



UNITED AMERICAN PHARMACEUTICALS INC., }  
Opposer, }  
 }  
-versus- }  
 }  
DIAMOND LABORATORIES, INC., }  
Respondent - Applicant. }

IPC No. 14-2014-00006  
Opposition to:  
Appln. Serial No. 4-2013-008206  
Date filed: 12 July 2013  
TM: "COTRIMOXAZOLE COTRIX"

X-----X

### NOTICE OF DECISION

#### OCHAVE & ESCALONA

Counsel for Opposer  
No. 66 United Street  
Mandaluyong City

#### REYES ROJAS & ASSOCIATES


Counsel for Respondent-Applicant  
Unit 1502 Jollibee Plaza Building  
F. Ortigas Jr. Road, Ortigas Center  
Pasig City

#### GREETINGS:

Please be informed that Decision No. 2014 - 269 dated October 27, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, October 27, 2014.

For the Director:

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



<b>UNITED AMERICAN PHARMACEUTICALS INC.,</b>	}	<b>IPC NO. 14-2014-00006</b>
Opposer,	}	
	}	Opposition to:
- versus -	}	Application Serial No. 4-2013-008206
	}	Date Filed: 12 July 2013
<b>DIAMOND LABORATORIES, INC.,</b>	}	Trademark: <b>COTRIMOXAZOLE COTRIX</b>
Respondent-Applicant.	}	
X-----X		Decision No. 2014 - <u>269</u>

**DECISION  
BASED ON COMPROMISE AGREEMENT**

UNITED AMERICAN PHARMACEUTICALS INC., ("Opposer") filed an opposition to Trademark Application Serial No. 4-2013-008206. The application filed by DIAMOND LABORATORIES, INC. ("Respondent-Applicant") covers the mark **COTRIMOXAZOLE COTRIX** for use on goods under Class 05. The opposition is anchored on Section 123.1 (d) of R.A. 8293 also known as the Intellectual Property Code of the Philippines ("IP Code").

This Bureau issued a Notice to Answer and served a copy thereof to Respondent-Applicant on 20 January 2014. The Respondent-Applicant filed its Answer on 06 March 2014.

Pursuant 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 23 June 2014 Order No. 2014-100 referring the case to mediation.

On 08 October 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 portions of which read:

"NOW THEREFORE, for and in consideration of the premises and mutual covenants herein set forth, the Parties state and agree as follows:

"1. DIAMOND undertakes to:

a. limit its use of the trademark 'COTRIMOXAZOLE COTRIX' to the following goods under Class 05 of the International Classification of Goods:

'CLASS 5: PHARMACEUTICAL PREPARATION CONTAINING  
COTRIMOXAZOLE'

b. not apply in the future for the registration of the mark 'COTRIMOXAZOLE COTRIX' for any other class and goods other than those described above;

c. not put any restraint on UAP's use of the trademark 'OTIX'; and

d. not commence any opposition or cancellation action against any trademark application or registration which UAP has filed, may decide to file, or has obtained for the trademark 'OTIX'.

"2. In consideration of the foregoing undertakings and subject to the faithful compliance by DIAMOND of its undertakings set forth above, the parties agree to submit this Agreement to the mediator assigned to the Pending Case for the approval by the Bureau of Legal Affairs of the IPOPhl immediately upon the execution of this Agreement.

"3. Each Party shall bear its own costs and expenses incurred in carrying out each of their respective undertakings and obligations required in 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. This Agreement shall bind and inure to the benefit of each Party and its directors, officers, employees, parent corporations, subsidiaries, affiliates, predecessors, successors, licensees, agents and assigns. Further, the Parties also undertake to impose the undertaking, obligations and requirements under this Agreement upon any of their legal successors or assigns.

"6. The terms and conditions of this Agreement entered into by the Parties are not contrary to law, morals, good customs, public order or public policy.

"7. In the event of breach of any of the terms and conditions of this Agreement, the non-breaching Party shall be entitled to recover its reasonable attorney's fees in addition to any other remedies it may have at law or in equity.

"8. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable laws, but if any provision of this Agreement should be held invalid or enforceable under applicable laws, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

"9. The rights and remedies of the Parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any Party in exercising any right, power, or privilege under this Agreement shall operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege shall preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power or privilege.

"10. This Agreement is the entire agreement between the Parties and constitutes the complete, final and exclusive embodiment of their agreement with respect to the subject matter hereof. This Agreement may not be amended except by written agreement executed by both Parties.

"11. The Parties acknowledge that they have read and understood the contents of this Agreement and that they have signed the same willingly, voluntarily and with full knowledge of their rights and obligations.

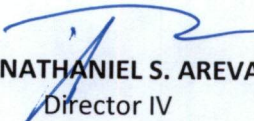
This Bureau evaluated the Compromise Agreement and finds that the same has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good customs, public order or public policy.

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' Joint Motion for Judgment Based on Compromise Agreement is hereby **APPROVED**. Accordingly, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2013-008206 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 27 October 2014.

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

---

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