



UNAHCO,
Opposer,

-versus-

SEEDWORKS PHILIPPINES, INC.,
Respondent –Applicant.

x-----x

}
} **IPC No. 14-2013-00408**
} Opposition to:
} Appln. Serial No. 4-2013-00004701
} Date Filed: 24 April 2013
} **TM: "ULTIMA"**
}
}
}
}
}

NOTICE OF DECISION

OCHAVE & ESCALONA
Counsel for the Opposer
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Mandaluyong City


Atty. STANLEY C. ZAMBARRANO
Counsel for Respondent-Applicant
Seedworks Phils., Inc.
1775 Gov. San Luis Rd.
Puypuy Bay, Laguna

GREETINGS:

Please be informed that Decision No. 2014 - 58 dated February 26, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, February 26, 2014.

For the Director:


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



UNAHCO, INC.,	}	IPC No. 14-2013-00408
Opposer,	}	Opposition to:
	}	
- versus -	}	Application No. 4-2013-00004701
	}	Date Filed: 24 April 2013
SEEDWORKS PHILIPPINES, INC.,	}	
Respondent-Applicant.	}	Trademark: ULTIMA
x-----x	x	Decision No. 2014 - <u>58</u>

**DECISION BASED ON
COMPROMISE AGREEMENT**

UNAHCO, INC. ("Opposer") filed on 02 October 2013 a Verified Notice of Opposition to Trademark Application No. 4-2013-00004701. The contested application, filed by SEEDWORKS PHILIPPINES, INC. ("Respondent-Applicant"), covers the mark **ULTIMA** for use on *"agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals; malt"* under Class 31 of the International Classification of goods.

This Bureau issued a Notice to Answer dated 30 October 2013 and served a copy thereof to Respondent-Applicant on 08 November 2013. The Respondent-Applicant filed its Answer on 07 January 2014.

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 15 January 2014 Order No. 2014-022 referring the case to mediation.

On 24 February 2014, the ADR Services 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 reads, as follows:

"NOW THEREFORE, for and in consideration of the premises and mutual covenants herein set forth, the Parties agree to an amicable settlement of Inter Partes Case No. 14-2013-00408 under the following terms and conditions:

"1. Immediately upon the execution of this Agreement, SEEDWORKS undertakes to amend the Trademark Application with the Bureau of Trademarks and limit the use of the mark **ULTIMA** to the following goods under Class 31 of the International Classification of Goods:

**"CLASS 31: FRESH FRUITS AND VEGETABLES; SEEDS;
SEEDLINGS; NATURAL PLANTS AND FLOWERS"**

"2. SEEDWORKS undertakes to use the mark **ULTIMA** only for the above-described goods under Class 31 of the International Classification of Goods. SEEDWORKS shall not apply in the future for the registration of the mark

ULTIMA for any other class and goods other than those above-described.

"3. In consideration of the foregoing undertakings and subject to the faithful compliance by SEEDWORKS of its undertakings set forth above, UNAHCO agrees to withdraw its Verified Notice of Opposition to the Trademark Application.

"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.

"5. The Parties agree to file a Joint Motion for Approval of this Agreement with the Bureau of Legal Affairs of the IPOPHL immediately upon the execution of this Agreement.

"6. 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.

"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 acknowledgments made in this Agreement. The Parties hereto further 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 also undertake to impose the undertakings, obligations and requirements under this Agreement upon any of their legal successors or 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 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. 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.

"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."

This Bureau evaluated the COMPROMISE AGREEMENT and finds that the same has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, goods 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 the Rules of Court.

WHEREFORE, premises considered, the parties' Compromise Agreement is hereby **APPROVED**. Accordingly, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2013-00004701 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 26 February 2014.


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