



ZUFFA LLC,
Opposer,

-versus-

UNIVERSAL FOOD PUBLIC
COMPANY LIMITED,
Respondent-Applicant.

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}
} IPC No. 14-2011-00506
} Opposition to:
} Appln. Serial No. 4-2010-001122
} Date Filed: 02 February 2010
} TM: "UFC & DEVICE"
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NOTICE OF DECISION

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Pasig City

GREETINGS:

Please be informed that Decision No. 2013 - 138 dated July 18, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, July 18, 2013.

For the Director:

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



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TM: **UFC & DEVICE**

Decision No. 2013- 138

**DECISION BASED ON
COMPROMISE AGREEMENT**

ZUFFA LLC, ("Opposer") filed on 02 January 2012 an opposition to Trademark Application Serial No. 4-2010-001122. The application filed by **UNIVERSAL FOOD PUBLIC COMPANY LIMITED** ("Respondent-Applicant") covers the mark "**UFC & DEVICE**" for use on goods under Class 32.

This Bureau issued a Notice to Answer dated 11 January 2012 and served a copy thereof upon the Respondent-Applicant on 12 January 2012. The Respondent-Applicant filed his Answer on 10 April 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 and Settlement Period*"), this Bureau issued on 19 January 2012 Order No. 2012-90 referring the case to mediation.

On 28 June 2013, this Bureau received a "MEDIATOR'S REPORT" indicating the successful mediation of the instant case. Attached to the report is the parties' "GLOBAL CONSENT AGREEMENT" submitted to this Bureau for approval. The Agreement states, among other things:

"1. Subject to the provisions of this Agreement, Zuffa, LLC will allow Universal Food to use or register the mark UFC, alone or with other words and without being restricted as to a particular stylized form or design so long as : (a) such wording, stylization and/or designed and (b) such use will NOT be in relation to (i) "*energy sports drinks*" (ii) *any combat sports related events, activities, goods or services including, but not limited to, Mixed Martial Arts (MMA), fitness centers, training facilities, gyms and other similarly related events, activities, goods or services,* or (iii) *any gaming related events, activities, goods or services.*

"2. Universal Food agrees not to use the mark UFC, alone or with other words in connection with sponsoring, endorsing or advertising in any manner whatsoever (i) any combat sports related events, activities,

goods or services including, but not limited to, Mixed Martial Arts (MMA), fitness centers, training facilities, gyms and other similarly related events, activities, goods or services or (ii) any gaming related events, activities, goods or services, provided that the retail sale and/or distribution of any of Universal Food's UFC products in such fitness centers, training facilities, gyms and other similar gaming venues shall not be considered as a violation of this Agreement.

"3. Universal Food agrees to restrict the identification of goods of UFC under Application No. 4-2010-001122 to read "fruit juices **excluding** energy sports drinks", and Zuffa consents to this amendment.

"4. Upon approval of the amendment referenced in paragraph 3 above by the Bureau of Legal Affairs, Intellectual Property Philippines, Zuffa agrees to withdraw with prejudice IPC No. 14-2011-00506 and Universal Food consents to this withdrawal.

"5. Universal Food undertakes not to use and/or register UFC for "energy sports drink" in International Class 32.

"6. Except for "energy sports drinks" even if they may contain or include fruit juices or fruit flavor, Zuffa undertakes not to use and/or register UFC for "fruit juices" in International Class 32.

"7. It is understood that this Agreement will be submitted to the Bureau of Legal Affairs, Intellectual Property Philippines for confirmation and approval.

"8. Each Party shall make reasonable efforts to avoid any conclusion between the Parties' respective marks. In the event that any instances of confusion arise among consumers as the result of the Parties' uses of the Parties' respective marks, the Parties shall make reasonable efforts, with each Party bearing their own fees and costs, to cooperate with each other to avoid and reduce further confusion.

"9. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter set forth herein. No prior or contemporaneous representations, inducements, promises, or agreements, oral or otherwise, between the Parties with reference to the subject matter of this Agreement will be of any force or effect. Any amendment or modification of this Agreement must be in writing and signed by the duly authorized representatives of both Parties. Should any modifications to this Agreement be necessary to secure the registration of the application and/or withdrawal of the Opposition, the parties shall promptly undertake such written modifications.

"10. This Agreement is valid and binding worldwide and is applicable to the parties' current and future trademark applications and registrations in

other countries or jurisdictions respecting Universal foods "fruit juices" (which Universal Foods agrees to amend all such applications and registrations to "fruit juices excluding energy sports drinks"), and Zuffa's "energy sports drinks" in International Class 32.

"11. If necessary, the parties shall undertake to execute a similar Agreement and/or a supplemental Agreement to the above goods with respect to other countries' and/or jurisdictions' trademark registries for confirmation and approval purposes. To that end, the Parties shall make reasonable efforts, with each Party bearing their own fees and costs, to cooperate with each other in preparing and submitting any documentation required by the Bureau of Legal Affairs, Intellectual Property Philippines or equivalent domestic or foreign governmental authority or agency and/or courts in each applicable country or territory, to register and maintain the Parties' respective marks and otherwise effectuate the purposes of this Agreement and to overcome any refusal or objection issued against either Party's applications or registrations, when reasonably requested by the other Party.

"12. This Agreement shall remain in full force and effect for as long as the marks herein mentioned are valid and subsisting on the trademark register of the Bureau of Trademarks, Intellectual Property Philippines, the trademark registries of other countries and/or territories where this Agreement finds application.

"13. This Agreement shall be governed by the laws and regulations of the subject country and/or territory where it has application and/or submitted for confirmation or approval.

"14. The terms and conditions contained in this Agreement shall be binding upon, and inure to the benefit of the parties and their respective successors and assigns. Each Party may assign the rights in and to their respective marks, including, without limitation, any corresponding applications or registrations, to an assignee that agrees in a signed writing to be bound by and comply with all of the terms, conditions and provisions of the Agreement.

"15. The parties represent that they have the right, power and authority to enter into and perform their respective obligations in accordance with this Agreement and no approvals of any third party are required.

"16. If any provision of this Agreement is held to be void or unenforceable, in whole or in part, by a court or tribunal with jurisdiction over this Agreement of the Parties, then such provision shall be reformed by such court or tribunal in such a manner to make the provision enforceable and as near the manifest intent of the Parties as possible and

the validity and enforceability of all other provisions of this Agreement shall be unaffected.

This Bureau finds that the Global Consent Agreement has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good custom, public order or public policy.

In this regard, an approved Global Consent 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 GLOBAL CONSENT AGREEMENT is hereby **APPROVED**. Accordingly, with the approved GLOBAL CONSENT AGREEMENT having the force and effect of a decision or judgment, the parties are enjoined to faithfully comply with the terms set forth therein.

SO ORDERED.

Taguig City, 18 July 2013.


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