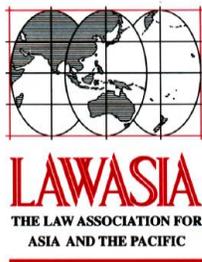




8th LAWASIA International Moot
FURTHER CORRECTIONS AND CLARIFICATIONS TO
THE MOOT PROBLEM



FURTHER CORRECTIONS & CLARIFICATIONS

Part I The business entities

A China Fur

1. Does China Fur manufacture products made from both animal pelts and "faux fur"?

Ans. Yes, but most of its sales are "real fur."

2. Where are China Fur's *real fur* products made?

Ans. In China, mostly in Liaoning Province.

B Jack Small [refers, interchangeably - to Jack Small Ltd. (the "legal entity") and Jack Small Department Store (its place of business.)]

3. Does Jack Small sell products manufactured by China Fur?

Ans. No

4. Why did Jack Small complain to CITES about Tan Sen's sale of products made using Real fur?

Ans. It became aware that it was losing customers to Tan Sen, some of whom told Mr. Small that Tan Sen sells "a higher quality product at a lower price." He suspected some of its products might contain "real fur."

5. Has Jack Small's store ever been investigated by ESO?

Ans. Since ESO Investigators do not always identify themselves as "investigators," it is not known if Jack Small's store was ever investigated by ESO. However, no public report re Jack Small's business was ever issued by ESO.

6. Has Jack Small ever personally examined the real fur clothing sold by Tan Sen?

Ans. Only once – when a customer showed him a fur coat she had purchased from Tan Sen. By removing a portion of the lining, he was able to determine that the coat was made of real fur. [The animal's skin was visible.]

C Tan Sen

7. Are Tan Sen Imports and Tan Sen Chinese Emporium the same business/legal entity?

Ans. Yes

8. What specific products sold by Tan Sen were investigated by the Enforcement Support Office of the CITES Secretariat [the ESO] and what did the investigators discover?

Ans. While pretending to be foreign tourists, the three investigators (one man and two women) carefully examined a wide variety of fur coats, jackets and hats and were able to determine that the majority of the fur coats and jackets sold by Tan Sen contained some real fur and that a significant number of its products (excluding the lining) were made totally of real fur.

9. What's the relationship between Tan Sen and China Fur Import and Export Company?

Ans. There is no "relationship" other than that China Fur is Ten Sen's supplier of the fur products involved in this Problem. **China Fur is NOT a party to this legal despite.**

Part II Other entities

10. What is CITES?

Ans. CITES <http://www.cites.org/> is an acronym for the Convention on International Trade in Endangered Species of Wild Fauna and Flora, an international agreement between the governments of more than 175 countries [listed on its website]. Its goal to ensure that

international trade in specimens of wild animals and plants does not threaten their survival. It attempts to provide protection to more than 30,000 species of animals and plants, whether they are traded as live specimens, fur coats or dried herbs. It was drafted as a result of a resolution adopted in 1963 at a meeting of members of IUCN (The World Conservation Union). The final text of the Convention was accepted by representatives of 80 countries in 1973 and it entered into force on 1 July 1975 CITES.

11. How does CITES disclose the results of its investigations to the general public ?

Ans. Primarily through its website <http://www.cites.org/> and a biannual Report - CITES World - which reports on the implementation – and non-implementation - of the Convention in Member Countries. [For example, the July 2006 report discussed problems in implementing the Treaty in Hong Kong.]

Part III Dispute Resolution (including arbitration)

12. The KLRCA has multiple sets of arbitration rules (e.g., 2010, 2012, Fast Track) - which set of rules is applicable to this dispute?

Ans. The "Fast Track" rules."

13. Can the validity, enforceability and **scope or effect** of the arbitration agreement be challenged in this case?

Ans. **Generally – NO!** Tan Sen and Jack Small - have so stipulated: See Footnote #6, page 3, Moot Problem: "The validity and enforceability of this provision are not disputed."

However, the Respondent can and **does assert** that the arbitral tribunal lacks the authority to impose what it considers to constitute *future injunctive relief* sought by the Claimant.

28 July 2013