

**SINOCHEM INTERNATIONAL CROP CARE  
(OVERSEAS) PTE., LTD.,**  
*Petitioner,*

**-versus-**

**NEUMANN & MUELLER PHILIPPINES, INC.,**  
*Respondent-Registrant.*

X-----X

**IPC No. 14-2016-00232**

Petition for Cancellation:

TM Registration No. 4-2009-004105  
Date Issued: 04 March 2010

**TM: ADVANCED**

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


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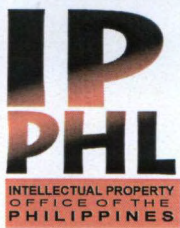
**LAW FIRM OF REYES RARA & ASSOCIATES**  
*Counsel for Respondent- Registrant*  
Ground Floor, W Tower,  
39<sup>th</sup> Street, Bonifacio Global City  
Taguig

**GREETINGS:**

Please be informed that Decision No. 2017 - 167 dated 24 May 2017 (copy enclosed) was promulgated in the above entitled case.

Taguig City, 25 May 2017.

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



SINOCHEM INTERNATIONAL CROP CARE(OVERSEAS) PTE., LTD.,  
*Petitioner,*

-versus-

NEUMANN & MUELLER PHILIPPINES, INC.,  
*Respondent-Registrant,*

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IPC No. 14-2016-000232

*Petition for Cancellation:*

TM Registration No. 4-2009-004105  
 Date Issued: 04 March 2010

Trademark: **ADVANCED**

Decision No. 2017 - 167

### DECISION BASED ON COMPROMISE AGREEMENT

SINOCHEM INTERNATIONAL CROP CARE (OVERSEAS) PTE., LTD (“*Petitioner*”) filed a Petition to Trademark Application No. 4-2009-004105. The trademark registration issued to NEUMANN & MUELLER PHILIPPINES, INC., (“*Respondent-Registrant*”), covers the mark **ADVANCED** for goods in Class 5 of International Classification of Goods.

The Bureau issued a Notice to Answer on 23 May 2016 and served a copy thereof upon the Respondent-Registrant. The Respondent-Registrant filed a Verified Answer on 08 September 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 09 September 2016 Order No. 2016-153 referring the case to mediation.

On 04 May 2017, 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. NEUMANN hereby undertakes to:

- a. Restrict and limit use, application and registration of the trademark 'ADVANCED' to household insecticides in aerosol, spray, liquid, coil, chalk and vaporizer forms and rodenticides under Class 05 of the International Classification of Goods;
- b. Use the mark 'ADVANCED' in a style and format identical or similar to the mark shown below:



- c. Clearly and distinctly indicate in its labels and packaging that the products is that of NEUMANN when using the trademark 'ADVANCED';
- d. NOT use the trademark 'ADVANCED' on '*herbicides and fungicides*' at all times in any country or territory, or license others to use the trademark 'ADVANCED' on '*herbicides and fungicides*';
- e. NOT use the trademark 'ADVANCED' in any manner that suggests that the said mark is connected to SINOCEM.
- f. NOT apply for registration of the mark 'ADVANCED' or any mark confusingly similar to SINOCEM's 'ADVANCE' for '*herbicides and fungicides*' in any country or territory;
- g. NOT put any restraint on SINOCEM's use and registration of the trademark 'ADVANCE', except as indicated in par. 2 (a.) to (c.) below;
- h. NOT commence any opposition or cancellation action against any trademark application or registration which SINOCEM has filed, may decide to file, or has obtained for the trademark 'ADVANCE', which is compliant with Paragraph 2. (a.) to (c.) below; and
- i. NOT to oppose Application No. 4-2015-501186, provided it is compliant with par. 2(h.) below;

2. For and in consideration of the foregoing undertakings, and subject to the faithful compliance of NEUMANN of its undertakings set forth above, SINOCHEM hereby undertakes to:

- a. NOT use the trademark 'ADVANCE' on 'household insecticides and rodenticides' at all times in any country or territory, or license others to use the trademark 'ADVANCE' on 'household insecticides and rodenticides';
- b. NOT use the trademark 'ADVANCE' in any manner that suggests that the said mark is connected in any way to NEUMANN.
- c. NOT apply for registration of the mark 'ADVANCE' or any mark confusingly similar to NEUMANN's 'ADVANCED' mark for 'household insecticides and rodenticides' in any country or territory;
- d. NOT put any restraint on NEUMANN'S use and registration of the trademark 'ADVANCED', except as indicated in par. 1 (a.) to (f.) above;
- e. NOT commence any opposition or cancellation action against any trademark application or registration which NEUMANN has filed, may decide to file, or has obtained for the trademark 'ADVANCED', which is compliant with Paragraph 1.(a.) to (f.) above;
- f. NOT object to the use and registration by NEUMANN of the trademark 'ADVANCED', provided it is compliant with Paragraph 1. (a.) to (f.) above;
- g. Withdraw the cancellation petition docketed as Inter Partes Case No. 14-2016-00232 with the Bureau of Legal Affairs of the IPOPHL.
- h. Amend Trademark Application No. 4-2015-501186 to limit insecticides to '*insecticides for use in agriculture*'.
- i. NOT oppose Application No. 4-2017-002863, provided it is compliant with Paragraph 1.(a.) to (f.) above.

3. Immediately upon the execution of this Agreement, the Parties shall submit the signed Agreement to the assigned mediator in this Case and jointly move for the approval of the Agreement and for the dismissal of the cancellation petition by the Bureau of Legal Affairs of the IPOPHL.

4. Each Party shall bear its own costs and expenses incurred in carrying out each of their respective undertakings and obligations required in 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 their respective addresses as set forth below shall be respective addresses for 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 SINOCEM:

8 Marina View,  
#34-03 Asia Square Tower 1,  
Singapore 018960

If to NEUMANN:

Unit 2106 Atlanta Centre, #31 Anapolis St.,  
Greenhills, City of San Juan,  
Metro Manila, Philippines

7. 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.

8. Each Party represents and warrants that it has full authority and legal capacity to enter into this Agreement and has the capacity to carry out all undertakings, obligations, requirements, and acknowledgments herein.

9. Each Party represents and warrants that it has duly authorized each person signing this Agreement to do so on behalf of that Party and to bind said Party to the terms and conditions of this Agreement.

10. Each Party represents and warrants that entry into this Agreement does not violate any other agreements executed or entered into by the Party or on its behalf.

11. This Agreement is executed without reliance upon any promise, warranty or representation by any Party or any representations of any Party other than those expressly contained herein.

12. 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 also undertake to impose the undertakings, obligations and requirements under this Agreement upon any of their legal successors or assigns.

13. 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.

14. 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 remedies it may have at law or in equity.

15. 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 unenforceable 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.

16. The rights and remedies of the Parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any Party in exercising any right, power, or privilege under this Agreement shall operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege, shall preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege.

17. This Agreement shall be governed by, and construed in accordance with, the laws of the Republic of the Philippines.

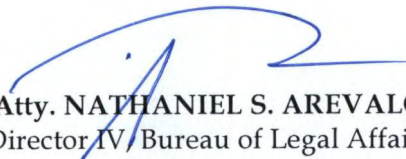
18. The Parties acknowledge that they have read and understood the contents of this Agreement and that they have signed the same willingly, voluntarily, and with full knowledge of their rights and obligations."

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. <sup>1</sup>

WHEREFORE, premises considered, the parties' Compromise Agreement is hereby APPROVED. Let the filewrapper of Trademark Registration No. 4-2009-004105 be returned, together with a copy of this Decision, to the Bureau of Trademarks for appropriate action subject to the Respondent-Applicant's filing of an amendment to the application pursuant to the Compromise Agreement and payment of the required fees.

SO ORDERED,  
Taguig City, 24 MAY 2017

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

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<sup>i</sup> Office Order No. 154 Series of 2010