

ABBOTT LABORATORIES,  
Opposer,

- versus -

NOVAGEN PHARMACEUTICALS. INC.,  
Respondent-Applicant.

x-----x

IPC NO. 14-2013-00216

Opposition to:  
Appln. Ser. No. 4-2012-013191  
Date Filed: 29 October 2012  
Trademark: **GROW KIDS**

Order No. 2016- 109 (D)

### ORDER

**ABBOTT LABORATORIES**, ("Opposer"), filed on 01 July 2013 an opposition to Trademark Application Serial No. 4-2012-013191. The application filed by **NOVAGEN PHARMACEUTICALS. INC.** (Respondent-Applicant), covers the mark "**GROW KIDS**" for use on goods under Class 05. The opposition is anchored on Section 123.1 sub-paragraphs (d) (e) (f) and (g) of R.A. No. 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 the Respondent-Applicant on 17 July 2013. The Respondent-Applicant, however, was declared in default for failure to file an Answer per Order No. 2013-1597.

On 12 April 2016, the Opposer filed a Manifestation and Motion stating that an inquiry with this Office has revealed that Respondent-Applicant failed to file the mandatory 3<sup>rd</sup> Year Declaration of Actual Use for the mark **GROW KIDS**. This Bureau requested a copy of the Certification issued by the Bureau of Trademarks certifying that no 3<sup>rd</sup> year Declaration of Actual Use was filed for the trademark application for **GROW KIDS**. The non-filing of the requisite DAU shall result in the removal of the mark from the Trademark Registry of the Intellectual Property Office. Section 124.2 of R. A. 8293 states:

*Sec. 124. Requirements of the Application. – x x x 124.2. The applicant or the registrant shall file a declaration of actual use of the mark with evidence to that effect, as prescribed by the Regulations within three (3) years from the filing date of the application. Otherwise, the application shall be refused or the mark shall be removed from the Register by the Director.*

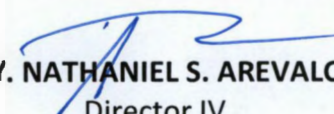
Accordingly, with the removal of the trademark **GROW KIDS** from the Trademark Registry, there is no more reason or basis to proceed with this case.

**WHEREFORE**, premises considered, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2012-013191 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for

information and appropriate action.

**SO ORDERED.**

Taguig City, 24 May 2016.



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

Copy furnished:

**QUISUMBING TORRES**

Counsel for Opposer

12<sup>th</sup> Floor, Net One Center

26<sup>th</sup> Street corner 3<sup>rd</sup> Avenue

Crescent Park West, Bonifacio Global City

Taguig City

**NOVAGEN PHARMACEUTICALS. INC.**

Respondent-Applicant

7 Jose Cruz Street

Ugong, Pasig City

*cpb*