



NOVARTIS AG,  
Opposer,

-versus-

ZERIA PHARMACEUTICALS CO. LTD.,  
Respondent-Applicant.

X-----X

}  
} IPC No. 14-2012-00182  
} Opposition to:  
} Appln No. 4-2012-500002  
} Date Filed: 02 January 2012  
} **TM: "ACOFIDE"**  
}

### NOTICE OF DECISION

#### LAW FIRM OF E.B. ASTUDILLO & ASSOCIATES

Counsel for the Opposer  
Citibank Center, 10<sup>th</sup> Floor  
8741 Paseo de Roxas  
Makati City

#### VERALAW (DEL ROSARIO RABOCA GONZALES GRASPARIL)

Counsel for Respondent-Applicant  
A & V Crystal Tower  
105 Esteban Street  
Legaspi Village, Makati City

#### GREETINGS:

Please be informed that Decision No. 2015 - 12 dated February 11, 2015 (copy enclosed) was promulgated in the above entitled case.

Taguig City, February 11, 2015.

For the Director:

  
**Atty. ADORACION R.U. ZARE**  
Bureau of Legal Affairs



NOVARTIS AG,	}	IPC No. 14-2012-00182
<i>Opposer,</i>	}	Opposition to:
	}	
- versus -	}	Appln. No. 4-2012-500002
	}	Date Filed: 02 January 2012
ZERIA PHARMACEUTICALS CO.	}	Trademark: ACOFIDE
LTD.,	}	
<i>Respondent-Applicant.</i>	}	
x-----x		Decision No. 2015- 12

### DECISION BASED ON COMPROMISE AGREEMENT

NOVARTIS AG ("Opposer") filed on 11 June 2012 an opposition to Trademark Application Serial No. 4-2012-500002. The application, filed by ZERIA PHARMACEUTICALS CO. LTD. ("Respondent-Applicant"), covers the mark "ACOFIDE" for use on goods under International Class 05.

This Bureau issued a Notice to Answer and served a copy thereof to Respondent-Applicant on 04 December 2012. The Respondent-Applicant filed its Answer on 14 January 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 30 January 2013 Order No. 2013-024 referring the case to mediation.

On 03 February 2015, the ADR Services of this Bureau submitted a Mediation Report submitting a copy of the parties' Joint Submission of Compromise Agreement. The pertinent portions of the COMPROMISE AGREEMENT read, as follows:

NOW, THEREFORE, in view of the above premises and for other good and valid considerations, the Parties hereby agree as follows:

"1. The parties recognize and acknowledge each other's right to use, apply for, register and maintain their trademarks "COFIDEC" and "ACOFIDE", respectively, in connection with each party's respective goods as so stipulated in this Agreement.

"2. Zeria Pharmaceutical Co., Ltd. hereby agrees:

"2.1 To limit the use and registration of the mark covered by its Trademark Application No. 4-2012-500002 for ACOFIDE to:

*"Pharmaceutical preparations for the treatment of gastrointestinal diseases and disorder, specifically dyspepsia (including functional dyspepsia), irritable bowel syndrome, gastroesophageal reflux disease (including non-erosive reflux disease),*

*constipation, gastritis, nausea and vomiting, postoperative ileus and gastroparesis*" under Class 05 only;

"2.2 Not to institute and/or file cancellation or opposition proceedings or otherwise object to Novartis AG's use, application and/or registration of the COFIDEC mark, or any similar or derivative word as COFIDEC.

"3. In consideration of the foregoing conditions and limitation as to the goods and use of the mark ACOFIDE by Zeria Pharmaceutical Co., Ltd., Novartis AG hereby agrees:

"3.1. To withdraw the above-mentioned opposition;

"3.2. Not to institute and/or file cancellation or opposition proceedings or otherwise object to Zeria Pharmaceutical Co., Ltd.'s use, application and/or registration of the ACOFIDE mark, or any substantially identical mark (such as the ACOFIDE mark in stylized manner or the ACOFIDE mark used in combination with a descriptive term for pharmaceutical formulations).

"4. Hence, Novartis AG is hereby withdrawing its opposition to the application for registration of the mark ACOFIDE under Application No. 4-2012-500002 filed on 02 January 2012 by Zeria Pharmaceutical Co., Ltd.

"5. This Compromise Agreement shall be limited to the territory of the Philippines and shall bind the Parties, their assignees or successors-in-interest exclusively.

"6. The parties hereby release, waive and quitclaim any and all claims or causes of action against each other related to or involved in any of the matters alleged in IPC No. 14-2012-00182.

"7. The parties undertake to observe the terms and conditions of this Agreement in utmost good faith.

"8. Each party shall bear its respective expenses incurred in this case.

"9. This Agreement shall become effective and enforceable immediately upon approval by this Honorable Office of a duly signed copy thereof."

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.



**WHEREFORE**, premises considered, the parties' Compromise Agreement and is hereby **APPROVED**. Accordingly, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2012-500002 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 11 February 2015.

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