

ENTERTAINMENT GATEWAY
GROUP CORP.,

Opposer,
- versus -

DEVEREUX CONSULTING LTD.,
Respondent-Applicant.

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IPC 14-2006-00195

Opposition to:
TM Application No. 4-2004-010191
(Filing Date: 29 October 2004)

TM: "EGG LOGO"

Decision No. 2007 – 102

JUDGMENT BASED ON COMPROMISE AGREEMENT

For this Bureau's consideration is the parties' Joint Motion for Judgment Based on a Compromise Agreement executed on July 19, 2007 and filed on July 20, 2007.

The Compromise Agreement executed by and between Opposer, ENTERTAINMENT GATEWAY GROUP CORP., hereinafter referred to as FIRST PARTY and Respondent-Applicant DEVEREUX CONSULTING LTD., hereinafter referred to as SECOND PARTY, contain among others, the following terms and conditions:

COMPROMISE AGREEMENT

WHEREAS, the FIRST PARTY is the owner of pending trademark application, "EGG AND DEVICE" bearing Philippine TM Application No.4-2006-001348 for service under class 41("the first party's Trademark Application ");

WHEREAS, the SECOND PARTY has filed an application for the registration of the mark, "EGG LOGO" in the Philippines bearing TM Application NO. 4-2004-01091 for goods under Class 25;

WHEREAS, on 22 December 2006, the FIRST PARTY filed with the Intellectual Property Office of the Philippines (IPPhil) a verified Notice of Opposition to oppose the registration of TM application No. 4-2004-010191 for the mark "EGG LOGO", WHICH Opposition was docketed as Inter Prates Case (IPC) No. 14-2006-00195;

WHEREAS, the parties expressed their desire to amicably settle the aforementioned case under mutually acceptable terms and conditions;

NOW THEREFORE, for and in consideration of the above premises and of the mutual promises, covenants and other stipulation herein contained, the parties hereby enter into this Compromise and Coexistence Agreement, under the following terms and conditions, to wit:

1. ENTERTAINMENT GATEWAY GROUP CORPORATION and DEVEUX CONSULTING LIMITED (the "parties") have agreed to settle amicably Inter Prates Case No. 14-2006-00195 (Opposition to application No. 4-2004-010191), by way of Compromise and Coexistence Agreement stating the following terms and conditions, to wit:

1. The SECOND PARTY(*referring to DEVEUX CONSULTING LIMITED*) undertakes to refrain from asserting right derived from the registration and use of trademarks "EGG logo" against the FIRST PARTY'S (*referring to ENTERTAINMENT GATEWAY GROUP, CORPORATION*) use or registration of the trademark "EGG & DEVICE" in relation to the following goods/service ("the first party's Services"): (a) the goods set out in the first party's Trademark

Application; and (b) any other goods or services that do not directly compete with maternity clothing, baby clothing or natural products expansions from those goods. The SECOND PARTY will also refrain from opposing or challenging use and registration of modifications of the FIRST PARTY'S TRADEMARK "EGG & DEVICE" in relation to the First Party's Services.

1.2 Furthermore, the SECOND PARTY undertakes to limit the use and registration of the trademark "EGG Logo" to maternity clothing, baby clothing and natural product expansion from those goods ("the SECOND PARTY'S Goods")

2. Both parties undertake to consent to the registration and use of each other's trademarks under the terms stipulated under paragraph.
3. This agreement shall be valid in the Philippines.
4. This agreement shall also apply to affiliated companies, which have registered or use identical trademark for the same products. Furthermore, the parties undertake to impose the obligations under this Agreement upon any legal successors or licenses.
5. The FIRST PARTY agrees to withdraw the opposition to the registration of the SECOND PARTY'S TM Application No. 4-2004-010191 for the mark "EGG LOGO". (Italics supplied.)

A copy of the Compromise and Coexistence Agreement is attached as Annex "A".

3. The Parties hereby bind themselves to individually pay the attorney's fees of their respective counsels, as well as to bear their respective costs.
4. This compromise and Coexistence Agreement is not contrary to law, morals and public policy. The said Agreement is binding upon the Parties, their offers and their successors-in-interest.

WHEREFORE, finding the Parties' Compromise Agreement to have been duly executed and signed by the parties and the terms and conditions thereof to be in consonance with law, morals, good customs, public policy or public order, the same hereby APPROVED. Accordingly, Application Serial No. 4-2004-010191 filed by Respondent-Applicant DEVEUX CONSULTING LTD., on October 29, 2004 for the trademark "EGG LOGO" is GIVEN DUE COURSE subject to the terms and conditions of the compromise Agreement. Consequently, the parties hereby enjoined to faithfully comply with the terms and conditions of the Compromise Agreement, failure of which shall be cause for the erring party to the cited for indirect contempt after proper charge and hearing.

Let the file wrapper of the trademark "EGG LOGO" subject matter under consideration together with a copy of this Decision be forwarded to the Bureau of Trademarks (BOT) for appropriate action.

SO ORDERED

Makati City, July 24, 2007

ESTRELLITA BELTRAN-ABELARDO
Director, Bureau of Legal Affairs
Intellectual Property Office