



MARRIOTT WORLDWIDE CORPORATION, }  
 Opposer, }  
 }  
 -versus- }  
 }  
 BELLE CORPORATION, }  
 Respondent-Applicant. }  
 X-----X

IPC No. 14-2011-00191  
 Opposition to:  
 Appln. Serial No. 4-2009-008539  
 Date filed: 26 August 2009  
 TM: "FAIRFIELD AT  
 TAGAYTAY HIGHLANDS &  
 DEVICE"

**NOTICE OF DECISION**

**ESGUERRA & BLANCO**  
 Counsel for Opposer  
 4<sup>th</sup> and 5<sup>th</sup> Floor, S & L Building Dela Rosa  
 cor. Esteban Sts. Legaspi Village  
 Makati City

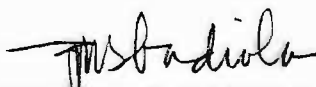
**TAN VENTURAZA VALDEZ**  
 Counsel for Respondent-Applicant  
 2704 East Tower, PSE Centre  
 Exchange Road, Ortigas Center  
 1605 Pasig City


**GREETINGS:**

Please be informed that Decision No. 2012 - 80 dated April 17, 2012 (copy enclosed) was promulgated in the above entitled case.

Taguig City, April 17, 2012.

For the Director:

  
 Atty. GINALYN S. BADIOLA  
 Hearing Officer, BLA

CERTIFIED TRUE COPY  
  
 SHARON S. ALCANTARA  
 Records Officer II  
 Bureau of Legal Affairs, IPOPHL



MARRIOTT WORLDWIDE CORPORATION, } Opposer, }	IPC No. 14-2011-00191
	Opposition to:
- versus - }	Appln. No. 4-2009-008539
	Date Filed: 26 August 2009
BELLE CORPORATION, }	Trademark: FAIRFIELD AT
Respondent-Applicant. }	TAGAYTAY HIGHLANDS & DEVICE
x-----x	Decision No. 2012 - <u>80</u>

**DECISION  
BASED ON COMPROMISE AGREEMENT**

MARRIOTT WORLDWIDE CORPORATION ("Opposer"), filed on 16 May 2011 an opposition to Trademark Application Serial No. 4-2009-008539. The application filed by BELLE CORPORATION ("Respondent-Applicant"), covers the mark "FAIRFIELD AT TAGAYTAY HIGHLANDS AND DEVICE" for use on goods under Class 36. The opposition is anchored on Section 123.1 (e) of Republic Act No. 8293 otherwise known as The Intellectual Property Code of the Philippines.

The Respondent-Applicant filed its Answer on 06 September 2011 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 15 September 2011 Order No. 2011-276 referring the case to mediation.

On 28 March 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:

"NOW, THEREFORE, for and in consideration of the foregoing premises, the Parties hereto have agreed as follows :

"1. The parties acknowledge that BELLE shall have the exclusive right to register and use the following trademarks for real property development projects/services throughout the Philippines (excluding hospitality properties of any description, including, but not limited to, hotels, motels, resorts, restaurants, cafés, bars, cocktail lounges, spas, golf clubs and golf courses) under Class 36 (collectively, 'the Belle FAIRFIELD Trademarks');

- a. Fairfield at Tagaytay Highlands;
- b. Fairfield Tagaytay Highlands;
- c. Fairfield at The Greenlands; and
- d. Fairfield The Greenlands.

"2. The parties acknowledge that MARRIOTT shall have the exclusive right to use, register and maintain the Marriott FAIRFIELD Marks in the Philippines for hospitality services of any description, including, but not limited to, hotel services, restaurant, catering, bar and lounge services, resort and lodging services, provision of facilities for meetings, conferences and exhibitions, provision of banquet and social functions facilities for special occasions, reservation services for hotel accommodations, online trip and travel reservation services but excluding development, sale and maintenance of real property in the nature of subdivisions and condominiums.

"3. In this regard, BELLE shall have the following obligations under this Agreement:

a. BELLE shall not challenge the use of, nor seek to invalidate the registration of, or file or pursue any opposition to any registration or application for the registration owned by Marriott or its affiliates that contains or consists of any Marriott FAIRFIELD Mark, including Application Nos. 4-2011-001686 and 4-2011-001687 for the registration of the service marks FAIRFIELD and FAIRFIELD INN & SUITES MARRIOTT and device, respectively, which were filed under Classes 39 and 43.

b. BELLE shall not in the future adopt, use, control, seek to register, obtain a registration for or maintain a registration for any business name, trade name, trademark or service mark that consists of or contains the term FAIRFIELD, or any similar designation, other than the Belle FAIRFIELD Trademarks.

c. As soon as commercially reasonable, and in no event later than sixty (60) days after the execution of this Agreement, BELLE shall: (i) remove from all internet websites under its control, or over which it may reasonably exercise control, all references to any designation that consists of or contains FAIRFIELD other than the Belle FAIRFIELD Trademarks, including any references that may be contained in metatext; and (ii) cancel all registrations in its possession or under its control for domain names that consist of or contain the term FAIRFIELD, or any similar designation, other than the Belle FAIRFIELD Trademarks.

d. BELLE commits to limit and restrict its use and registration of the Belle FAIRFIELD Trademarks to cover real property development projects/services throughout the Philippines (excluding hospitality properties of any description, including, but not limited to, hotels, motels, resorts, restaurants, cafés, bars, cocktail lounges, spas, golf clubs and golf courses) under Class 36.

e. BELLE shall execute with this Agreement and submit to the IPO's

Bureau of Trademarks a 'Request for Amendment' of Application No. 4-2009-008539 so that the list of services on which the mark FAIRFIELD AT TAGAYTAY HIGHLANDS AND DEVICE is intended to be used will be indicated as 'real estate development, except hospitality properties of any description, including, but not limited to, hotels, motels, resorts, restaurants, cafés, bars, cocktail lounges, spas, golf clubs and golf courses.' In this regard, BELLE agrees to execute a 'Request for Amendment' substantially in the form attached hereto as Annex A. Should said amendment be rejected for any reason, the Parties shall cooperate in good faith to agree upon a mutually acceptable substitute therefor which is in keeping with the terms of this Agreement. However, any amendment of Application No. 4-2009-008539 shall in no way limited or otherwise affect the undertakings of the Parties contained in this Agreement.

"4. On the other hand, MARRIOTT shall have the following obligations under this Agreement:

a. MARRIOTT shall not use or register in the Philippines any of the Belle FAIRFIELD Trademarks.

b. Upon approval of BELLE's 'Request for Amendment', (or any agreed upon substitute therefor) the parties hereby undertake to file the necessary motion to dismiss in Inter Partes Case No. 2011-16, and the Parties agree that this Agreement shall form the basis of an appropriate judgment to be entered in said action. The parties, however, obligate themselves to do any and all necessary action to cause the approval of this Agreement by the BLA Director.

"5. Should it be necessary, each party will give its written consent to the other party in order to obtain registration in the Philippines of the other party's permitted trademarks as those trademarks are delineated in this Agreement.

"6. The parties warrant that the signatories hereto have been duly authorized by their respective Board of Directors and granted full power and authority to compromise or settle and execute this Agreement and all documents necessary in connection therewith as shown by the attached Secretary's Certificates and which are hereby made integral part of this Agreement.

"7. The Parties represent that they entered into this Agreement freely, voluntarily, in good faith, and with full knowledge and understanding of their rights and obligations hereunder.

"8. The Parties agree to be bound by the terms and conditions of this Agreement, and agree to impose the obligations under this Agreement upon their respective agents, employees, affiliates, subsidiaries, related companies, licensees, successors in rights and assignees. The parties undertake to

transmit the obligations resulting hereof to their respective agents, employees, affiliates, subsidiaries, related companies, licensees, successors in rights and assignees.

"9. The Parties agree that each will bear its own costs and attorney's fees in this matter.

"10. This Agreement has been prepared by the combined efforts of all the Parties and their respective attorneys and may only be amended in writing by a document so designated and executed by the Parties hereto.

"11. There are no representations, promises, warranties, covenants or undertakings other than expressly set forth herein and this writing represents the entire understanding of the parties. In the event that any portion of this Agreement is adjudged invalid or unenforceable, then the surviving portions fail to retain the essential understanding between the parties, whereupon the Agreement shall be treated as terminated by mutual consent of the parties.

"12. Waiver by a party of any breach, or failure by a party to enforce the terms and conditions of this Agreement, at any time, shall not in any way affect, limit or waive the right of that party to enforce strict compliance by another party with respect to any other or further breach of any term or condition hereof.

"13. The parties will do their best to amicably solve any possible dispute arising from the interpretation or the execution of this Agreement. The Parties hereby agree that any dispute, controversy or claim relating to this Agreement and any subsequent amendments thereof, will be governed and determined in accordance with the laws of the Philippines, under whose exclusive jurisdiction the trademarks at issue have been filed or registered.

"14. The parties agree that irreparable harm may result in the event of a breach of any provision of this Agreement. Should either party default in the performance of any of its obligations under the terms of this Agreement, and such default not be cured within twenty (20) days of notice of breach, in addition to any other legal or equitable relief, damages or remedies which may be available, the non-breaching party shall be entitled to seek an injunction to restrain the violation hereof.

"15. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, agency, employment or other business relationship or enterprise between the parties.

"16. This Agreement shall have perpetual duration unless either party completely and permanently abandons their mark throughout the world, in which case this Agreement and the obligations contained herein shall terminate without further action by either party.

"17. All notices and other communications required or permitted under this Agreement shall be made as follows:

In the case of MARRIOTT:

Marriott International, Inc.  
10400 Fernwood Rd.  
Dept. 52/923  
Bethesda, MD 20817, USA  
Attention: Senior Counsel, Intellectual Property  
Fax: (301) 644-8094

With a copy to:

Esguerra & Blanco Law Offices  
4<sup>th</sup> Floor, S&L Building  
Dela Rosa corner Esteban Streets  
Legaspi Village, Makati City 1229  
Metro Manila, Philippines  
Fax: (632) 8138185

In the case of BELLE:

Belle Corporation  
2803A, 28<sup>th</sup> Floor PSE Centre  
Exchange Road, Ortigas Center  
Pasig City 1605  
Fax: (632) 635-3030

With a copy to:

Tan Venturanza Valdez  
2704 East Tower  
Philippine Stock Exchange Centre  
Exchange Road, Ortigas Center  
1605 Pasig City, Metro Manila, Philippines  
Fax: (632)635-4703

All notices or other communications shall be made by facsimile and confirmed by either registered mail or express overnight courier service. All notices or other communications shall be deemed received on the seventh day following the mailing thereof or the third day after properly placing the communication in the possession of an overnight courier service. Either party may change its address for service of notices and other communications.

"18. This Agreement may be executed by the parties in as many number of counterparts as there are parties and all such counterparts when executed shall, when taken together, constitute a single contract by and between the parties.



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 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 the subject trademark application be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 17 April 2012.

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

*gsb/cpb*