

HCA 1341/2007

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
ACTION NO. 1341 OF 2007

11 MAR 2008



SILVERLIT TOYS MANUFACTORY LIMITED Plaintiff
(銀輝玩具製品廠有限公司)

and

CHEN FEI YUET 陳非月 trading as 1st Defendant
POWERSOURCES ENTERPRISES 萬源企業

HENFAIR REMOTE CONTROL TECHNOLOGY
RESEARCH & DEVELOPMENT LIMITED 2nd Defendant
恒信遙控科技研究及發展有限公司

BILLION GATE (HOLDINGS) GROUP LIMITED 3rd Defendant
俊億控股集團有限公司

LAM CHIU FAI 林朝暉 4th Defendant
also known as HENRY LAM

FINAL JUDGMENT

DATED THE 1ST DAY OF FEBRUARY 2008

Pursuant to the Order of Deputy High Court Judge Gill dated 18th January 2008 whereby it was ordered, inter alia, that unless the Defendants do comply with paragraph 1 of the Order made by Master Levy on 12th December 2007 ("the said Order"), namely, allowing the Plaintiff to inspect all the design drawings for 12 styles

of mini-helicopters, drawings of the moulds for the body parts of the mini-helicopters in two styles and the plastic fibre body parts designed by Chan Ka-lok, within 14 days from the date hereof, the Defendants' Defence filed be struck out and final judgment be entered against the Defendants with costs, and the default having been made.

IT IS THIS DAY ADJUDGED that:-

1. The Defence filed by the Defendants on 16th November 2007 be struck out.
2. Final judgment be entered against the Defendants.
3. The Defendants, in the case of the 1st Defendant, whether acting by herself, her partners, employees, servants or agents or any of them or otherwise howsoever, in the case of the 2nd and 3rd Defendants, whether acting by themselves, their directors, officers, employees, servants or agents or any of them or otherwise howsoever, and in the case of the 4th Defendant, whether acting by himself, his partners, employees, servants or agent or any of them or otherwise howsoever, be permanently restrained from:-
 - (a) manufacturing, authorizing the manufacture of, issuing to the public, authorizing the issuance to the public, importing into Hong Kong, exporting from Hong Kong, distributing, exhibiting, selling, possessing, supplying, offering or exposing for sale and/or supply, and/or otherwise howsoever dealing in or with any of the

following (hereinafter collectively referred to as "the Infringing Items") :-

- (i) any toy helicopters or any flying objects which are and/or which incorporate component part(s) which is/are reproduction(s) and/or reproduction(s) of substantial parts of any of the Plaintiff's copyright works as defined in paragraph 11 of the Statement of Claim filed on 5th September 2007;
- (ii) any remote controllers which are and/or which incorporate component part(s) which is/are reproduction(s) and/or reproduction(s) of substantial parts of any of the Plaintiff's copyright works as defined in paragraph 11 of the Statement of Claim filed on 5th September 2007;
- (iii) any instructions manuals which are reproductions and/or reproductions of substantial parts of any of the Plaintiff's copyright works as defined in paragraph 11 of the Statement of Claim filed on 5th September 2007;
- (iv) without prejudice to the generality of the foregoing, any of the following of the Defendants' products:-

- (1) any of the toy helicopter products as defined in paragraph 13 of the Statement of Claim filed on 5th September 2007;
- (2) any toy helicopters of the type as defined in paragraph 13 of the Statement of Claim filed on 5th September 2007;
- (3) the remote controllers of the type as defined in paragraph 13 of the Statement of Claim filed on 5th September 2007; and
- (4) any instructions manuals of the type as defined in paragraph 13 of the Statement of Claim filed on 5th September 2007.

and/or

- (b) directing, procuring, instigating, causing, enabling or assisting others to do any of the acts referred to in sub-paragraph (a) hereinabove.

4. The Defendants and each of them do, within 21 days from the service of this judgment upon it, deliver up to the Plaintiff's solicitors for free disposal by the

Plaintiff all Infringing Items and/or any tools, dies, casts, moulds and/or plates for the making thereof which are in the possession, power, custody or control of the Defendants or any of them, the continued manufacture, possession, retention, use, disposal, sale, distribution and/or otherwise howsoever dealing in or with which by the Defendants or any of them would offend against the foregoing injunction.

5. That each of the Defendants do, within 24 days from the personal service of this judgment upon him/her/it, in the case of the 1st and 4th Defendants, by themselves, and in the case of the 2nd and 3rd Defendants, by a director, make and file an affidavit/affirmation and serve a copy thereof on the Plaintiff's solicitors verifying that each of the Defendants has complied with the above paragraph 4 and that each of them no longer has in his/her/its possession, power, custody or control any of the items required to be delivered up under the above Paragraph 4.

6. Each of the Defendants do, within 21 days from the personal service of this judgment upon him/her/it, in the case of the 1st and 4th Defendants, by themselves, and in the case of the 2nd and 3rd Defendants, by a director, make and file an affidavit/affirmation and serve a copy thereof on the Plaintiff's solicitors setting forth the names and addresses of all persons, firms or companies:-

- (a) to whom the Defendants or any of them have sold, supplied, offered or exposed for sale or supply;
- (b) from whom the Defendants or any of them have ordered, purchased and/or obtained supplies of; and
- (c) who has offered or exposed to sell to the Defendants or any of them

any Infringing Items together with the full details of the respective dates of such acts and the quantities and consideration involved, and do disclose in the said affidavit or affirmation the exact whereabouts of any person, firm or company known or believed by each of the Defendants to be in possession of any Infringing Items, and further do exhibit to such affidavit or affirmation copies of all documents relevant to the aforesaid, including but not limited to purchase orders, invoices, correspondence, delivery notes and receipts.

- 7. The Plaintiff be at liberty to elect between an enquiry as to damages and an account of profits within 28 days after the Defendants fully complying with the previous paragraph.
- 8. The Plaintiff be at liberty to use any affidavit/affirmation, document, article or information obtained in accordance with or as a result of this Order in any manner that should be required for the protection or further protection of the

rights of the Plaintiff the subject of this Action and/or any similar rights enjoyed by the Plaintiff in other countries throughout the world.

9. The Defendants do pay to the Plaintiff the costs of and incidental to this Action, including the costs of and incidental to the Summons filed on 26th June 2007, such costs to be taxed if not agreed.

Registrar

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FINAL JUDGMENT

Filed the 1st day of March 2008

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