

Dispute involving online marketplace operator: A & M Beauty Wellness Sdn Bhd v Shopee Mobile Malaysia Sdn Bhd (2022)

The Firm successfully defended the prominent e-commerce platform operator, Shopee Mobile Malaysia Sdn Bhd (“Shopee”) in a suit filed by the Plaintiff after a full trial on matters pertaining to trademark infringement, unlawful interference of trade and obligation to disclose users’ data.

Summary

In summary, the High Court found that:

1. On the issue of trademark infringement, the Court held that the Plaintiff had no locus standi to maintain the action for trademark infringement as at the time the suit was filed, the Plaintiff was not the registered proprietor of the trademark in question.
2. The Plaintiff’s cause of action based on unlawful interference with trade failed; recourse, if any, should be sought against the sellers of the products in question.
3. Shopee, as the platform operator, does not have possession or custody of the products in question.
4. The Plaintiff’s complaint against Shopee was essentially to require Shopee to enforce the Plaintiff’s distribution rights against its members / distributors; Shopee has no obligation in law to do so; and
5. Shopee has no obligation to disclose information of platform users to the Plaintiff.

Conclusion

There are limited authorities in Malaysia on matters involving e-commerce platforms and the obligations of the e-commerce platform operator for products sold on its platform. This case seeks to answer many of the issues arising. It was determined after a full trial canvassing factual and legal issues and sets a good precedent for e-commerce platforms.

Dispute Resolution Case Highlight

SEPTEMBER 2022

Shearn Delamore & Co
7th Floor

Wisma Hamzah Kwong-Hing,
No 1, Leboh Ampang
50100, Kuala Lumpur, Malaysia

T: 603 2027 2727

F: 603 2078 5625

info@shearndelamore.com

www.shearndelamore.com

www.linkedin.com/company/shearndelamore-&-co

An earlier attempt by the brand owner to injunct the sale of its products online on the Shopee e-commerce platform was rejected. (**A & M Beauty Wellness Sdn Bhd v Shopee Mobile Malaysia Sdn Bhd** [2021] MLJU 65; [2021] 1 LNS 84). The write up on the interim injunction decision can be accessed [here](#).

[Shanti Mogan](#), [Lilien Wong](#), [Yiew De Quan](#) & [Cassandra Oh](#) of Messrs Shearn Delamore & Co acted for Shopee.



Shanti Mogan
Partner
Dispute Resolution Practice Group
T: 03 2027 2921
E: shanti@shearndelamore.com



Lilien Wong
Partner
Dispute Resolution Practice Group
T: 03 2027 2744
E: lilien.wong@shearndelamore.com



Yiew De Quan
Associate
Dispute Resolution Practice Group
T: 03 2027 2944
E: yiewdq@shearndelamore.com



Cassandra Oh
Associate
Dispute Resolution Practice Group
T: 03 2027 2652
E: cassandra.oh@shearndelamore.com

Copyright © 2022 Shearn Delamore & Co. All rights reserved.

This Update is issued for the information of the clients of the Firm and covers legal issues in a general way. The contents are not intended to constitute any advice on any specific matter and should not be relied upon as a substitute for detailed legal advice on specific matters or transactions.