

HCA 2574/2006

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
ACTION NO. 2574 OF 2006

BETWEEN

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

Plaintiff

and



- 5 FEB 2007

MAK YUK KUEN 麥玉娟 trading as
M & Y PHOTO SERVICE CENTRE 雯業攝影冲印中心

Defendant

BEFORE THE HONOURABLE MR. JUSTICE SAW OF HIGH COURT
IN CHAMBERS

ORDER

UPON HEARING the Solicitors for the Plaintiff and the Defendant
being represented by her son Mr. Ng Wai Kong in person.

AND UPON READING the Affirmation of Sun Ka Hing and
Affirmation of Choi So May both filed on 22nd January 2007.

IT IS ORDERED that:-

(1) That the Defendant whether acting by herself, her partners, employees, officers, servants or agents or any of them or otherwise howsoever be restrained from infringing the Plaintiff's Hong Kong Registered Design, no.0503156.8 and/or from directing, procuring, instigating, causing, enabling or assisting others to do so.

(2) Without prejudice to the generality of the foregoing, that the Defendant whether acting by herself, her partners, employees, officers, servants or agents or any of them or otherwise howsoever be restrained and an injunction is hereby granted permanently restraining the Defendant from:-

(a) selling, offering or exposing for sale;

(b) possessing in the course of trade; and

(c) exhibiting in public or distributing in the course of trade

the Defendant's toy product named "Pocket", model no. 657 and/or from directing, procuring, instigating, causing, enabling or assisting others to do so.

- (3) That the Defendant do, within 7 days from the date of this Order, deliver up to the Plaintiff's solicitors for free disposal by Plaintiff's legal advisers all goods, documents, catalogues, photographs, negatives, drawings and other articles or materials ("the Offending Items") in the possession, custody, power or control of the Defendant, the continued manufacture, retention, and/or use and/or supply of which and/or otherwise howsoever dealing in or with which by the Defendant would offend against any of the foregoing injunctions.
- (4) That the Defendant do, within 14 days from personal service of this Order, make and file an affidavit or affirmation and serve a copy thereof upon the Plaintiff's solicitors confirming that the above in paragraph 3 has been complied and that the Defendant is no longer in possession, custody or control of the Offending Items.
- (5) That the Defendant do, within 21 days of their service of this Order, make and file an affidavit or affirmation and serve a copy thereof upon the Plaintiff's solicitor setting forth the names and addresses of all persons, firms or companies:-

- (a) to whom the Defendant has sold and/or distributed and/or supplied and/or offered to sell and/or supplied;
- (b) who has offered to sell and/or supply to the Defendant; and
- (c) who has ordered from the Defendant

the Offending Items 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, proforma invoices, packaging lists, delivery notes, receipts and delivery notes and the Defendant's costs in manufacturing or causing to be manufactured, importing, distributing, advertising and selling the Offending Items with supporting documents.

- (6) That the Plaintiff be at liberty to elect between an enquiry as to damages and an account of profits within 28 days after the Defendant fully complying with the previous paragraph.
- (7) The Plaintiff be at liberty to use 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) The Defendant do pay to the Plaintiff the costs of and incidental to this Action, including the costs of and incidental to this application, such to be taxed, if not agreed.

Dated the 30th day of January 2007.

Registrar

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and

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M & Y PHOTO SERVICE CENTRE
雩業攝影沖印中心 *Defendant*

ORDER

Filed the *flh* day of February 2007
Served the day of 2007

江炳滔律師事務所
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Solicitors for the Plaintiff
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[Our Ref: 10103-IP-01-0106]

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