



Transcript of Proceedings

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State Reporting Bureau
Date: 18 August, 2003

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

McMURDO J

No 1525 of 2003

RED HAT ASIA PTY LTD
(ACN 090 439 485)

Plaintiff

and

LIAM MULHALL

First Defendant

and

CHRISTOPHER SHARP

Second Defendant

and

JOHN CANNON

Third Defendant

and

REIGN CORPORATION PTY LTD
(ACN 101 925 955)

Fourth Defendant

and

DISTRIBUTION PARTNERS PTY LTD
(ACN 102 365 328)

Fifth Defendant

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and

PARTSHELL PTY LTD
(AS TRUSTEE FOR THE SHARP FAMILY
TRUST) (ACN 072 421 633)

Sixth Defendant

and

AGILE SOLUTIONS PARTNERS PTY LTD
(ACN 103 314 996)

Seventh Defendant

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and

MICHELLE SHARP

Eighth Defendant

BRISBANE

..DATE 05/08/2003

JUDGMENT

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JUDGMENT

HIS HONOUR: On 23 June 2003 the plaintiff applied pursuant to rule 288 for default judgments against the fourth and fifth defendants and for certain other orders for the payment out of the moneys in Court and also in the trust account of the plaintiff's solicitors, Messrs Freehills.

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The application came before me on the 15th of July. There was no appearance on behalf of the fourth and fifth defendants. On that day I was persuaded that there should be an order for payment out of the moneys in Court but I adjourned the rule 288 applications to enable the plaintiff to amend its pleading to plead some minimum money claim against each of these defendants. The application was adjourned to today.

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The plaintiff has amended its statement of claim and that amended pleading was served upon each of the defendants on 22 July. It was served with a letter advising that the rule 288 applications were adjourned for further hearing today.

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I am satisfied, therefore, that the defendants have had proper notice of the plaintiff's intention to seek a default judgment according to that amended pleading.

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Paragraph 59 of the further amended statement of claim by its particulars now pleads that the fourth defendant has profited at least to the extent of \$62,225.30 and the fifth defendant to the extent of \$32,230.86 from the matters complained of.

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JUDGMENT

In the circumstances the plaintiff has established an entitlement to a default judgment under rule 288 according to its amended statement of claim.

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More than eight days has passed since the service of the amended statement of claim upon each of these defendants, see rule 385(2), and no notice of intention to defend has been filed by either defendant.

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The amount of each judgment, however, should be reduced to give credit for the amounts which were paid out of Court by my orders of 15 July. The amount paid out of Court in relation to the fourth defendant was the sum of \$8,959.75 and the amount paid out in relation to the fifth defendant was the sum of \$17,118.

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Accordingly the appropriate amounts of the default judgments should be the sums of \$52,943.55 and \$14,500.86 against respectively the fourth and fifth defendants.

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There will be default judgments in those sums and I will further order that those respective amounts be paid from the moneys held by Freehills which were paid into their trust account on or about 19 February 2003.

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There will be a further order that the fourth and fifth defendants pay the plaintiff's costs of this application including any reserved costs to be assessed.

JUDGMENT

The orders will be according to a draft order which I have amended and initialled and placed with the papers.

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JUDGMENT