

HCA 768/2008

27 MAR 2009

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
ACTION NO. 768 OF 2008



BETWEEN

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

Plaintiff

and

HONEST (HK) MANUFACTURING LIMITED
安德(香港)製品有限公司

1st Defendant

CHOW CHIN FAN 周展帆

2nd Defendant

BEFORE THE HONOURABLE MR. JUSTICE SAKHRANI IN CHAMBERS

ORDER

UPON the joint application of the Plaintiff and the Defendants by way of
Consent Summons filed herein on 23rd March 2009

BY CONSENT IT IS ORDERED that:-

- (1) The hearing scheduled to be heard before the Honourable Mr. Justice Sakhrani on 2 April 2009 at 9:30a.m. be vacated;

- (2) The Defendants, in the case of the 1st Defendant, whether acting by itself, its directors, employees or agents or any of them and in the case of the 2nd Defendant, whether acting by himself, his partners, employees, officers or agents or any of them or otherwise howsoever be restrained and an injunction is hereby granted permanently to restrain the Defendants from:-
 - (a) infringing the Plaintiff's rights and privileges conferred by the Hong Kong Standard Patent registered in the Hong Kong Patents Registry with registration number HK1103940; and/or
 - (b) directing, procuring, instigating, causing, enabling or assisting others to do any of the foregoing acts.

- (2) Without prejudice to the generality of the foregoing, the Defendants, in the case of the 1st Defendant, whether acting by itself, its directors, employees or agents or any of them and in the case of the 2nd Defendant, whether acting by himself, his partners, employees, officers or agents or any of them or otherwise howsoever be restrained and an injunction is hereby granted permanently to restrain the Defendants from:-

- (a) manufacturing, selling, advertising, publishing, offering for sale or exposing for sale;
- (b) possessing in the course of trade; and/or
- (c) exhibiting in public or distributing in the course of trade

the Defendants' toy helicopter product named "Expert" with model no. 699; and/or from directing, procuring, instigating, causing, enabling or assisting others to do any of the foregoing acts.

- (3) The Defendants do within 7 days from the date of service of this Order, deliver up to the Plaintiff's solicitors for free disposal by the Plaintiff all goods, documents, tools, dies, casts, moulds, plates silkscreens, photographs, negatives, drawings, packagings, boxes, labels and other articles or materials (hereinafter referred to as "the Offending Items") in the possession, custody, power or control of the Defendant, the continued manufacture, retention, use of or dealing in or with which by the Defendants would offend against the foregoing injunction.
- (4) The Defendants do, within 21 days of service of the Order upon it, make and file an affidavit or affirmation and serve a copy thereof upon the Plaintiff's solicitors

confirming that the Defendants have duly complied with the order in paragraph (3) hereof and are no longer in possession of the Offending Items.

(5) The Defendants, by a duly authorised director, do within 28 days of the service of this Order make and file an affidavit or affirmation and serve a copy thereof on the Plaintiff's solicitors setting forth the names and addresses of all persons, firms or companies:-

(a) by whom the Defendants have obtained supply of;

(b) to whom the Defendants have sold and/or distributed and/or supplied and/or offered to sell and/or supplied;

(c) from whom the Defendants have received orders for

the Offending Items the subject of restraint of the foregoing injunctions together with the date, consideration and quantity of each such sale or supply and exhibiting thereto true copies of all relevant documents, including but not limited to purchase orders, contracts, invoices, receipts, packing lists and delivery notes; and the Defendants' costs in manufacturing or causing to be manufactured, importing, distributing and selling the Offending Items, with supporting documents.

- (6) The Plaintiff be at liberty to elect between an enquiry as to damages and an account of profits within reasonable time after the Defendants fully complying with the previous paragraph.

- (7) That the Plaintiff be at liberty to use any of the affidavits/affirmations, documents, articles, materials or information obtained in accordance with or as a result of this Order in any manner that should be required for the protection or better protection of the rights of the Plaintiff the subject of the present proceedings whether in Hong Kong or elsewhere.

- (8) That the Defendants do pay to the Plaintiff the costs of this Action, including the costs of this application, such costs to be taxed, if not agreed.

Dated this 24th day of March 2009.

Registrar

