



FRESENIUS SE & CO. KGaA,	}	IPC No. 14-2014-00174
Opposer,	}	Opposition to:
	}	
- versus -	}	Application Serial No. 1197376
	}	Date Filed: 26 December 2013
CHEMO RESEARCH, S. L.,	}	
Respondent-Applicant.	}	Trademark: FENOROL
x-----x	x	Order No. 2014 - <u>65</u> (D)

ORDER

The Opposer filed on 29 April 2014 a Motion for Extension of Time to File Notice of Opposition to Trademark Application No. 1197376. In its motion, the Opposer alleges that the subject application was published for opposition on 08 April 2014.

The records, however, show that the subject trademark application was not yet published for opposition. In fact, the publication in the "e-Gazette" Trademarks dated 08 April 2014 referred to by the Opposer shows only the list of new Madrid applications received by this Office. The said publication reads:

"The following IRDP's were received by the IPOPHIL. These will undergo substantive examination.

x x x

"45 1197376 December FENOROL Chemo Research S.L. 5"
26, 2013

Chapter 3, Rule 9 of Office Order No. 139, Series of 2012 (*Philippine Regulations Implementing the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks*) provides that:

"Rule 9. Allowance of a Mark; Publication for Opposition. - Where the Philippines has been designated in an international registration, the IPOPHIL shall undertake the substantive examination of the mark in accordance with the IP Code and the TM Regulations. Upon completion of the substantive examination and the mark is allowed, the mark shall be published for purposes of opposition in the IPOPHIL's e-Gazette. Opposition proceedings shall be governed by the provisions of the IP Code, the TM Regulations, the BLA Regulations and the Uniform Rules on Appeal."

In this regard, Rule 7, Section 2 of the Rules and Regulations on Inter Partes Proceedings, as amended, provides the period for filing opposition, to wit:

"Section 2. *Period to file opposition.* - The verified notice of opposition must be filed within 30 days from the date of the publication of the trademark application in the IPOPHIL "Gazette". Upon proper motion anchored on meritorious grounds which must be expressly indicated in the motion, and the payment of the filing fee for opposition and other applicable fees, the Bureau may grant an additional period of 30 days within which to file the opposition. A

second motion for extension of 30 days may be granted on compelling grounds and upon payment of the applicable fees; *Provided*, that in no case will the filing of the opposition exceed ninety (90) days from the date of the aforementioned publication, *Provided, further*, that if the last day for filing of the verified opposition or motion for extension falls on a Saturday, Sunday, holiday, non-working day or on a day when the Office or the Bureau is closed for business as may be declared by the Director General, the filing must be done the next succeeding working day."

Considering that the subject trademark application has not yet been published for opposition and is still pending examination with the examiner of the Bureau of Trademarks, there is no factual or legal basis for the Opposer to file the opposition.

WHEREFORE, premises considered, the instant opposition case is hereby **DISMISSED**.

SO ORDERED.

Taguig City, 08 May 2014.


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

Copy furnished:

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