offices within ten (10) business days as from the execution of the present Agreement.

"3. Upon receiving copy of the Respondent's submission of the Voluntary Abandonment of the Application of the Opposed Mark to the IPOPHL, the Opposer will no longer pursue its Opposition.

"4. The Respondent undertakes not to use, register, or allow third Parties to use or register any sign that is likely to be confused with the Opposer's TRE MARIE Marks.

"5. The Respondent undertakes not to file any opposition and/or cancellation actions against the Opposer's TRE MARIE mark as well as not to interfere with the Opposer's use and/or registration of these marks.

"6. The Respondent undertakes to refrain from any act of unfair competition against the Opposer and/or from carrying out any act that could create a likelihood of confusion and/or association between its products or services and the Opposer's ones.

"7. The Parties agree to bear their own costs in connection with this Agreement.

"8. The present Agreement is the only existing agreement between the Parties, there being no other oral or written terms hereof. Any amendment to this Agreement shall be valid and binding only if made in writing and signed by the Parties. No waiver of any breach of this Agreement shall be construed as a continuing waiver or consent to any subsequent breach thereof. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforceability of the other provisions.

"9. This Agreement shall inure to the benefit of and shall be binding upon the Parties, their respective agents, representatives, servants, employees, licensees, franchisees, attorneys, successors and assigns and all entities operated and/or controlled by any of them or in active concert or participation with any of them; as well as the Opponent's officers/ directors/ shareholders/ partners/ members/ parent companies/ subsidiaries, related and affiliated companies.

"10. The present agreement is governed by Philippine Law.

"11. Any and all disputes arising under or by virtue of the present

Agreement shall be decided by the Court of Manila.

“12. The undersigned individuals hereby warrant and represent that they have full authority to execute this Agreement on their own behalf and/or in the name and on behalf of the Party that they represent.”

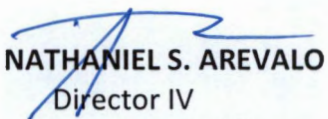
This Bureau evaluated the COMPROMISE AGREEMENT and finds that the same has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good customs, public order or public policy.

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 (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. 4-2012-014334 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 24 February 2014.


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

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