

**MITSUMARU EAST KIT (HOLDINGS) LTD:
IT IS DIFFICULT TO HAVE MUCH CONFIDENCE IN THIS MANAGEMENT**

Within 23 days of Mitsumaru East Kit (Holdings) Ltd (Code: 2358, Main Board, The Stock Exchange of Hongkong Ltd), going public in the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC), the Company was sued for passing off the name 'East Kit' and using the Chinese characters as part of its name.

The legal term, 'passing-off', is defined in the 'bible' of the dictionary of law, 'Words and Phrases Legally Defined', as:

'The well-established action for "passing off" involves the used of a name or get-up which is calculated to cause confusion with the goods of a particular rival trader, and I think that it would be fair to say that the law in this respect has been concerned with unfair competition between traders rather than with the deception of the public which may be caused by the defendant's conduct, for the right of action known as a "passing-off" action is not an action brought by the member of the public who is deceived but by the trader whose trade is likely to suffer from the deception practised on the public but who is not himself deceived at all.' (Bollinger v. Costa Brava Wine Co., Ltd [1959] 3 All E.R. 800 per Danckwerts, J., at p. 805.)

According to an official announcement, published by Mitsumaru East Kit (Holdings) Ltd, dated July 28, 2004, on July 23, 2004, the Company 'received a series of letters ... from the legal advisors representing East Kit Industries Limited and East Kit Electronic Manufacturing Co. Ltd. (together, the "Complainants") informing the Company that the Complainants would be making an application to the court later that day for an interim injunction to restrain the Company from using the words "East Kit" and the (Chinese) characters ... as part of its name in Hong Kong (the "Interim Injunction").'

Mitsumaru East Kit went public on June 30, 2004, and its shares were traded for the first time on July 15, 2004 – just 8 days before this legal action commenced in the HKSAR.

At Page 261 of the Placing and Public Offer Prospectus, it is stated:

'No member of the Group is engaged in any litigation or arbitration of material importance and no litigation, arbitration or claim of material importance is known to the Directors to be pending or threatened by or against any member of the Group.'

Oh? Oops! Did somebody trip up?

Clearly, therefore, taking the above published and authoritative statement as being correct in every detail (as the contents of any Initial Public Offering Prospectus ought to be), there was no Letter Before Action in respect of the allegations of passing off the name, 'East Kit', along with its Chinese characters, by solicitors, acting for East Kit Industries Ltd and East Kit Electronic Manufacturing Company Ltd, the Complainants.

An anomaly, to be sure, but that is an anomaly for somebody else to ponder ... and for a court of law to make its determination.

Lastly, on this subject, on November 9, 2004, Mitsumaru East Kit announced that the Interim Order, dated August 4, 2004, made by the HKSAR High Court on July 23, 2004, had been '*successfully discharged after the hearing of the Company's summons which took place on 3rd November 2004 to 5th November 2004.*'

The above means, of course, among other things, that Herbert Smith, solicitors for Mitsumaru East Kit in the HKSAR, sent in a rather large bill to Management of this publicly listed company with regard to the firm's services in respect of the successful discharge of the Interim Order, and other matters, too, one may suggest.

And more bills are certain to follow from this firm of solicitors – because the case is far from being resolved.

The application by the Complainants for a renewal of the Consent Order of July 30, 2004, had been denied by the High Court, but the Court Ordered that there should be a speedy trial on the matter of the allegations of passing-off.

The above matter is but one of the strange and wonderful things that TARGET discovered on reading the official Company announcements since the enrollment of Mitsumaru East Kit as a member of the elite HKSAR fraternity, known as the Main Board of The Stock Exchange of Hongkong Ltd.

The Flotation

Mitsumaru East Kit issued its Placing and Public Offer Prospectus on June 30, 2004, when it pitched a 100-million, 10-cent Share Offer at a premium of 96.80 cents per Share.

Of the total number of Shares on Offer, 10 million Shares represented the Public Offer tranche, the remaining 90 million Shares were Placed with institutional investors.

The Public Offer tranche was oversubscribed about 8.20 times; the 90-million Placing tranche was oversubscribed about 3.60 times.

Mitsumaru East Kit had ... [CLICK TO ORDER FULL ARTICLE](#)

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