



SUYEN CORPORATION,  
Opposer,

-versus-

GOLDEN ABC, INC.,  
Respondent- Applicant.

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IPC No. 14-2012-00449  
Opposition to:  
Appln. Serial No. 4-2010-013892  
Date Filed: 21 December 2010  
TM: "ACQUABENE"

**NOTICE OF DECISION**

**MIGALLOS & LUNA OFFICES**  
Counsel for the Opposer  
7<sup>th</sup> Floor, The Phinma Plaza  
39 Plaza Drive, Rockwell Center  
Makati City

**OFFICE OF BAGAY-VILLAMOR & FABIOSA**  
Counsel for Respondent-Applicant  
Unit 107, Building A, Oakridge Business Center  
880 A.S. Fortuna Street, Mandaue City, Cebu

**GREETINGS:**

Please be informed that Decision No. 2014 - 197 dated July 31, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, July 31, 2014.

For the Director:

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





SUYEN CORPORATION,	}	IPC NO. 14-2012-00449
Opposer,	}	Opposition to:
	}	Application Serial No. 4-2010-013892
- versus -	}	Date Filed: 21 December 2010
	}	
GOLDEN ABC, INC.,	}	Trademark: ACQUABENE
Respondent-Applicant.	}	
X-----X		Decision No. 2014 - <u>197</u>

**DECISION  
BASED ON COMPROMISE AGREEMENT**

SUYEN CORPORATION ("Opposer"), filed an opposition to Trademark Application Serial No. 4-2010-013892 on the ground that the mark "ACQUABENE" of GOLDEN ABC, INC. ("Respondent-Applicant") is confusingly similar with the "ACQUA & DEVICE" mark of Opposer SUYEN and SCENTRAL.


Pursuant to the Regulations on Inter Partes Proceedings, this Bureau issued a Notice to Answer and served a copy thereof to Respondent-Applicant on 15 January 2013. The Respondent-Applicant filed its Answer on 16 April 2013.

On 24 April 2013, this Bureau issued Order No. 2013-102 referring the case to mediation. On 09 July 2014, the ADR Services of this Bureau submitted a Mediation Report indicating a settlement by the parties. Attached to the report is the parties' Compromise & Coexistence Agreement, the pertinent portion of which reads:

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

"1. GOLDEN ABC hereby agrees and undertakes as follows:

1.1 Notwithstanding the existence of trademarks registered before the IPOPHL in the name of GOLDEN ABC containing 'ACQUA', GOLDEN ABC shall at all times use the mark 'ACQUA' only with or accompanied by the word 'BENE' or 'BELLA', with equal prominence as 'ACQUA', or with the words 'BENE' OR 'BELLA' in bigger font or presented more prominently than 'ACQUA' (hereinafter the 'Permitted Mark'), including on all products, labels, advertising and promotional materials (collectively 'Products and Materials').

For the avoidance of doubt, the use of 'ACQUA' in the following manner  or as currently used by GOLDEN ABC shall be deemed non-



compliant with the foregoing paragraph.

GOLDEN ABC hereby agrees that immediately upon issuance of judgment granting and/or approving the Joint Motion for Judgment based on Compromise Agreement *in toto* under Section 6 hereof, GOLDEN ABC shall amend the Application to adjust the representation of word 'ACQUA' to equal its prominence with that of the word 'BENE' or make 'BENE' larger or more prominent than 'ACQUA'.

1.2 GOLDEN ABC may use the word 'ACQUA' with the words 'BENE' or 'BELLA' as it is currently used and understood to be non-compliant with this Agreement. Including use on all its Products and Materials only until June 17, 2015 (the 'Selloff Period').

1.3 GOLDEN ABC shall not, by itself or through other persons or entities, use the word 'ACQUA' alone or 'AQUA' alone, but always in combination with the words 'BENE' or 'BELLA'.

1.4 GOLDEN ABC shall not, by itself or through other persons or entities, use the Permitted Mark in any manner confusingly similar with SCENTRAL's Registered Mark.

1.5 GOLDEN ABC shall not, by itself or through other persons or entities, use, register or seek registration of the Registered Mark, or any other mark containing the word 'ACQUA' or 'AQUA' other than the Permitted Mark, or seek the cancellation of the Registered Mark.

"2. SUYEN and SCENTRAL hereby agree and undertake as follows:

2.1 SUYEN and SCENTRAL agree that GOLDEN ABC may use the Permitted Mark in accordance with this Agreement and hereby permit GOLDEN ABC to proceed with its Application as amended in accordance with Section 1.1 hereof.

2.2 SUYEN and SCENTRAL shall not, by itself or through other persons or entities, use, register or seek registration of the Permitted Mark, or any other mark containing the words 'ACQUA BENE' or 'ACQUA BELLA' or use its Registered Mark in any manner confusingly similar to the Permitted Mark.

"3. The Parties hereby agree that breach by GOLDEN ABC of this Agreement shall constitute full and sufficient ground and basis for the IPOPHL to deny the Application or cancel any registration of the Permitted Mark or any other registered mark of GOLDEN ABC with the word 'ACQUA' or 'AQUA', on the basis of GOLDEN ABC's deemed admission of SUYEN and SCENTRAL's position that the Permitted Mark and the said other registered



marks are confusingly similar to the Registered Mark.

"4. The Parties further agree that breach by SUYEN and SCENTRAL of this Agreement shall constitute full and sufficient ground and basis for the IPOPHL to dismiss the Opposition and grant registration of the Permitted Mark based on SUYEN and SCENTRAL's deemed admission of the position of GOLDEN ABC that the Permitted Mark is not confusingly similar to the Registered Mark.

"5. For and in consideration of the foregoing agreements and undertakings of GOLDEN ABC, SUYEN hereby agrees to withdraw the Opposition subject to this Agreement.

"6. The Parties shall upon execution hereof file a Joint Motion for Judgment Based on Compromise Agreement praying for the issuance of the IPOPHL of a judgment in the Opposition based on this Agreement, including the dismissal of the Opposition under the terms and conditions hereof.

"7. The Parties hereby acknowledge that they have entered into similar Compromise and Coexistence Agreements (the 'other Agreements') in connection with the following marks: i) 'ACQUA BENE BY PENSHOPPE' covered by GOLDEN ABC's pending Trademark Application No. 4-2011-011092 which was opposed by SCENTRAL, in Inter Partes Case No. 14-2011-00186; ii) 'ACQUA BELLA' covered by GOLDEN ABC's pending Trademark Application No. 4-2010-012741 which was opposed by SCENTRAL in Inter Partes Case No. 14-2011-00364; and iii) 'ACQUACLEAR' covered by GOLDEN ABC's pending Trademark Application No. 4-2011-014486 which was opposed by SCENTRAL in Inter Partes Case No. 14-2012-00187 (the 'Other Oppositions'). This Agreement shall be effective upon issuance by IPOPHL in the present Opposition of its judgment based on this Agreement and the issuance by the IPOPHL in the Other Oppositions of its judgment based on the said Other Agreements, whichever is later.

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

This Bureau evaluated the Compromise Agreement and finds that the same has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good customs, public order or public policy.

Accordingly, 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.<sup>1</sup>

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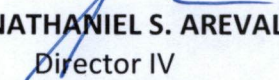
<sup>1</sup> Office Order No. 154 Series of 2010.



**WHEREFORE**, premises considered, the parties' Compromise Agreement is hereby **APPROVED**. Accordingly, the Compromise Agreement having the force and effect of a decision or judgment, the parties are hereby enjoined to comply with the terms and conditions set forth therein. Let the filewrapper of Trademark Application Serial No. 4-2010-013892 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 31 July 2014.

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

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