

HCA 1910/2009

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
ACTION NO. 1910 OF 2009



LUEN FAT METAL AND PLASTIC MANUFACTORY
COMPANY LIMITED (聯發五金塑膠製品廠有限公司) Plaintiff

and

ZINOKI LIMITED 1st Defendant

GOPAL LALCHANDANI 2nd Defendant

BEFORE DEPUTY HIGH COURT JUDGE L. CHAN IN CHAMBERS

ORDER

UPON the joint application of the Plaintiff and the Defendants by way of
Consent Summons filed herein on 4th December 2009

BY CONSENT IT IS ORDERED that:-

- (1) The hearing scheduled to be heard on 9th December 2009 before Deputy High Court Judge L. Chan be vacated.

(2) The Defendants, in the case of the 1st Defendant, whether acting by itself, its directors, employees, officers or agents or any of them and in the case of 2nd Defendant, whether acting by himself, his partners, officers, servants 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 copyright subsisting in original artistic works in relation to the design of the Plaintiff's product named "Shape Turtle" with model no. 5006 (a photo featuring the said product is enclosed in the **Schedule A** attached hereto for identification purposes); and/or
- (b) directing, procuring, instigating, causing, enabling or assisting others to do any of the foregoing acts.

(3) Without prejudice to the generality of the foregoing, the Defendants, in the case of the 1st Defendant whether acting by itself, its directors, officers, servants or agents or any of them and in the case of the 2nd Defendant, whether acting by himself, his partners, officers, servants or agents or any of them or otherwise howsoever be restrained and 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' product named "**Bricks Tortoise**" with model no. 1225N (photo featuring the said product is enclosed in **Schedule B** attached hereto for identification purpose) and/or from directing, procuring, instigating, causing, enabling or assisting others to do any of the foregoing acts.

(4) The Defendants do, within 7 days from the date of this Order, deliver up to the Plaintiff's solicitors for free disposal by the Plaintiff all goods, documents, catalogues, photographs, negatives, drawings and other articles or materials ("the Offending Items") in the possession, custody, power or control of the Defendants, the continued manufacture, retention, use, disposal, sale or supply of which and/or otherwise howsoever dealing in or with which by the Defendants would offend against any of the foregoing injunctions.

(5) The Defendants and each of them, in the case of the 1st Defendant by its director, do within 14 days of service of the Order upon them, each make and file an affidavit or affirmation and serve a copy thereof upon the Plaintiff's solicitors confirming that the order contained in paragraph (4) hereof has been complied with and the Defendants are no longer in possession of the Offending Items.

(6) The Defendants and each of them, in the case of the 1st Defendant by its director, do within 21 days of service of the Order upon them, each make and

file an affidavit or affirmation and serve a copy thereof upon the Plaintiff's solicitors setting forth the names and addresses of all persons, firms or companies:-

- (a) from whom the 1st and/or the 2nd Defendants has/have obtained supply of;
- (b) to whom the 1st and/or the 2nd Defendants has/have sold, distributed, supplied and/or offered or exposed to sell and/or supply; and
- (c) from whom the 1st and/or the 2nd Defendants has/have received orders and/or enquiries for

any of the Offending Items together with the date, consideration and quantity of each such sale, supply, distribution, offer and/or order and exhibiting thereto true copies of all relevant documents, including but not limited to purchase orders, proforma invoices; and the Defendants' costs in manufacturing or causing to be manufactured, importing, exporting, marketing, distributing, issuing to the public, advertising and selling the Offending Items through such acts, with supporting documents.

- (7) The Plaintiff be at liberty to elect between an enquiry as to damages and an account of profits within reasonable time after the Defendants and each of them have/has fully complied with the paragraph (6) hereof and upon such election, there be an enquiry as to what damages (including additional damages, if any) have been suffered by the Plaintiff by reason of the Defendants' acts

complained of in this Action or an account of profits made by the Defendants through such acts.

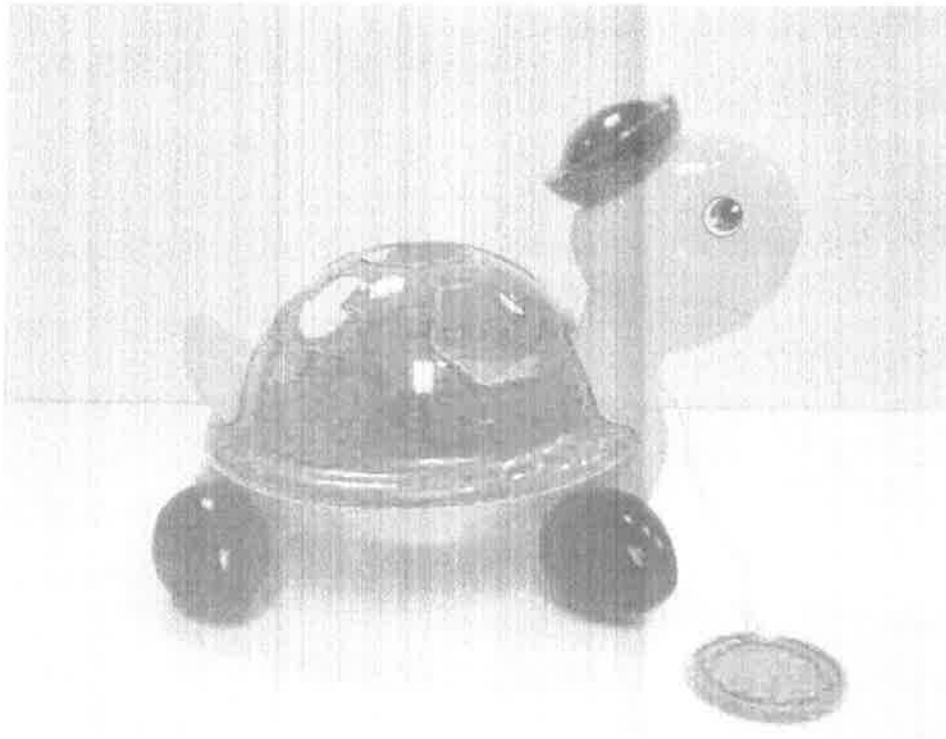
- (8) The Plaintiff be at liberty to use any of the affidavits/affirmations, documents, articles, materials or information obtained in accordance with or as a result of this Order in any manner that should be required for the protection or better protection of the rights of the Plaintiff the subject of the present proceedings or similar rights enjoyed by the Plaintiff whether in Hong Kong or elsewhere.
- (9) The Defendants do pay to the Plaintiff the costs of and incidental to this Action, including the costs of and incidental to this application, such costs to be taxed on solicitor and own client basis, if not agreed.

Dated this 7th day of December 2009

Registrar

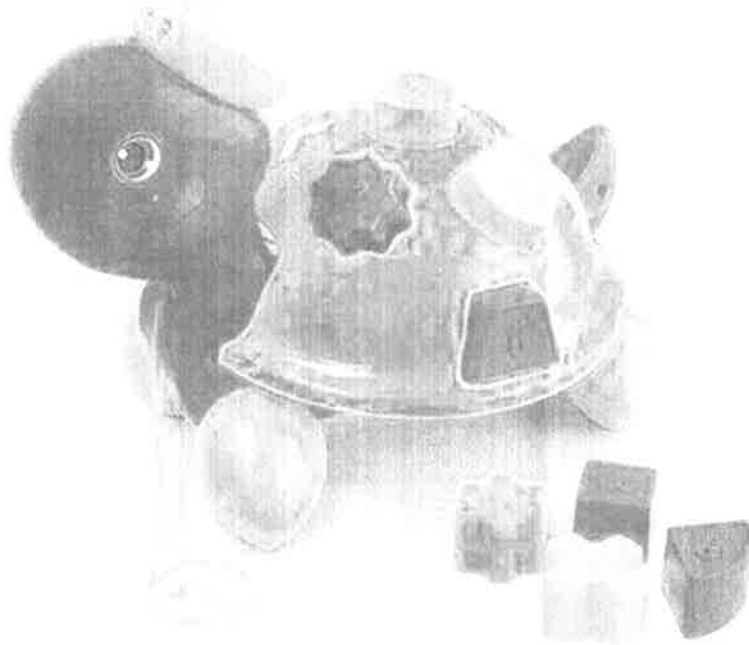
Schedule A

The Plaintiff's Product Named "Shape Turtle",
Model No. 5006



Schedule B

The Defendants' Product Named "Bricks Tortoise",
Model No. 1225N



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BETWEEN

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MANUFACTORY COMPANY LIMITED
(聯發五金塑膠製品廠有限公司) Plaintiff

and

ZINOKI LIMITED 1st Defendant

GOPAL LALCHANDANI 2nd Defendant

ORDER

Filed the 24th day of December 2009
Served the day of December 2009

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