



WESTMONT PHARMACEUTICALS INC.,
Opposer,

-versus-

AMBICA INTERNATIONAL TRADING CORP.,
Respondent- Applicant.

x-----x

}
} IPC No. 14-2012-00482
} Opposition to:
} Appln. Serial No. 4-2012-008361
} Date filed: 10 July 2012
} TM: "HYLOS"

NOTICE OF DECISION

OCHAVE & ESCALONA

Counsel for the Opposer
No. 66 United Street
Mandaluyong City

ATTY. GENER C. SANSAET


Counsel for the Respondent-Applicant
West Tower 2005-A, PSE Centre
Exchange Road, Ortigas Center
Pasig City

GREETINGS:

Please be informed that Decision No. 2013 - 236 dated December 10, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, December 10, 2013.

For the Director:


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



WESTMONT PHARMACEUTICALS INC.,	} IPC No. 14-2012-00482
<i>Opposer,</i>	}
	}
- <i>versus</i> -	}
	}
AMBICA INTERNATIONAL TRADING	} Opposition to:
CORPORATION,	} Appln. No. : 4-2012-008361
	} Date Filed: 10 July 2012
<i>Respondent-Applicant.</i>	} TM: HYLOS
x-----x	} Decision No. 2013- 236

DECISION BASED ON COMPROMISE AGREEMENT

WESTMONT PHARMACEUTICALS INC., ("Opposer") filed on 24 October 2012 an opposition to Trademark Application Serial No. 4-2012-008361. The application, filed by AMBICA INTERNATIONAL TRADING CORPORATION, ("Respondent-Applicant"), covers the mark "HYLOS" for use on goods under International Class 05.

This Bureau issued a Notice to Answer dated 19 November 2012 and served a copy thereof to Respondent-Applicant on 23 November 2012. The Respondent-Applicant filed its Answer on 13 March 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 04 April 2013 Order No. 2013-84 referring the case to mediation.

On 04 December 2013, 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, 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, AMBICA hereby undertakes to cause the withdrawal of its Trademark Application Serial No. 4-2012-008361 for the mark "HYLOS" with the Bureau of Trademarks, Intellectual Property Office (IPO). Further, AMBICA hereby undertakes not to apply in the future the registration of the mark "HYLOS" for any class and goods with the Bureau of Trademarks, IPO.

"2. WESTMONT hereby grants AMBICA the right to exhaust and sell its existing stocks of the products bearing the mark "HYLOS" until May 31, 2014.

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Thereafter, AMBICA hereby undertakes to cause the withdrawal from the market any and all of its products bearing the mark "HYLOS", including all materials, listings, brochures, labels, flyers, and other paraphernalia, whether in physical or electronic form, bearing the mark "HYLOS. At the end of the above mentioned period, AMBICA hereby undertakes to inform WESTMONT in writing of the fact that it is no longer selling products bearing the mark "HYLOS".

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

"4. 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 undertakings, obligations 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.

"5. 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 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 opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2012-008361 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 10 December 2013.


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

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¹ Office Order No. 154 Series of 2010.