

BIOFARMA,
Opposer,

-versus-

SYNERGEN ASIA PTE., LTD (SG),
Respondent- Applicant.

x-----x

}
}
}
}
}
}
}
}
}
}
}

IPC No. 14-2015-00470
Opposition to:
Appln. Serial No. 4-2015-00503151
Date Filed: 09 June 2015
TM: "ZALAMID"

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

SYCIP SALAZAR HERNANDEZ & GATMAITAN
Counsel for Opposer
5th Floor, SycipLaw Center
105 Paseo de Roxas, Makati City

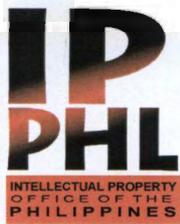
BATUHAN BLANDO CONCEPCION & TRILLANA
Counsel for Respondent- Applicant
15th Floor, Picadilly Star Bldg., 4th Avenue, corner
27th Street, Bonifacio, Global City, Taguig

GREETINGS:

Please be informed that Decision No. 2016 - 471 dated December 15, 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, December 15, 2016.

MARILYN F. RETUTAL
IPRS IV
Bureau of Legal Affairs



BIOFARMA, }
Opposer, }
 -versus- }
 SYNERGEN ASIA PTE.,LTD (SG), }
Respondent-Applicant. }

x-----x

IPC No. 14-2015-00470
Opposition to:
 Application No. 4-2015-00503151
 Date Filed: 09 June 2015
 Trademark: ZALAMID
 Decision No. 2016 - 471

DECISION BASED ON COMPROMISE AGREEMENT

BIOFARMA, (“Opposer”) filed a verified Notice of Opposition to Trademark Application No. 4-2015-00503151. The application, filed by SYNERGEN ASIA PTE.,LTD(SG), (“Respondent-Applicant”), covers the mark “ZALAMID” 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 10 February 2016. The Respondent-Applicant filed a Verified Answer on 06 May 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 30 May 2016 Order No. 2016-116 referring the case to mediation.

On 06 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. SYNERGEN hereby undertakes:
 - a. To voluntarily amend Trademark Application by limiting the statement of goods covered by the ZALAMID mark in relation to the following goods only:

Class 5: anti-glaucoma eye drops

- b. To submit proof to BIOFARMA, simultaneous with the signing of this Agreement, that it has sought the voluntary amendment of the Trademark Application in accordance with paragraph 1 (a) of this Agreement;
 - c. To use the ZALAMID mark only in relation to goods in the Philippines and in Asia as provided for in paragraph 1(a) of this Agreement;
 - d. That it shall not by itself, or through other persons or entities, use, register, or seek registration of the Registered Mark, or any other mark which is confusingly similar, either visually or aurally, with the Registered Mark, and it shall not question, whether through a cancellation action, opposition proceeding, or other proceeding, the ownership and use by BIOFARMA of the trademark SOLAMID, which BIOFARMA may in the future register or seek registration of for goods and services, including those under Class 5, in the Philippines and in Asia except when with regard to anti-glaucoma eye drop product.
2. BIOFARMA hereby undertakes to:
 - a. Not to object the use or registration by SYNERGEN of the ZALAMID mark, in relation to goods in Class 5 in the Philippines and in Asia, as provided for in paragraph 1(a) of this Agreement, and as long as said use and registration is in accordance with this Agreement; and
3. The Parties undertake to use reasonable commercial efforts to ensure that there will be no likelihood of confusion or deception between the Registered Mark and the ZALAMID mark, and should either Party become aware of any actual confusion or deception in the market, such Party will review the matter with the other Party in good faith so as to promptly put a stop to the confusion or deception;
4. This Agreement shall be binding, valid and enforceable against, and the benefits thereof shall inure not only to the Parties hereto but also to the subsidiaries, successors, licensees, assigns, and parties in privity with them, as well as other parties validly exploiting the trademarks and designated as such;
5. Each Party represents and warrants that it has full authority and legal capacity to enter this Agreement and has the capacity to carry out all obligations and requirements herein;



6. 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;
7. Each Party shall bear their own costs and lawyer's fees in connection with Inter Partes Case No. 14-2015-00470, and the preparation, execution of and compliance with this Agreement. The official costs of mediation proceedings shall be borne by SYNERGEN.
8. The terms and conditions of this Agreement may be amended, waived or modified only by an agreement in writing signed by the Parties or their respective assigns or successors in interest;
9. 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; and
10. This Agreement embodies the entire agreement between the Parties with respect to the subject matter and supersedes all prior correspondence and agreements.
11. This Agreement may be signed in any number of counterparts. Any single counterpart executed by BIOFARMA and SYNERGEN shall together constitute a full and original Agreement for purposes hereof;
12. The Parties agree that this Agreement is confidential;
13. In the event of any dispute concerning the agreement, the parties endeavor to resolve the dispute amicably. If any amicable settlement cannot be reached, Philippine Courts will have exclusive jurisdiction over this agreement and the terms of the agreement shall be construed in accordance with the provisions of Philippine Law.

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

¹



the filewrapper of Trademark Application No. 4-2015-00503151 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 15 DEC 2016


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