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| NOVARTIS AG, | } | IPC No. 14-2014-00112 |
| Opposer, | } | Opposition to: |
| | } | |
| -versus- | } | Application No. 4-2013-00014680 |
| | } | Date Filed: 09 December 2013 |
| CATHAY YSS DISTRIBUTORS CO., INC., | } | |
| Respondent-Applicant. | } | Trademark: HEXALIN |
| x-----x | x | Order No. 2015 - <u>100</u> (D) |

ORDER

The records show that this Bureau issued Order No. 2014-699 dated 02 June 2014, directing the Opposer to submit within five (5) days from receipt thereof the authenticated Special Power of Attorney/Secretary's Certificate. The Order further states that the Opposer's failure to comply with the same shall cause the dismissal of the case. The Opposer received the aforementioned Order on 13 June 2014.

On 05 September 2014, the Opposer filed a Manifestation submitting the original Special Power of Attorney/Secretary's Certificate duly authenticated by the Philippine Consulate Office in Switzerland on 11 August 2014.

Rule 2, Section 8 (c) of the amended Rules and Regulations on Inter Partes Proceedings (*promulgated through Office Order No. 99, s. 2011, which took effect on 17 July 2011*), provides, to wit:

Section 8. *Action on the Notice of Opposition or Motion for Extension to File Notice of Opposition and Petition.* - x x x (c) The opposer, including those who file a motion for extension of time to file notice of opposition, or the petitioner shall be given a period of five (5) days from receipt of the order to complete or to cure any of the following defects: x x x

(2) Failure to attach the originals of the following documents:

(i) Verification;

(ii) Certification of non-forum shopping;

(iii) Special Power of Attorney of representative(s) who signed the pleadings, the verification, and the certification of non-forum shopping; the proof of authority to issue or execute the Special Power of Attorney; and

(iv) Proof of authentication by the appropriate Philippine diplomatic or consular office, of the foregoing documents, if executed abroad. x x x

Failure to complete or cure the defect shall cause the dismissal of the case.


In the instant case, the Opposer submitted the original authenticated Special Power of Attorney/Secretary's Certificate beyond the period allowed under the rules. Also, the Special Power of Attorney/Secretary's Certificate was authenticated only on 11 August 2014 or beyond the filing of the opposition, contrary to Section 7 (b) of the amended rules, which provides that:

Section 7. *Filing Requirements for Opposition and Petition.* - x x x (b) x x x The verification and certification of nonforum shopping as well as the documents showing the authority of the signatory or signatories thereto, affidavits and other supporting documents, if executed and notarized abroad, must have been authenticated by the appropriate Philippine diplomatic or consular office. The execution and authentication of these documents must have been done before the filing of the opposition or petition. [Emphasis supplied]

WHEREFORE, premises considered, this case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2013-00014680 be returned, together with a copy of this Order, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 26 May 2015.


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

Copy furnished:

JDF LAW
Counsel for Opposer
1502 One Global Place
5th Avenue corner 25th Street
Bonifacio Global City, Taguig City

CATHAY YSS DISTRIBUTORS CO., INC.
c/o Ms. NONA F. CRISOL
Respondent-Applicant
2nd Floor Vernida I
Amorsolo Street, Legaspi Village
Makati City