



SUYEN CORPORATION,
Opposer,

-versus-

SUN AND SKIN CARE RESEARCH, INC.,
Respondent-Applicant.

x-----x

}
} IPC No. 14-2011-00290
} Opposition to:
} Appln. Serial No. 4-2010-500033
} Filing Date: 12 Jan. 2010
} Trademark: "OCEAN POTION"

NOTICE OF DECISION

MIGALLOS & LUNA LAW OFFICES

Counsel for Opposer
7th Floor, The Phinma Plaza
39 Plaza Drive, Rockwell Center
Makati City

JDF LAW

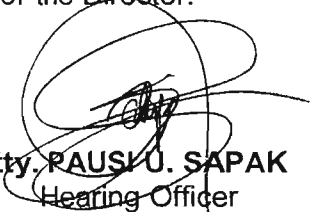
Counsel for Respondent-Applicant
1502 One Global Place
5th Avenue cor. 25th Street
Bonifacio Global City
Taguig City

GREETINGS:

Please be informed that Decision No. 2012 – 157 dated August 28, 2012 (copy enclosed) was promulgated in the above entitled case.

Taguig City, August 28, 2012.

For the Director:


Atty. PAUSO U. SAPAK
Hearing Officer
Bureau of Legal Affairs

CERTIFIED TRUE COPY


MARILYN RETITUL



SUYEN CORPORATION,	}	IPC No. 14-2011-00290
Opposer,	}	Opposition to:
	}	
- versus -	}	Appln. Serial No. 4-2010-500033
	}	Date Filed: 12 January 2010
SUN AND SKIN CARE RESEARCH, INC.,	}	Trademark: OCEAN POTION
Respondent-Applicant.	}	
x-----x	}	Decision No. 2012 - <u>157</u>

**DECISION
BASED ON COMPROMISE AGREEMENT**

SUYEN CORPORATION ("Opposer"), filed on 19 July 2011 an opposition to Trademark Application Serial No. 4-2010-500032. The application filed by **SUN AND SKIN CARE RESEARCH, INC.** ("Respondent-Applicant"), covers the mark **OCEAN POTION** for use on goods under Class 3. The opposition is anchored on Sections 123.1 (d) and 155.1 of R.A. 8293 otherwise known as The Intellectual Property Code of the Philippines.

On 22 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 19 January 2012 Order No. 2012-35 referring the case to mediation.

On 06 June 2012, the parties filed a Joint Motion for Judgment Based on Compromise Agreement with the attached COMPROMISE AND COEXISTENCE AGREEMENT. The pertinent portions of the document reads:

"NOW, THEREFORE, for and in consideration of the foregoing premises and of the terms and conditions hereinafter set forth, the Parties hereto hereby agree as follows:

"1. SSCRI and SUYEN hereby agree and undertake as follows:

1.1. SUYEN hereby permits SSCRI to proceed with its Block Print Application and SSCRI may proceed with the registration of its Block Print Application for the purpose of, and only for the purpose of, preventing third parties from registering and using the root word or mark 'OCEAN POTION' and provided that any registration by SSCRI of the Block Print Application or any other application of the word mark 'OCEAN POTION' shall not be deemed a grant by SUYEN of authority to use the same or a waiver of any obligation of SSCRI under this Agreement;

1.2. SSCRI shall not seek the cancellation of the Registered Mark of SUYEN;

1.3. SUYEN hereby agrees to withdraw its Opposition case against the Block Print Application.

"2. SUYEN hereby agrees and acknowledges that in the instances provided in Section s 2.1, 2.2 and 2.3 below, the words 'OCEAN POTION' may appear in word form:

2.1. Third-party write ups and news articles;

2.2. Write-ups found in the website of SSCRI as long as the OCEAN POTION (DESIGN) mark covered by Trademark Application No. 4-2010-500032 and subject of Inter Partes Case No. 14-2011-00155 is prominently displayed on such website or webpage where such write-ups appear;

2.3. Write-ups or product information found in brochures, flyers or other advertising materials, provided that the materials on which said write-ups or product information are included prominently displays the said OCEAN POTION (DESIGN) mark.

"3. The parties herein hereby agree that the violation by SSCRI of its commitment or agreement not to use 'OCEAN POTION' as a word mark as embodied in this Agreement shall constitute full and sufficient ground to cancel any registration of any OCEAN POTION word mark.


"4. This Agreement is entered into by the parties without prejudice to the Compromise and Coexistence Agreement entered into by the parties in relation to Inter Partes Case No. 14-2011-00155 insofar as the terms and conditions therein are applicable in this Agreement.

"5. For and in consideration of the foregoing agreements and undertakings of SSCRI, SUYEN hereby agrees to withdraw and dismiss the Opposition. The Parties shall upon execution hereof file a Joint Motion for Judgment Based on Compromise Agreement praying for the issuance by IPOPHL of a judgment in the Opposition based on this Agreement, including the dismissal of the Opposition under the terms and conditions hereof.

"6. This Agreement shall be effective upon issuance by IPOPHL of such judgment based on this Agreement.

"7. This Agreement may be signed in any number of counterparts. Any single counterpart executed by SUYEN and SSCRI shall together constitute a full and original Agreement for purposes hereof.

This Bureau finds that the Compromise 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**. Accordingly, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2010-500033 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 28 August 2012.


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



pus/cpb