



ENERGY BEVERAGES LLC,	}	IPC NO. 14-2016-00385
Opposer,	}	Opposition to:
	}	
-versus-	}	Appln. Ser. No. 4-2016-500419
	}	Date Filed: 22 January 2016
	}	
EVOLUTION FRESH, INC.,	}	Trademark: SWEET BURN
Respondent-Applicant.	}	Order No. 2016- <u>249</u> (D)
X-----X	X	

ORDER

The records show that on 26 September 2016, the Opposer timely filed a Verified Notice of Opposition to Trademark Application Ser. No. 4-2016-500419. The records further show that this Bureau issued an Order dated 04 October 2016, directing the Opposer to submit the original legalized and authenticated Verification and Certification of Non Forum Shopping and Special Power of Attorney within ten (10) days from receipt of the Order. The Order states that the Opposer's failure to comply with the same shall cause the dismissal of the case.

On 13 October 2016, the Opposer filed a Manifestation attaching therewith the original legalized and authenticated Verification and Certification of Non-Forum Shopping and Special Power of Attorney both executed by Rodney C. Sacks.

After a careful evaluation of the Opposer's Manifestation, this Bureau noticed that the said Verification and Certification of Non-Forum Shopping and Special Power of Attorney while executed within the period to file the opposition was authenticated only on 29 September 2016 or after the filing of the Opposition, contrary to the provision of Rule 2, Section 7 (b) of the amended Rules and Regulations on Inter Partes Proceedings (promulgated through Office Order No. 99, s. 2011, as further amended by Office Order No. 14-068, s. 2014), which provides that:

Section 7. Filing Requirements for Opposition and Petition. - x x x (b) x x x
The verification and certification of non-forum 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]

Therefore, the Verification and Certification of Non-Forum Shopping and Special Power of Attorney while executed within the period to file the opposition but authenticated only after the filing of the opposition violates the above-quoted provision.

WHEREFORE, premises considered, this case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2016-500419 be returned, together with a copy of this Order, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 28 OCT 2016


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

Copy furnished:

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