



PEDIATRICA, INC.,  
Opposer,

-versus-

GLAXO GROUP LIMITED,  
Respondent-Applicant.

}  
} IPC No. 14-2014-00180  
} Opposition to:  
} Appln No. 4-2013-00007030  
} Date filed: 17 June 2013  
} **TM: RELENZA**

X-----X

### NOTICE OF DECISION

**OCHAVE & ESCALONA**  
Counsel for the Opposer  
No. 66 United Street  
Mandaluyong City

**ORTEGA BACCORO ODULIO CALMA & CARBONELL**  
Counsel for Respondent-Applicant  
5<sup>th</sup> & 6<sup>th</sup> Floors ALPAP I Building  
140 L.P. Leviste Street, Salcedo Village  
Makati City

#### GREETINGS:

Please be informed that Decision No. 2014 - 314 dated December 15, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, December 15, 2014.

For the Director:

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





|                       |   |                                 |
|-----------------------|---|---------------------------------|
| PEDIATRICA, INC.,     | } | IPC No. 14-2014-00180           |
| Opposer,              | } | Opposition to:                  |
|                       | } |                                 |
| - versus -            | } | Application No. 4-2013-00007030 |
|                       | } | Date Filed: 17 June 2013        |
| GLAXO GROUP LIMITED,  | } |                                 |
| Respondent-Applicant. | } | Trademark: RELENZA              |
| x-----x               |   | Decision No. 2014 - <u>314</u>  |

## DECISION BASED ON COMPROMISE AGREEMENT

PEDIATRICA, INC. ("Opposer") filed a Verified Notice of Opposition to Trademark Application No. 4-2013-00007030. The application, filed by GLAXO GROUP LIMITED ("Respondent-Applicant"), covers the mark RELENZA for use on goods under Class 05 of the International Classification of goods.

This Bureau issued a Notice to Answer and served a copy thereof upon the Respondent-Applicant on 19 May 2014. The Respondent-Applicant filed its Verified Answer on 15 August 2014.

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 20 August 2014 Order No. 2014-134 referring the case to mediation.

On 05 December 2014, the ADR Services of this Bureau submitted a Mediation Report indicating a settlement by the parties. Attached to the report is a copy of the parties' Compromise Agreement, the pertinent portions of which reads, as follows:

"NOW, THEREFORE, for and in consideration of the premises and mutual covenants herein set forth, the Parties agree to an amicable settlement of the case under the following terms and conditions:

"1. Within fifteen (15) days from the execution of this Agreement, GSK undertakes to amend GSK's Trademark Application with the Bureau of Trademarks to limit the use of the mark "RELENZA" to the following goods under Class 05 of the International Classification of Goods:

**"CLASS 05: ANTI-VIRAL PHARMACEUTICAL  
PREPARATIONS AND SUBSTANCES"**

"2. GSK undertakes to use the mark "RELENZA" only for the above-described goods and only under the foregoing class of the International Classification of Goods. GSK shall not apply in the future for the registration of the mark "RELENZA" for any other class and goods other than those above-described. Further, GSK shall not put any restraint on



PEDIATRICA's use of the trademark "RELESTAL" and shall not commence any opposition or cancellation action against any trademark application or registration for the trademark "RELESTAL" in the Philippines which PEDIATRICA has filed, may decide to file, or has obtained.

"3. In consideration of the foregoing undertakings and subject to the faithful compliance by GSK of its undertakings set forth above, PEDIATRICA agrees to withdraw the case.

"4. Each Party shall bear the costs and expenses incurred in carrying out each of their respective undertakings and obligations required by this Agreement;

"5. The Parties agree to submit this Agreement to the mediator assigned to the case for the approval by the Bureau of Legal Affairs of the IPOPhl immediately upon the execution of this Agreement;

"6. 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 acknowledgements 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.

"7. 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 undertakings, obligations and requirements under this Agreement upon any of their legal successors or assigns.

"8. 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.

"9. 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 attorneys' fees in addition to any other remedies it may have at law or in equity.

"10. 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 provisions or the remaining provisions of this Agreement.

"11. 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, privilege or the exercise of any other right, power, or privilege.

"12. 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.

"13. 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."

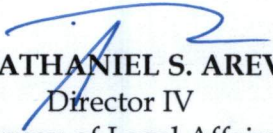
This Bureau evaluated the COMPROMISE AGREEMENT and finds that the same have been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good customs, public order or public policy.

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 instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2013-00007030 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 15 December 2014.

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

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