



ABOITIZ POWER CORPORATION,
Complainant,

IPV No. 10-2011-00015

-versus-

For: Trademark Infringement,
Tradenname Infringement,
Unfair Competition and
Damages”

CLENERGEN PHILS. CORP. and the
SECURITIES and EXCHANGE
COMMISSION,
Respondents.

X-----X

NOTICE OF DECISION

POBLADOR BAUTISTA & REYES
Counsel for Complainant
5th Floor, SEDCCO I Building
120 Rada corner Legaspi Streets
Legaspi Village, Makati City

CORPORATE COUNSELS, PHILIPPINES LAW OFFICES
Counsel for Respondent-CPC
Unit 3104, 31st Floor
Global Antel Corporate Center, Julia Vargas Avenue
Ortigas Center, Pasig City

SECURITIES AND EXCHANGE COMMISSION
Respondent
SEC Building, EDSA, Mandaluyong City

GREETINGS:

Please be informed that Decision No. 2012 – 04 dated August 29, 2012 (copy enclosed) was promulgated in the above entitled case.

Taguig City, August 29, 2012.

For the Director:

CERTIFIED TRUE COPY

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

Marilyn F. Retual
MARILYN F. RETUAL

IPRS IV, Bureau of Legal Affairs, IP Phils.,



ABOITIZ POWER CORPORATION,
Complainant,

-versus-

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SECURITIES and EXCHANGE
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For: Trademark Infringement,
Tradename Infringement,
Unfair Competition and
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Decision No. 2012 - 04

**DECISION BASED ON
COMPROMISE AGREEMENT**

ABOITIZ POWER CORPORATION ("Complainant") filed on 17 August 2011, a complaint against CLENERGEN PHILIPPINES CORPORATION and the SECURITIES and EXCHANGE COMMISSION ("Respondents") for Trademark Infringement, Tradename Infringement, Unfair Competition and Damages.

This Bureau issued a Notice to Answer dated 05 September 2011 and served upon a copy thereof to Respondent-Applicant on 09 September 2011. The Respondent-Applicant filed its Answer on 17 October 2011.

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 25 October 2011 Order No. 2011-306 referring the case to mediation.

On 22 June 2012, this Bureau received a "MEDIATOR'S REPORT" indicating the successful mediation of the instant case. Attached to the report is the parties' "COMPROMISE AGREEMENT" submitted to this Bureau for approval. The Agreement states, among other things:

1. CLENERGEN acknowledges that ABOITIZ POWER's Marks are duly registered with the Intellectual Property Office and that ABOITIZ POWER has generated considerable goodwill in its marks since the inception of its use thereof in 2002 in the Philippines. It also seeks to avoid any prejudice that the continued use of the word "CLENERGEN" in its corporate name may cause to ABOITIZ POWER.
2. For the purpose of amicably settling the case, CLENERGEN agrees to the following:
 - (a.) change its corporate name to "PRIMARY BIOMASS ENERGY DEVELOPMENT, INC." Pursuant thereto, last 24 February 2012, CLENERGEN already secured from the Securities and Exchange Commission its amended Articles of Incorporation and

By-Laws which indicate its new corporate name "PRIMARY BIOMASS ENERGY DEVELOPMENT, INC." (Annexes "A" and "B" hereof); and

(b.) refrain from using CLENERGEN or any other name similar thereto, as its corporate name or component thereof, or as a trademark in the Philippines or in any other jurisdiction and/or to use and print facsimiles thereof in its official stationery, calling cards, Philippine websites and other official communications.

3. With the execution of this Agreement and upon full compliance by the parties with their respective undertakings herein, each party hereby waives, renounces and quitclaim any and all claims, causes of action or complaints which it may have against the other party, its officers, agents, employees, stockholders, and/or its attorneys, legal and paralegal assistants, as well as against any and all other persons, officers and entities involved in the above-mentioned case. The parties' intention herein is to give an absolute, irrevocable and mutual release.

4. In case of CLENERGEN's breach of the terms of this agreement, it binds itself to pay, or cause to be paid, to ABOITIZ POWER the sum of FIVE HUNDRED THOUSAND PESOS (Php 500,000.00) as and by way of non-exclusive liquidated damages, without prejudice to any other legal remedies available to ABOITIZ POWER under the circumstances.


5. The parties hereby agree to execute a Joint Motion for Judgment based on the terms and conditions set forth in this Agreement.

6. This Agreement shall be binding upon and inure to the benefit of the parties hereto and to their successors and/or assigns, and shall take effect and be binding on both parties upon execution of the same.

7. Both parties have read this Agreement and all its terms and conditions carefully, and acknowledge that the same is executed free of duress, force, misrepresentation, intimidation and any and all other forms of vice of consent.

8. The parties mutually represent and confirm that their respective representatives are duly authorized to execute and deliver this Agreement as shown in the Secretary's Certificates attached as Annexes "C" and "D" hereof.

9. Except where the disclosure of the terms of this Agreement is necessary or required by the IPO, other applicable laws and regulations, the parties agree to keep the terms and conditions of this Agreement confidential.

10. Except to the extent that the Parties will submit this Agreement to the IPO for approval, both parties shall not disclose to any third party or publicly disseminate any information relating to the transactions or negotiations between them and/or their representatives with respect to this Agreement. 

This Bureau finds that the 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 in accordance with the pertinent rules of Intellectual Property Office of the Philippines and the Rules of Court. (Sec. 5, Office Order No.1 54, s. 2010)

WHEREFORE, premises considered, the parties' COMPROMISE AGREEMENT is hereby **APPROVED**. Accordingly, with the approved COMPROMISE AGREEMENT having the force and effect of a decision or judgment, the parties are enjoined to faithfully comply with the terms set forth therein.

SO ORDERED.

Taguig City, 29 August 2012.


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

/elmer/Joanne/