



THERAPHARMA, INC.,  
Opposer,

-versus-

NOVARTIS AG,  
Respondent-Applicant.

X-----X

} IPC No. 14-2010-00324  
}  
} Opposition to:  
} Appln. Serial No. 4-2010-007575  
} Date filed: 12 July 2010  
} TM: "CHOLEPRAV"  
}  
}  
}  
}  
}

**NOTICE OF DECISION**

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

**E.B. ASTUDILLO AND ASSOCIATES**  
Counsel for the Respondent-Applicant  
10<sup>th</sup> Floor, Citibank Center  
8741 Paseo de Roxas  
Makati City

**GREETINGS:**

Please be informed that Decision No. 2012 – 210 dated October 23, 2012 ( copy enclosed) was promulgated in the above entitled case.

Taguig City, October 23, 2012.

For the Director:

**CERTIFIED TRUE COPY**

*Marilyn F. Retutal*

MARILYN F. RETUTAL

IPRS IV, Bureau of Legal Affairs, IP Phils.

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



Therapharma, Inc.,  
*Opposer,*

IPC No. 14-2010-00324  
Case Filed: 22 December 2010

-versus-

Opposition to:  
Appl. Serial No. : 4-2010-007575  
Date Filed: 12 July 2010

Novartis AG,  
*Respondent.*

TM: "CHOLEPRAV"

x-----x

Decision No. 2012- 210

DECISION BASED ON  
COMPROMISE AGREEMENT

Therapharma, Inc., ("Opposer") filed on 22 December 2010 an opposition to Trademark Application Serial No. 4-2010-007575. The application filed by Novartis AG, ("Respondent-Applicant") covers the mark "CHOLEPRAV" for use on goods under Class 05.

This Bureau issued a Notice to Answer dated 31 January 2011 and served a copy thereof upon the Respondent-Applicant on 04 February 2011. The Respondent-Applicant filed his Answer on 20 May 2011.

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 25 May 2011 Order No. 2011-182 referring the case to mediation.

On 05 December 2011, 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:

1. The Parties recognize and acknowledge each other's right to use, apply for, register and maintain their trademarks "CHOLINERV" and "CHOLEPRAV" in connection with their respective goods as so stipulated in this Agreement.
2. NOVARTIS hereby undertakes that:
  - a) The use of its trademark "CHOLEPRAV" in relation to the goods "*pharmaceutical preparations, namely lipid reducers*" under Class 5 as depicted in its Trademark Application No. 4-2010-007575 shall be limited to "pravastatin" only.
  - b) NOVARTIS shall not seek the cancellation of THERAPHARMA's existing registration for the trademark "CHOLINERV".

- c) NOVARTIS shall pay THERAPHARMA the amount of Twelve Thousand Three Hundred Twenty-Two Pesos (Php 12,322.00) as reimbursement of the filing fee.

3. THERAPHARMA, on the other hand, agrees:

- a) to allow the registration of the trademark CHOLEPRAV for “*pharmaceutical preparations, namely lipid reducers*”, provided that use of the trademark will be limited to “pravastation” only;

4. This Compromise Agreement shall be limited to the territory of the Philippines and shall bind the Parties, their assignees or successors-in-interest exclusively.

5. The Parties hereby release, waive and quitclaim any and all claims or causes of action against each other related to or involved in any of the matters alleged in IPC No. 14-2010-00324.

6. The Parties undertake to observe the terms and conditions of this Agreement in utmost good faith.

7. Each Party shall bear its respective expenses incurred in this case, except as provided in paragraph 2( c ) of this Agreement.

8. This Agreement shall become effective and enforceable immediately upon approval by this Honorable Office of a duly signed copy thereof.

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.<sup>1</sup>

**WHEREFORE**, premises considered, the parties' COMPROMISE AGREEMENT is hereby **APPROVED**. Accordingly, the Compromise Agreement having the force and effect of a decision or judgment, the parties are hereby enjoined to comply with the terms and conditions set forth therein. Let the filewrapper of Trademark Application Serial No. 4-2010-007575 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 23 October 2012

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

<sup>1</sup> Sec. 5, Office Order No. 154 Series of 2010