



TRINITY MARKETING, INC.,
Petitioner,

-versus-

SCHWAN-STABILO SCHWANHAUBER
GMBH & CO, KG.,
Respondent – Registrant.

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IPC No. 14-2012-00572
Cancellation of:
Regn. No. 4-2007-003437
Date Issued: 10 December 2007
TM: "EXAM GRADE"

X-----X

NOTICE OF DECISION

SIOSON SIOSON & ASSOCIATES
Counsel for the Petitioner
Unit 903 AIC-BURGUNDY EMPIRE TOWER
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Ortigas Center, Pasig City

BARANDA & ASSOCIATES
Counsel for Respondent-Registrant
Suite 1002-B Fort Legend Towers
3rd Avenue corner 31st Street
Bonifacio Global City, 1634 Taguig City

GREETINGS:

Please be informed that Decision No. 2014 - 27 dated February 05, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, February 05, 2014.

For the Director:

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



TRINITY MARKETING, INC.,	}	IPC No. 14-2012-00572
<i>Petitioner,</i>	}	Cancellation of:
	}	Regn. No. 4-2007-003437
- versus -	}	Date Issued: 10 December 2007
	}	TM: EXAM GRADE
SCHWAN-STABILO SCHWANHAUBER	}	
GMBH & CO, KG.,	}	
<i>Respondent-Registrant.</i>	}	
x-----x		Decision No. 2014- 27

**DECISION BASED ON
COMPROMISE AGREEMENT**

TRINITY MARKETING, INC. ("Petitioner"), filed on 07 December 2012 a petition for cancellation of Trademark Registration No. 4-2007-003437. The registration issued on 10 December 2007 in favor of SCHWAN-STABILO SCHWANHAUBER GMBH & CO, KG. ("Respondent-Registrant") covers the mark **EXAM GRADE** for use on goods under Class 16.

This Bureau issued a Notice to Answer and served a copy thereof to Respondent-Registrant on 12 March 2013. The Respondent-Registrant filed its Answer on 10 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 25 July 2013 Order No. 2013-176 referring the case to mediation.

On 03 February 2014, 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:

NOW, THEREFORE, the Parties have agreed, by way of amicable settlement, as follows:

"1. Petitioner recognizes the issuance and validity of respondent's Registration No. 4-2007-003437 for the mark "EXAM GRADE" issued on December 10, 2007, and Registration No. 4-2007-003442 for the mark "EXAM GRADE & DEVICE" issued on February 11, 2008;

"2. Accordingly, petitioner hereby agrees to withdraw, as it hereby withdraws, its Petition for Cancellation of Registration No. 4-2007-003437 docketed as Inter Partes Case No. 14-2012-00572 and its Petition for Cancellation of Registration No. 4-2007-003442 docketed as Inter Partes Case No. 14-2012-00573;

"3. In turn, respondent hereby agrees to allow petitioner TRINITY MARKETING, INC., as well as its importer GTK Trading, to continue the sale of its existing inventory of FULEJIA EXAM GRADE PENCIL SHARPENERS, all of which were imported in mid 2007 by GTK Trading. Petitioner will provide respondent with a Certification as soon as its inventory has been completely disposed off but not later than 30 June 2014.

"4. The parties will take care of their respective expenses for attorney's fees and other miscellaneous expenses.

"5. The parties agree to comply strictly with the foregoing terms and conditions."


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 cancellation case is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2011-004005 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 05 February 2014.


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

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¹ Office Order No. 154 Series of 2010.