



CNN GENERICS DISTRIBUTION, INC.,  
Complainant,

IPV No. 10-2012-00016

For: Trademark Infringement and  
Unfair Competition with  
Application for Preliminary  
Injunction and Temporary  
Restraining Order

-versus-

CHARMMED, INCORPORATED,  
Respondent.

X-----X

**NOTICE OF DECISION**

**BENZON NEGRE UNTALAN**  
Counsel for the Complainant  
2<sup>nd</sup> Floor SEDCCO Building  
120 Rada St., Makati City


**FAUSTINO S. TUGADE, JR.**  
Counsel for the Respondent  
11 Mabuhay Street  
Brgy. Central, Quezon City

**GREETINGS:**

Please be informed that Decision No. 2015 - 04 dated March 31, 2015 (copy enclosed) was promulgated in the above entitled case.

Taguig City, March 31, 2015.

For the Director:

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



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Decision No. 2015- 04

x-----x

### DECISION BASED ON COMPROMISE AGREEMENT

CNN GENERICS DISTRIBUTION, INC. ("Complainant") filed a complaint for Trademark Infringement and Unfair Competition pursuant to Republic Act No. 8293 against CHARMMED, INCORPORATED. Pursuant to the Rules and Regulations on Administrative Complaints for Violation of Laws Involving Intellectual Property Rights, this Bureau issued a Notice to Answer and served copies thereof to the Respondent on 31 August 2012. The Respondent filed its Answer with Counterclaim on 05 October 2012.

On 07 January 2014, Complainant and Respondent jointly executed a Deed of Undertaking. The parties agreed that:

- "1. CHARMMED, by itself and through its officers, employees, or agents hereby voluntarily undertakes to cease and desist from offering for sale, licensing, selling, manufacturing, and distributing any product bearing the name FEVERGONE starting within a period of thirty (30) days from the signing of this Undertaking.
- "2. CHARMMED, by itself and through its officers, employees, or agents, hereby voluntarily undertakes that it will not create, offer for sale, sell, license, manufacture, and distribute to the public any pharmaceutical product bearing the name FEVERGONE at any future time.
- "3. CHARMMED, by itself and through its officers, employees, or agents, hereby voluntarily undertakes within a period of thirty (30) days from the signing of this Undertaking to surrender all of its FEVERGONE Certificates of Product Registration to the Department of Health - Food and Drug Administration ("DOH-FDA") and have all of its FEVERGONE Certificates of Product Registration cancelled by the said agency. Furthermore, CHARMMED, by itself and through its officers, employees, or agents, shall within a period of two (2) months to six (6) months from the signing of this Undertaking provide CNN with proof of cancellation, such as, but not limited to, a formal letter and/or official office issuance and/or official agency order from the DOH-FDA starting and approving such cancellation.

"4. CHARMMED, by itself and through its officers, employees, agents, hereby voluntarily undertakes not to use or apply for the registration of FEVERGONE as a brand name and/or not to use or apply for the registration of FEVERGONE to be used with any pharmaceutical product at any future time nor anywhere in the world.

"5. So long as CHARMMED complies with the terms of this Undertaking, CNN releases, discharges, acquits, and waives any and all claims, causes of action and demands against CHARMMED and its stockholders, directors, officers, agents, assigns and successors-in-interest with respect to the matters noted herein, and agrees not to commence any legal action against CHARMMED for CHARMMED's past use of the name FEVERGONE.

"6. CHARMMED, by itself and through its officers, employees, or agents, hereby voluntarily undertakes that in the event of a breach by CHARMMED and/or by its officers, employees, servants, agents or any of them, of any term of this Undertaking, it will pay to CNN by way of liquidated damages the sum of One Million Pesos (PHP 1,000,000.00) and that it will fully indemnify CNN all of its legal fees and costs incurred in acting against CHARMMED, its officers, employees, servants, agents or any of them in relation to any matter or in enforcing the terms hereof. Furthermore, CNN shall be entitled to an immediate injunction from the Courts to ensure compliance with the provisions of this Deed of Undertaking without prejudice to other remedies available under the circumstances and to such damages as may be proven.

"7. CHARMMED, as provided, shall not be liable on the grounds mentioned where the following batches manufactured, distributed, and those already been distributed by third-party suppliers or distributors prior to cancellation of Certificate of Product Registration (CPR):

Product	Lot Numbers	Manufacturing Date	Expiry Date
Fevergone 125 mg suspension (CPR 7/12/2012)	1203018-19	3/12	3/14
	1207053-54	7/12	7/14
Fevergone 250 mg suspension (CPR 7/12/2012)	1203056, 1203059, 120360-63	3/12	3/14
Fevergone drops (CPR 7/12/2012)	1204035-36	4/12	4/14

On 10 March 2015, Complainant filed a Motion for Resolution Based on Settlement stating that respondent has complied with its obligations stated in the Deed of Undertaking. Accordingly, Complainant is no longer interested in pursuing the case. Thus, Complainant prays that this Office take note of this Motion, resolve the instant

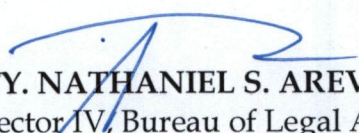
case on the basis of the Deed of Undertaking and order the release of the cash bond in the name of the Complainant.

This Bureau noted Complainant's Motion.

**WHEREFORE**, premises considered, the submitted Deed of Undertaking is hereby **APPROVED**. Accordingly, the instant case is hereby **DISMISSED**. Considering that the case is dismissed, there is no need to maintain the bond posted by the Complainant in its application for the issuance of the Temporary Restraining Order. The Administrative Financial and Human Resource Development Services Bureau is directed to release to Complainant CNN GENERICS DISTRIBUTION, INC through its counsel BENGZON NEGRE UNTALAN INTELLECTUAL PROPERTY ATTORNEYS, the cash bond filed per IPO Official Receipt No. 0428882 dated 29 January 2013 in the amount of One Hundred Thousand Pesos (PHP100,000.00).

**SO ORDERED.**

Taguig City, 31 March 2015.

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