



NOVARTIS AG,
Opposer,

-versus-

JAN VINCENT N. SOLLESTA,
Respondent-Applicant.

X-----X

}	IPC No. 14-2016-00059
}	Opposition to:
}	
}	Appln. Serial No. 4-2015-503591
}	Date Filed: 16 July 2015
}	
}	TM: GALENX

**NOTICE OF DECISION
(DECISION BASED ON COMPROMISE AGREEMENT)**

E.B. ASTUDILLO & ASSOCIATES
Counsel for Opposer
10th Floor, Citibank Center
8741 Paseo de Roxas, Makati City

TERUEL LAW OFFICES
Counsel for Respondent- Applicant
Room 209, 2nd Floor Maryville Building,
Delgado Street, Iloilo City

GREETINGS:

Please be informed that Decision No. 2017 - 19 dated 19 January 2017 (copy enclosed) was promulgated in the above entitled case.

Taguig City, 23 January 2017.

MARILYN F. RETUTAL
IPRS IV
Bureau of Legal Affairs

NOVARTIS AG,
Opposer,

JAN VINCENT N. SOLLESTA,
Respondent-Applicant.

x-----x

IPC No. 14-2016-00059

Opposition to:

Application No. 4-2015-503591

Date Filed: 16 July 2015

Trademark: **GALENX**

Decision No. 2017 - 19

DECISION BASED ON COMPROMISE AGREEMENT

NOVARTIS AG, ("Opposer") filed a verified Notice of Opposition to Trademark Application No. 4-2015-503591. The application, filed by JAN VINCENT N. SOLLESTA, ("Respondent-Applicant"), covers the mark "GALENX" for goods in Class 5 of the International Classification of Goods.

The Bureau issued a Notice to Answer and served a copy thereof upon the Respondent-Applicant on 17 May 2016. The Respondent-Applicant filed a Verified Answer on 29 July 2016.

In compliance to Office Order No. 154, s. 2010 ("*Rules of Procedure for IPO Mediation Proceedings*") and Office Order No. 197, s 2010 ("*Mechanics for IPO Mediation Settlement Period*"), this Bureau issued on 22 August 2016 Order No. 2016-138 referring the case to mediation.

On 21 December 2016, the Alternative Dispute Resolution Services ("ADRS") of this Bureau submitted a Mediation Report indicating a settlement by the parties. Attached to the report is a copy of the parties Compromise Agreement, the pertinent portions of which read, as follows:

"NOW, THEREFORE, the parties, desirous of putting an expeditious end to the Opposition proceeding, have agreed by way of amicable settlement as follows:

1. SOLLESTA hereby undertakes to:

(a) Limit the use of the mark GALENX to the following goods under Class 5 of the International Classification of Goods:

"galenical products of topical use and external application excluding any use in the diabetic field";



Republic of the Philippines
INTELLECTUAL PROPERTY OFFICE

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- (b) Within five (5) days from the date of the execution of this Agreement, file an amendment with the Bureau of Trademarks, IPO of the Philippines to amend the covered goods in the Trademark Application to “ *Class 5: galenical products of topical use and external application excluding any use in the diabetic field*”, and provide a copy thereof, stamped received by the IPO of the Philippines to NOVARTIS within two (2) days from the date SOLLESTA filed the amendment with the Bureau of Trademarks, IPO of the Philippines;
- (c) Not adopt, now or in the future, a product packaging, primary or secondary, for GALENX product that is confusingly similar to that of the packaging of GALVUS product of NOVARTIS.
- (d) Not to put any restraint on NOVARTIS’ use of the trademark GALVUS; and
2. For and in consideration of the foregoing undertakings and subject to the faithful performance of SOLLESTA of his undertakings set forth above, NOVARTIS hereby undertakes to:
- (a) withdraw its opposition in the case.
- (b) not object to the registration by SOLLESTA of the mark GALENX in connection with, and only with, the following, goods: “*Class 5: galenical products of topical use and external application excluding any use in the diabetic field*”.
3. Immediately upon the execution of this Agreement, The Parties shall submit the signed Agreement to the assigned Mediator in this case for approval by the Bureau of Legal Affairs.
4. Each Party shall bear its own costs and expenses incurred in carrying out each of their respective undertakings and obligations required under this Agreement, including but not limited to, attorney’s fees and filing fees, incurred in relation to this Case.
5. The Parties undertake to observe the terms and conditions of this Agreement in utmost good faith.
6. The Parties hereby agree that respective addresses as set forth below shall be their respective addresses for the purposes of notice, communication and demand, if any be required under this Agreement, until and unless another address shall be formally communicated to the other Party in writing.

If to NOVARTIS:

Law Firm of E.B. Astudillo & Associates



Citibank Center, 10th Floor
8741 Paseo de Roxas, Makati City
Metro Manila, Philippines 1200

If to SOLLESTA:

Teruel Law Office
Room 209, 2nd Floor,
Maryville Building, Delgado Street
Iloilo City, Philippines

7. The Parties acknowledge that their respective signatories have full authority and/or have secured the necessary approvals to execute, and do execute, this Agreement on behalf of their principals and that the Parties have the authority to comply with the undertakings, obligations and acknowledgements made in this Agreement. The Parties hereto acknowledge that they have executed this Agreement voluntarily with full knowledge of its consequences under the law.
8. This Agreement shall bind and inure to the benefit of each Party and its directors, officers, employees, parent corporations, subsidiaries, affiliates, predecessors, successors, licensees, agents and assigns. Further, the Parties shall undertake to impose the undertakings, obligations and requirements under this Agreement upon any of their legal successors and assigns.
9. The terms and conditions of this Agreement entered into by the Parties are not contrary to law, morals, good customs, public order or public policy.
10. In the event of breach of any of the terms and conditions of this Agreement, the non-breaching Party shall be entitled to recover its reasonable attorneys' fees in addition to any other damages and remedies it may have at law or in equity.
11. Whenever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable laws, but if any provision of this Agreement should be held invalid or enforceable under applicable laws, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.
12. This Agreement is the entire agreement between the Parties and constitutes the complete, final and exclusive embodiment of their agreement with respect to the subject matter hereof. This Agreement may not be amended except by written agreement executed by both Parties.



13. The Parties acknowledge that they have read and understood the contents of this Agreement and that they have signed the same willingly, voluntarily, and with full knowledge of their rights and obligations.
14. This Agreement shall become effective and enforceable immediately upon the last date of execution thereof.
15. This Agreement may be signed in any number of counterparts. Any single counterpart executed by the Parties shall together constitute a full and original agreement for purposes hereof.

This Bureau evaluated the COMPROMISE AGREEMENT and finds that the same have been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good customs, public order or public policy.

Accordingly, an approved Compromise Agreement shall have the effect of a decision or judgment on the case and shall be enforced accordingly in accordance with the pertinent rules of IPO and Rules of Court. ¹

WHEREFORE, premises considered, the parties' Compromise Agreement is hereby **APPROVED**. Accordingly, the instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2015-503591 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, **19 JAN 2017**


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