



**SOCIETE DES PRODUITS NESTLE S.A.  
AND NESTLE PHILIPPINES, INC.,**  
Opposer,

**-versus-**

**MARKETVENTURE DISTRIBUTOR  
SALES, INC.,**  
Respondent-Applicant.

X-----X

**IPC No. 14-2011-00392**

Opposition to:

Appln. Serial No. 4-2010-005893

Date Filed: 01 June 2010

Trademark: **"HONEY AND DEVICE  
AND MASCOT"**

### NOTICE OF DECISION

**SAPALO VELEZ BUNDANG & BULILAN**

Counsel for the Opposer  
11<sup>th</sup> Floor, Security Bank Center  
6776 Ayala Avenue, Makati City

**MARKET VENTURE DISTRIBUTOR SALES, INC.**  
c/o **FORTUN NARVASA & SALAZAR LAW OFFICE**  
Counsel Respondent-Applicant  
23<sup>rd</sup> Floor, Multinational Bancorporation Centre  
Ayala Avenue, Makati City

**GREETINGS:**

Please be informed that Decision No. 2012 – 176 dated September 20, 2012 ( copy enclosed) was promulgated in the above entitled case.

Taguig City, September 20, 2012.

For the Director:

**Atty. PAUSI U. SAPAK**  
Hearing Officer  
Bureau of Legal Affairs



|   |   |                                    |
|---|---|------------------------------------|
| <b>SOCIETE DES PRODUITS NESTLE S.A.</b> | } | IPC No. 14-2011-00392              |
| <b>AND NESTLE PHILIPPINES, INC.,</b>    | } | Opposition to:                     |
| Opposers,                               | } |                                    |
|   | } |                                    |
| - versus -                              | } | Appln. Serial No. 4-2010-005893    |
|   | } | Date Filed: 01 June 2010           |
| <b>MARKETVENTURE DISTRIBUTOR</b>        | } | Trademark: <b>HONEY AND DEVICE</b> |
| <b>SALES, INC.,</b>                     | } | <b>AND MASCOT</b>                  |
| Respondent-Applicant.                   | } |                                    |
| x-----x                                 |   | Decision No. 2012 - <u>176</u>     |

**DECISION  
BASED ON COMPROMISE AGREEMENT**

**SOCIETE DES PRODUITS NESTLE S. A. AND NESTLE PHILIPPINES, INC.** ("Opposers"), filed on 10 October 2011 an opposition to Trademark Application Serial No. 4-2009-005893. The application filed by **MARKETVENTURE DISTRIBUTOR SALES, INC.** ("Respondent-Applicant"), covers the mark **HONEY AND DEVICE** for use on goods under Class 30. The opposition is anchored on Sections 147 and 147.2 of R.A. 8293 otherwise known as The Intellectual Property Code of the Philippines.

On 21 December 2011, the Respondent-Applicant filed its Answer 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 12 January 2012 Order No. 2012-19 referring the case to mediation.

On 11 May 2012, the parties filed an AGREEMENT AND QUITCLAIM. The pertinent portions of the document reads:

"NOW THEREFORE, in consideration of the foregoing, the Parties have agreed on the following compromise subject to the terms and conditions set forth below:

"1. **Undertaking.** The First Party undertakes to:

a. Delete the goods involving 'flour and preparation made for cereal' in the Applications and limit its registration to goods such as pastry, confectionery, honey, sugar, yeast, baking powder and salt under Nice Classification 30 and to milk and other dairy products under Nice Classification 29.

b. Disclaim the word 'Honey' in the Applications.

"2. **Withdrawal of Oppositions.** The Second Party hereby agrees to, and shall cause the withdrawal, with prejudice, of the **Above-captioned Opposition cases**, and undertake not to file any similar case, whether civil, administrative or criminal, or any kind or nature whatsoever, arising from the same facts, incident, or Applications. **Provided, however, that the Second Party shall only withdraw the subject opposition cases upon approval by the Bureau of Trademarks of the deletion of goods and disclaimer of the word 'HONEY' as provided under paragraphs 1 (a) and 1 (b) of this Agreement and Quitclaim.**

"3. **Release and Quitclaim.** Subject to paragraphs 1 and 2 hereof, the Parties hereby mutually, irrevocably, and voluntarily release and discharge one another, including the officers, directors, employees, successors-in-interest of the other party, from any and all action, damages, liability, responsibility or obligation arising from the **above-captioned Opposition cases**, all of which are hereby abandoned and waived.

"4. **Admission.** This Agreement shall not in any way be construed as an admission on the part of any party of any fault, negligence or liability, of whatever kind and nature, in connection with the foregoing cases.

"5. **Remedy.** In case of material breach of the terms and conditions of this Agreement, the non-defaulting party is hereby authorized to apply for a writ of execution in the foregoing cases for the purpose of compelling compliance with the terms and conditions of this Agreement.

"6. **Execution.** Each Party acknowledges and warrants that its execution of this Agreement and Release is free and voluntary. All Parties and signatories to this Agreement acknowledge and agree that the terms are contractual and not mere recital, and all Parties and signatories represent and warrant that they have carefully read this Agreement, have fully reviewed its provisions with their respective counsels, and know and understand its contents.

"7. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties. No part of this Agreement may be amended or modified in any way unless such amendment or modification is expressed in writing and signed by all Parties to this Agreement.

"8. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

This Bureau finds that the Agreement and Quitclaim 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)

On 28 August 2012, the Opposer filed a MANIFESTATION, stating that the said party is no longer interested to pursue the instant case and thereby withdrawing its opposition.

**WHEREFORE**, premises considered, the submitted Agreement and Quitclaim is hereby **APPROVED**. Accordingly, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2010-005893 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 20 September 2012.

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



*pus/cpb*