

LALLEMAND INC.,  
Opposer,

-versus-

PROBIOHEALTH PHILIPPINES, INC.,  
Respondent- Applicant.

X-----X

}  
} IPC No. 14-2012-00580  
} Opposition to:  
} Appln. Serial No. 4-2011-013126  
} Date Filed: 02 November 2011  
} TM: "PROBIOKIDS"  
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}  
}  
}

**NOTICE OF ORDER**

**VIRGILAW ( VIRGILIO M. DEL ROSARIO & PARTNERS)**  
Counsel for Opposer  
The Peak, Unit 602, 107 L.P. Leviste Street  
Salcedo Village, Makati City

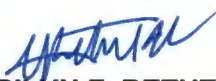
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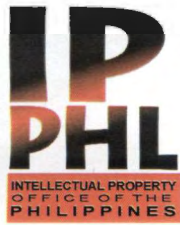
**GREETINGS:**

Please be informed that Order No. 2016 - 272(D) dated November 29, 2016 (copy enclosed) was promulgated in the above entitled case.

Pursuant to Section 2, Rule 9 of the IPOPHL Memorandum Circular No. 16-007 series of 2016, any party may appeal the decision to the Director of the Bureau of Legal Affairs within ten (10) days after receipt of the order together with the payment of applicable fees.

Taguig City, December 01, 2016.

  
**MARILYN F. RETUTAL**  
IPRS IV  
Bureau of Legal Affairs



LALLEMAND INC.,  
Opposer,

- versus -

PROBIOHEALTH PHILIPPINES, INC.,  
Respondent-Applicant.

X-----X

IPC No. 14-2012-00580

Application Serial No. 4-2011-013126

Date Filed: 02 November 2011

Trademark: PROBIOKIDS

Order No. 2016 - 272(D)

### ORDER

LALLEMAND INC., ("Opposer") filed on 01 March 2013 an opposition to Trademark Application Serial No. 4-2011-013126. The contested application, filed by PROBIOHEALTH PHILIPPINES, INC. ("Respondent-Applicant"), covers the mark "PROBIOKIDS" for use on "dietary supplement" under Class 05 of the International Classification of Goods<sup>1</sup>. The opposition is anchored on Sec. 123.1 sub-paragraphs (e) and (g) of R.A. No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code").

On 09 November 2016, this case was referred to mediation pursuant to Office Order No. 154, s. 2010 and Office Order No. 197, s. 2010. The Alternative Dispute Resolution (ADR) Services of this Bureau submitted on 25 November 2016 a Mediator's Report indicating the non-appearance by Opposer despite due notice.

Section 8 of Office Order No. 154, s. 2010, provides:

"Section 8. Effect of the failure of parties to appear during the mediation. – The failure of the party who initiated the case, such as the opposer, petitioner or complainant, to appear for mediation, including the meeting before the Mediation Office in accordance with Section 3 hereof, is a ground for the dismissal of the case. On the other hand, if respondent fails to appear, he may be declared in default."

WHEREFORE, premises considered, the instant opposition case is hereby **DISMISSED**. Let the filer wrapper of Trademark Application Serial No. 4-2011-013126 be returned, together with a copy of this Order to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 29 November 2016.

ATTY. Z'SA MAY B. SUBEJANO-PE LIM  
Adjudication Officer  
Bureau of Legal Affairs

<sup>1</sup> The Nice Classification is a classification of goods and services for the purpose of registering trademark and services marks, based on the multilateral treaty administered by the World Intellectual Property Organization. The treaty is called the Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks concluded in 1957