

HONG KONG / JUDGMENT

KRALIK JAMES CHRISTOPHER v. VTECH HOLDINGS LTD

COURT

Court of First Instance

DECIDED

25 January 2007

CASE / FILE NUMBER

HCA2894/2004

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bjbj T[wc Hon Sakhrani J in Chambers Date of Hearing : 25 January 2007 Date of Decision : 25 January 2007 D E C I S I O N AUTONUMOUT Having heard the submissions, I am of the view that the statements that are sought to be put in at this stage ought to be allowed to be adduced as evidence. AUTONUMOUT I observe that much of the matters that are complained of in the parts which Mr. Carolan says are objectionable are matters which have been raised previously in witness statements of the same witnesses to which no objection has been taken in the past. AUTONUMOUT Ultimately the question of weight is one for me as the trial judge to deal with. It seems to me that even though some of the parts that are objected to do contain opinion evidence such is admissible under section 58(2) of the Evidence Ordinance. AUTONUMOUT I also take the point that the evidence sought to be adduced now are, on one view of the pleadings, not matters that had been pleaded but I agree with Mr. Yeung that the pleading at paragraph 34 of the amended defence and counterclaim does give some particulars of the loss and damage that the defendant says it suffered. It is pleaded under the particulars that as a result of the plaintiff's failure to keep the defendant's Chief Executive Officer and the defendant's Board of Directors promptly and fully informed, the defendant was deprived of the opportunity to take timely corrective measures and/or steps to rectify and improve the performance of the defendant's Consumer Telephone Products Unit. AUTONUMOUT Mr. Carolan has drawn my attention to the relevant paragraphs in the amended reply and defence to counterclaim where it has been asserted that the particulars are lacking. This is not a matter that should delay matters because particulars have now been provided in the witness statements and if particulars are lacking, the defendant should supply voluntary particulars. From what I have heard this would not cause the trial dates to be disrupted. I will leave it to the good sense of the legal team advising the defendant to serve voluntary particulars in a timely fashion so that the plaintiff can respond. AUTONUMOUT I allow the application. Costs in the cause. (Arjan H. Sakhrani) Judge of the Court of First Instance, High Court Mr. Paul Carolan, instructed by Messrs Boase Cohen & Collins, for the plaintiff Mr. Keith Yeung, instructed by Messrs Richards Butler, for the Defendant PAGE - A B C D E 1udk 1udk B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V (#p# (#p# r p# (#p# r p# "@AB9D / Jz @m2z]C]6 uxB26I]C]6 & 6" CACV abc-sak-hca Microsoft

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