



GLAXO GROUP LIMITED,  
Opposer,

-versus-

SCORT PHARMACEUTICALS, INC.,  
Respondent-Applicant.

x-----x

}  
} IPC No. 14-2011-00351  
} Opposition to:  
} Appln. Serial No. 4-2010-014042  
} Date Filed: 29 December 2010  
} Trademark: "SCORT LUYANG DILAW"

**NOTICE OF DECISION**

**TAW & ASSOCIATES**  
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Ortigas Center, Pasig City

**GREETINGS:**

Please be informed that Decision No. 2012 – 183 dated September 28, 2012 ( copy enclosed) was promulgated in the above entitled case.

Taguig City, September 28, 2012.

For the Director:

*Edwin A. Dating*  
**Atty. EDWIN DANILO A. DATING**  
Director III  
Bureau of Legal Affairs



GLAXO GROUP LIMITED, Opposer,	}	IPC No. 14-2011-00351
	}	Opposition to:
	}	
- versus -	}	Appln. Serial No. 4-2010-014042
	}	Date Filed: 29 December 2010
SCORT PHARMACEUTICALS, INC., Respondent-Applicant.	}	Trademark: <b>SCORT LUYANG DILAW</b>
x-----x	}	Decision No. 2012 - <u>183</u>

**DECISION  
BASED ON COMPROMISE AGREEMENT**

GLAXO GROUP LIMITED ("Opposer") filed on 05 October 2011 an opposition to Trademark Application Serial No. 4-2010-014042. The application filed by SCORT PHARMACEUTICALS, INC. ("Respondent-Applicant") covers the mark SCORT LUYANG DILAW for use on goods under Class 05. The opposition is anchored on Sections 123.1 (d), (e) and (f) of R.A. 8293 otherwise known as The Intellectual Property Code of the Philippines.

On 22 March 2012, the Respondent-Applicant filed its Answer refuting the material allegations of the Opposer.

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 and Settlement Period"), this Bureau issued on 03 April 2012 Order No. 2012-78 referring the case to mediation.

On 14 September 2012, the parties filed a Compromise Agreement. The pertinent portions of the document reads:

"1. Scort Pharmaceuticals confirms and agrees that the marks 'SCORT LUYANG DILAW' and 'SCORT PHARMACEUTICALS' are not used and will not be used for 'cod liver oil and preparations containing cod liver oil';

"2. Scort Pharmaceuticals hereby amends the specification of goods covered by Trademark Application No. 4-2010-014042 and Trademark Application No. 4-2010-014043 by excluding 'cod liver oil and preparations containing cod liver oil', as follows:

Mark	:	'SCORT LUYANG DILAW'
Application No.	:	4-2010-014042
Goods	:	Class 5- Pharmaceutical products, namely, food supplements, <u>excluding cod liver oil and preparations containing cod liver oil.</u>

Mark	:	'SCORT PHARMACEUTICALS'
Application No.	:	4-2010-014043
Goods	:	Class 5- Pharmaceutical products, namely, medicine tablets for coughs and colds, food supplements, <u>excluding cod liver oil and preparations containing cod liver oil.</u>

"3. Scort Pharmaceuticals agrees not to file oppositions and/or cancellation actions against Glaxo Group's applications and registrations for SCOTT's marks;

"4. Scort Pharmaceuticals agrees not to seek the registration of marks identical and/or similar to SCOTT'S or SCOTT's emulsion for use in cod liver oil and preparations containing cod liver oil only;

"5. Glaxo Group agrees to reimburse Scort Pharmaceuticals the actual expenses incurred in amending the specification of goods of Application Nos. 4-2010-014042 and 4-2010-014043 up to USD300 for each application;

"6. Glaxo Group hereby withdraws its Oppositions against Trademark Application Nos. 4-2010-014042 and 4-2010-014043 docketed as IPC Case Nos. 14-2011-00351 and 14-2011-00350, respectively;

"7. Glaxo Group allows Scort Pharmaceuticals to use the marks 'SCORT LUYANG DILAW' and 'SCORT PHARMACEUTICALS' for goods other than cod liver oil and/or preparations made of cod liver oil;

"8. Glaxo Group allows Scort Pharmaceuticals to engage in cod liver oil and preparations containing cod liver oil and to use any brand name on the same except 'SCORT', 'SCOTT' and 'SCOTT'S';

"9. Glaxo Group agrees not to file oppositions and/or cancellation actions against Scort Pharmaceuticals' applications and registrations for SCORT marks for goods not including cod liver oil and preparations containing cod liver oil."

This Bureau finds that the Compromise Agreement has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good custom, public order or public policy.

In this regard, 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 the Rules of Court (Sec. 5, Office Order No. 154, s. 2010).

**WHEREFORE**, premises considered, the submitted Compromise Agreement is hereby **APPROVED**. Let the filewrapper of Trademark Application Serial No. 4-2010-0014042 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 28 September 2012.

  
**ATTY. NATHANIEL S. AREVALO**  
Director IV  
Bureau of Legal Affairs