

**WHERE'S MY \$HK58 MILLION ?**

The solicitors' firm of Elaine Tam Chi Ling (), trading under the style or name of Elaine Tam and Company (), has been sued for \$HK58 million.

The Plaintiff in Action Number 1326, lodged in the High Court of the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC), is Mr [Yung Yu Ping \(\)](#).

The Statement of Claim, attached to Writ of Summons, Number 1326, alleges that the Plaintiff came into an agreement with HyComm Wireless Ltd () (Code: 499, Main Board, The Stock Exchange of Hongkong Ltd) to sell to this publicly listed company some cultivated land, forestry land, grassland and land for other agricultural uses, located in the Guangdong Province of the PRC, on or about July 27, 2007, at the price of \$HK58 million.

Paragraph 10 of the Statement of Claim alleges that the Agreement between HyComm Wireless Ltd and the Plaintiff 'was completed on 18 September 2007 with the Plaintiff surrendering relevant documents to the Company' (HyComm Wireless Ltd).

Ms Elaine Tam Chi Ling, the Sole Proprietor of Elaine Tam and Company, became an Independent Non-Executive Director of HyComm Wireless Ltd on December 18, 2007, it is claimed at Paragraph 12 of the Statement of Claim.

The Statement of Claim, then, continues from Paragraph 13 as follows:

*'13. Despite repeated requests and demands, the Company (HyComm Wireless Ltd) has, in breach of the Agreement, failed to pay, and / or failed to arrange the Defendant to pay, the sum of HK\$ 58,000,000 to the Plaintiff.*

*'14. The Plaintiff commenced High Court proceedings against the Company (HCA 873/2008) in or around May 2008 claiming against it for payment of the sum of HK\$58,000,000. In its Defence filed on 10 July 2008, the Company claimed to have paid the Defendant HK\$58,000,000.00 in the manner set forth in paragraph 9 herein pursuant to the Plaintiff's instructions and therefore the obligations for payment under the Agreement had been fully discharged.*

*'15. In the circumstances, the sum of HK\$58,000,000.00 paid by the Company to the Defendant belongs beneficially to the Plaintiff being money payable under the Agreement by the Company to the Plaintiff. The sum of HK\$58,000,000.00 is trust property held on trust by the Defendant for the Plaintiff and the Defendant is liable to pay to the Plaintiff the sum of HK\$58,000,000.*

*'16. While the Plaintiff disputes the Company's allegation in its Defence filed in HCA 873/2008 that the sum of HK\$58,000,000 was paid to the Defendant pursuant to the Plaintiff's instructions, by receiving the sum of HK\$58,000,000 being money payable under the Agreement by the Company to the Plaintiff, the Defendant is also liable to pay the Plaintiff the sum of HK\$58,000,000.00 as money had and received by the Defendant*

*to the use of the Plaintiff.*

*‘17. The Plaintiff has by various letters issued in April to July 2008 demanded the Defendant to pay to it the sum of HK\$58,000,000. The Defendant:*

- i. refused to pay to the Plaintiff the sum of HK\$58,000,00.00;*
- ii. denied having any knowledge of the Agreement or of the nature of the Plaintiff’s request for HK\$58,000,000.00;*
- iii. denied having acted for the Plaintiff;*
- iv. denied having received money on behalf of the Plaintiff;*
- v. refused to confirm whether they have received HK\$58,000,000.00 from the Company being the money payable under the Agreement.*

*‘18. In the circumstances, the Plaintiff suffered loss and damages.*

*‘19. Further, by virtue of Sections 48 and 49 of the High Court Ordinance (Cap.4) the Plaintiff is entitled to claim interest on the sums found to be due at such rate and for such periods as the court thinks fit.’*

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