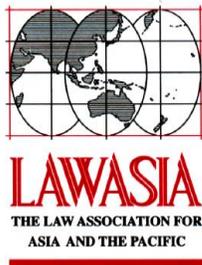




11th **LAWASIA** International Moot

CLARIFICATIONS TO THE MOOT PROBLEM



Organiser of the LAWASIA International Moot Competition

CLARIFICATIONS

The answers to the questions raised¹ by a few institutions are as follows:-

Question 1: Whether ATC has registered the ATC's mark under Trade Marks Act 1976 in Malaysia?

Answer: No.

Question 2: Since when has ATC been using the ATC's mark in Malaysia?

Answer: November 2012.

Question 3: Has ATC used the ATC's mark on any of its other products in Malaysia?

Answer: No.

Question 4: Has CTC conducted any Market Survey to show whether the ATC's Mark is causing confusion among the public in Malaysia?

Answer: No.

Question 5: Was the tea that ATC grew in China originated from Sri Lanka?

Answer: Yes. The seeds were first sourced from Sri Lanka.

Question 6: When did ATC start growing and manufacturing tea in China?

Answer: January 2009.

Question 7: What are the actual Colour for both CTC's 'Lion Logo' and 'ATC'SMark'?

Answer: The colours are as represented in the moot problem.

¹ Kindly note that not all questions raised are answered here as some of the questions raised relate to issues that are to be addressed during the moot.

Question 8: What are the Markets of distribution for the tea produced by ATC?

Answer: ATC's Sailor's Ceylon is marketed in most Asian countries, in Germany, and in the United Kingdom. Its main market is the Southeast Asian market.

Question 9: What are the Markets of distribution for the tea produced by CTC?

Answer: CTC's CTC Ceylon is marketed mainly in Europe. Since the establishment of its Southeast Asia headquarters in Kuala Lumpur, CTC's CTC Ceylon is also marketed throughout Southeast Asia.

Question 10: Specifically in relation to the Malaysian market, what were CTC's gains or losses for each year after the non-renewal of the Agreement as compared to the figure in 2012?

Answer: CTC continued to make some profits although its sales fell by 30% in 2013. The sales suffered a further 15% drop in 2014. The 2015 figures, however, reported a slight increase of 8% from the previous year.

Question 11: Is ATC's Mark a registered trademark in Malaysia?

Answer: No.

Question 12: In what country was the Distribution Agreement, as provided as appendix A, signed?

Answer: Malaysia.

Question 13: Is the Respondent still distributing their products in particular the Sailor's Ceylon, in Malaysia as of 20 October 2013

Answer: The Respondent has stopped distributing Sailor's Ceylon in Malaysia upon the expiry of the Distribution Agreement on 20 October 2013.

Question 14: Is the mark used by the Respondent, “ATC’S MARK” on page 4, paragraph 14, registered in Malaysia?

Answer: No.

Question 15: Was the Claimant’s mark listed on page 19 schedule one, no.1 “CTC Ceylon” registered in Malaysia?

Answer: No.

Question 16: Did SLTB allowed CTC to sub-license their rights or part of their rights as a registered user of the lion logo, to any third party, when SLTB gave permission to CTC to use the lion logo in listed on the moot problem, page 1, paragraph 3, “lion logo”.

Answer: Yes. CTC has the rights to sub-license its rights in the Lion Logo.

Question 17: In what year was ATC founded?

Answer: ATC was incorporated in 1999.

Question 18: What is the significance of the number “1972” on “ATC’S MARK” listed on page 4 paragraph 14?

Answer: According to Philip Chan, 1972 was his service number while serving as a ship captain.

Question 19: Is the Claimant, Chelsea Tea Company, the only registered user of the lion logo in Malaysia for the period between October 2013 to August 2016?

Answer: Yes.

Question 20: Did the Respondent, ATC, used any “sensitive data” referred to in the Distribution agreement, page 10, clause 10 when they distributed Sailor’s Ceylon on November 2012 to October 2013.

Answer: No.

Question 21: What was the mode of communication and the mode of delivery of the communication, of the communication between ATC and CTC, as per the moot problem, paragraph 14, line 2 and line 3.

Answer: There is no communication between ATC and CTC in respect of paragraph 14, lines 2 and 3 of the moot problem.

---End of clarifications---