



**THE 6th INTERNATIONAL ADR
(ALTERNATIVE DISPUTE RESOLUTION)
MOOTING COMPETITION**

MOOT PROBLEM 2016

5 – 9 July 2016

City University of Hong Kong, Hong Kong



Table of Contents

| | |
|---|--------|
| Application for Arbitration..... | 1 |
| Claimant's Exhibit No. 1 | 5 |
| Claimant's Exhibit No. 2 | 6 |
| Claimant's Exhibit No. 3 | 8 |
| Claimant's Exhibit No. 4 | 9 |
| Claimant's Exhibit No. 5 | 10 |
| Claimant's Exhibit No. 6 | 11 |
| Claimant's Exhibit No. 7 | 13 |
| Statement of Defense | 15 |
| Respondent's Exhibit No. 1 | 17 |
| Respondent's Exhibit No. 2 | 18 |
| Notice on the Formation of Arbitral Tribunal Case No. M2016/15..... | 19 |
| Procedural Order no. 1 | 20 |



Tim Morrow
Ring and Associates, LLP
7/F, The Bauxer Building
7 Garden Street, Yanyu City
Yanyu
Email: tmorrow@ringyanyu.com
Tel: (136) 965 8258
Fax: (136) 965 8528

18 November 2015

Secretariat
China International Economic and Trade Arbitration Commission (CIETAC)
6/F, CCOIC Building,
No. 2 Huapichang Hutong,
Xicheng District, Beijing, 10035,
People's Republic of China

Dear Ms. Secretary,

Application for Arbitration

I represent Albas Watchstraps Mfg. Co. Ltd., and I am writing to you to submit our Application for Arbitration against Gamma Celltech Co. Ltd. Enclosed, please find a copy of my power of attorney to represent Albas Watchstraps Mfg. Co. Ltd in this arbitration.

The total value of relief claimed in this arbitration is USD 9,600,000 plus interest and costs. In terms of RMB, at the exchange rate of the day of this letter of 6.37 RMB per USD, the claim is RMB 61,152,000. The Bank of Yanyu has already transferred the requisite arbitration fee in RMB to your account in Beijing.

The arbitration clause agreed between the parties provides that the seat of arbitration is Hong Kong, China, applying the CIETAC Rules and that the arbitration shall be conducted in English.

The Claimant nominates Ms. Felicity Chan as its party-appointed arbitrator.

If anything further is required, please do inform me.

Sincerely,
Tim Morrow

Attached:

Application for Arbitration for Albas Watchstraps Mfg. Co. Ltd.
Certified copy of Power of Attorney for Tim Morrow



Application for Arbitration

Parties to the Arbitration

Claimant

Albas Watchstraps Mfg. Co. Ltd., a company incorporated under the laws of Yanyu
Business address: 241 Nathan Drive, Yanyu City, Yanyu
Head of Company: Giovanni Konstantopoulos, CEO

Tel: (136) 241 2905

Fax: (136) 241 5092

E-mail: giovannikonstantopoulos@albaswatchstraps.com

Respondent

Gamma Celltech Co. Ltd., a company incorporated under the laws of Wulaba
Registered Address: 17 Rodeo Lane, Mulaba, Wulaba
Head of Company: Anastasia Carter, CEO

Tel: (992) 2245 5422

Fax: (992) 2245 5422

E-mail: enquiries@gammacelltech.com

Arbitration Clause

The arbitration agreement relied upon by Albas Watchstraps Mfg. Co. Ltd. to support the present Application for Arbitration is found in Article 19 of the Sale and Purchase Agreement no. 2 executed between Albas Watchstraps Mfg. Co. Ltd. and Gamma Celltech Co. Ltd., which reads as follows:

(a): Disputes concerning payments shall be resolved amicably between the parties. Failure to reach an amicable resolution within a reasonable period of time (not to exceed 14 days) means that either party may submit the dispute to the China International Economic and Trade Arbitration Commission (CIETAC) Hong Kong Sub-Commission (Arbitration Center) for arbitration which shall be conducted in accordance with the CIETAC's arbitration rules in effect at the time of applying for arbitration. The arbitral award is final and binding upon both parties. The arbitration shall take place in Hong Kong, China. The arbitration shall be in the English language.

Facts

1. Albas Watchstraps Mfg. Co. Ltd. (“**Albas**” or “**the Claimant**”) is one of the leading manufacturers and exporters of leather watchstraps in Yanyu since 1973. The Claimant sells its watchstraps to importers of watchstraps and watch producers all over the world, as well as to local distributors in Yanyu.
2. Gamma Celltech Co. Ltd. (“**GCT**” or “**the Respondent**”), formed in 2002, is one of the fastest growing traders of smart mobile phones in Wulaba. In 2011 it expanded its product range to include smart mobile phone accessories.
3. The Claimant and Respondent will hereafter be referred to as “**the Parties**”.
4. In 2014 GCT approached Albas to discuss the purchase of leather watchstraps for Cherry Watch, which belongs to the famous Cherry brand that sells smart mobile phones (**Claimant’s Exhibit No. 1**). GCT wanted to be one of the first sellers to enter the market with leather watchstraps for Cherry Watches.
5. On 23 July 2014, after lengthy negotiations, the Parties concluded a Sale and Purchase Agreement (“**Sale and Purchase Agreement**” – **Claimant’s Exhibit No. 2**).
6. During the oral negotiations, GCT made it clear that they had only imported heavy electronics and had no experience with light non-electronic goods such as leather watchstraps. Albas therefore was able to offer Incoterms 2010 Delivery Duty Paid (“**DDP**”) only after doing the calculation and having increased the price by 50%. Also, Albas had agreed to be responsible for all related costs.
7. GCT paid the initial deposit of USD 3 million on 31st July 2014. On 14th August 2014 Albas had sent a handmade approval prototype for GCT to confirm in order for Albas to invest in the necessary tooling for mass production (**Claimant’s Exhibit No. 3**). This was standard procedure when it came to customized orders.
8. Upon receiving GCT’s email approving the prototype and a slight amendment concerning the stitching color (**Claimant’s Exhibit No. 4**), Albas started to prepare for the mass production, i.e. arranging the tooling, top leather, lining, buckles, plastic tubes and the stitching.
9. On 10th October 2014, Albas arrange for the watchstraps to be shipped by sea. On 28th October 2014, Albas received a notice from the shipping company that the watchstraps were lost at sea (**Claimant’s Exhibit No. 5**).
10. Albas forwarded the shipping company’s notice to GCT in order for GCT to seek compensation from its insurance company. To Albas’ surprise, GCT had not purchased any insurance. In fact GCT tried to argue that it was Albas’ responsibility to purchase insurance as the price was DDP and Albas was responsible for all related costs. Albas had to explain that DDP under Incoterms 2010 does not include insurance and that an insurance policy was not a “related cost”.

11. Albas offered to provide a replacement shipment provided GCT accepted responsibility and made full payment for the lost goods. GCT reluctantly proceeded with a replacement arrangement. The Parties entered into a subsequent Sale and Purchase Agreement for the replacement goods (“**Sale and Purchase Agreement no. 2**” – **Claimant’s Exhibit No. 6**).
12. After having received the balance payment for the Sale and Purchase Agreement as well as the deposit for the Sale and Purchase Agreement no. 2, Albas managed to arrange for an expedited production and for the watchstraps to be shipped on 29th December 2014.
13. On 27th February 2015 Albas received a message from GCT claiming that it was not going to make the balance payment, as it was not satisfied with the quality of the watchstraps. GCT also demanded a refund of its first payment as the first payment was made only on the condition of a successful replacement transaction.

Applicable Law

14. The relevant governing law clause is found in Art 20 of the Sale and Purchase Agreement, which provides for the United Nations Convention on Contracts for the International Sale of Goods 1980 (“**CISG**”) as the Parties have not opted out of the CISG.
15. Yanyu and Wulaba are both parties to the **CISG** and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (“**the New York Convention**”). All countries involved have adopted the UNCITRAL Model Law with 2006 amendments.

Request for Relief

1. Liquidated damages in the sum of USD 9.6 million
2. GCT to pay all costs of the arbitration, including Albas’ expenses for legal representation, the arbitration fee paid to CIETAC, and the additional expenses of the arbitration as set out in Article 52, CIETAC Arbitration Rules;
3. GCT to pay Albas interest on the amounts set forth in items 1 and 2 above, from the date Albas made those expenditures to the date of payment by GCT.

Signed on the 18th of November 2015
Tim Morrow
Counsel for Albas Watchstraps Mfg. Co. Ltd.



Claimant's Exhibit No. 1

Gamma Celltech Co. Ltd
17 Rodeo Lane, Mulaba, Wulaba
Anastasia Carter, CEO
Tel: (992) 2245 5422
Fax: (992) 2245 5422
E-mail: enquiries@gammacelltech.com

28 May 2014

Mr. Giovanni Konstantopoulos
Albas Watchstraps Mfg. Co. Ltd
241 Nathan Drive, Yanyu City, Yanyu

By courier

Dear Mr. Konstantopoulos,

We are traders of smart mobile phones worldwide and have recently started trading smart mobile phone accessories. We wish to grow our product line. As it is common knowledge that the famous Cherry brand, which produces smart mobile phones, will introduce their watch collection soon, we are considering introducing watchstraps suitable for Cherry Watches. Our understanding is that watch owners usually replace their leather watchstraps every 6 months to 8 months or so depending on how often the watch is worn and also on the weather.

We know of your history and reputation and therefore would appreciate if you could urgently send us prototypes of your finest watchstraps with soft Yanyu leather together with a pricelist so that we can have some idea on pricing.

I am looking forward to receiving your prototypes and pricelist soon as we would like to enter this novel market before anyone else.

Yours sincerely,
Anastasia Carter



Claimant's Exhibit No. 2

Sale and Purchase Agreement

Art 1: Contracting Parties

Seller: Albas Watchstraps Mfg. Co. Ltd., 241 Nathan Drive, Yanyu City, Yanyu

Buyer: Gamma Celltech Co. Ltd., 17 Rodeo Lane, Mulaba, Wulaba

The Seller and Buyer together shall be referred to as “the Parties”.

Art 2: Description

- 1) The Seller will arrange for the manufacture of leather watchstraps:
 - a) Top material: soft genuine Yanyu leather:
 - i) Calf grain 3,000,000pcs. (Black-1,000,000pcs., Dark Brown-600,000pcs., White-400,000pcs., Red-300,000pcs., Off-white-200,000pcs., Orange-100,000pcs., Dark Green-100,000pcs., Yellow-100,000pcs., Turquoise-100,000pcs., Gold-50,000pcs., Silver-50,000pcs.)
 - ii) Crocodile grain 800,000pcs. (Black-600,000pcs., Dark Brown-200,000pcs.)
 - iii) Alligator grain 800,000pcs. (Black-600,000pcs., Dark Brown-200,000pcs.)
 - iv) Lizard Grain 400,000pcs. (Black-300,000pcs., Dark Brown-100,000pcs.)
 - b) Lining: genuine nubuck
 - c) Buckle: nickel-free
 - d) Ends: with plastic tubes
 - e) Edge: remborde
 - f) Stitching: 50% with matching color stitching and 50% without stitching
 - g) Size: strap to fit customer's watchcase
 - h) Logo: Hot stamped “Genuine Italian leather”, “Made in Yanyu”, and logo (to be provided by Gamma)

Art 3: Quantity & Price

5,000,000 straps @ US\$3.00 per pc. DDP (INCOTERMS 2010)

Art 4: Payment

20% Deposit before the production of the straps and 80% within 14 days from receipt of the goods by Telegraphic Transfer to the Seller's bank:

Banco de Uno,
Yanyu Branch
Swift code: BDUYB
A/c no. 9612195087
A/c name: Albas Watchstraps Mfg. Co. Ltd.

Art 5: Shipment

The Seller will provide a prototype for approval within 14 days from receipt of deposit.

The Seller will ship the goods by sea within 60 days from receipt of the Buyer's approval of the prototype.

[....]

Art 19: Dispute Resolution

(a): Disputes concerning payments shall be resolved amicably between the Parties. Failure to reach an amicable resolution within a reasonable period of time (not to exceed 14 days) means that the either party may submit the dispute to the China International Economic and Trade Arbitration Commission (CIETAC) Hong Kong Sub-Commission (Arbitration Center) for arbitration which shall be conducted in accordance with the CIETAC's arbitration rules in effect at the time of applying for arbitration. The arbitral award is final and binding upon both parties. The arbitration shall take place in Hong Kong, China. The arbitration shall be in the English language.

(b): All disputes arising out of or in connection with this agreement allows for either party to submit their differences to the Hong Kong courts for resolution.

(c): The clause would be interpreted in accordance with the laws of the State of New York, and any disputes shall be submitted to the courts in the State of New York.

Art 20: Choice of Law

The contract shall be governed by the national law of Wulaba. All other applicable laws are excluded.

Signed

Giovanni Konstantopoulos

23 July 2014

Signed

Anastasia Carter



Claimant's Exhibit No. 3

Albas Watchstraps Mfg. Co. Ltd
241 Nathan Drive, Yanyu City, Yanyu
Tel: (136) 241 2905
Fax: (136) 241 5092
E-mail: giovannikonstantopoulos@albaswatchstraps.com

14 August 2014

Ms. Anastasia Carter
Gamma Celltech Co. Ltd
17 Rodeo Lane, Mulaba, Wulaba

By courier

Dear Ms. Carter,

We thank you for the deposit payment.

Please find enclosed handmade prototypes for your reference.

We await your approval in order for us to start the mass production.

Yours sincerely,

Giovanni Konstantopoulos



Claimant's Exhibit No. 4

From: enquiries@gammacelltech.com

To: giovannikonstantopoulos@albaswatchstraps.com

Subject: leather watchstrap prototypes

15 August, 2014 3:55pm

Dear Mr. Konstantopoulos,

I have received your prototypes with thanks.

The watchstraps are beautiful, from the softness of the strap all the way to the hand-stitch.

In fact, I like the stitching so much that I'd like to have an even largely variety of stitching by increasing the quantity of the stitched watchstraps (and reducing the non-stitched watchstraps). I would like to amend Art 2 (f) of the Sale and Purchase Agreement as follows:

- "40% with matching stitching", e.g. black strap with black stitching, dark brown with brown stitching, etc.
- "40% with off-white stitching", e.g. black strap with off-white stitching, dark brown strap with off-white stitching, etc.
- "20% without stitching"

However, the stitching for the white, gold and silver color leather watchstraps need not be amended.

Please do start the mass production.

I look forward to receiving the goods!

Kind Regards,
Anastasia Carter



Claimant's Exhibit No. 5

Ford Shipping Company
77 Wellington Road
Yanyu City, Yanyu
Anastasia Carter, CEO
Tel: (136) 241 3318
Fax: (136) 241 6455
E-mail: enquiries@gammacelltech.com

28 October 2014

Mr. Giovanni Konstantopoulos
Albas Watchstraps Mfg. Co. Ltd
241 Nathan Drive, Yanyu City, Yanyu

By courier

Dear Mr. Konstantopoulos,

Re. Bill of Lading F029878, vessel Titanich, 485 cartons of watchstraps, sailing date 11th October 2014.

We regret to inform you that the 485 cartons of watchstraps are lost at sea for which we are not liable as per our terms and conditions.

Kindly contact your insurance company if you have purchased insurance for the goods in case of loss.

We apologize for any inconvenience caused and look forward to receiving more orders from you.

Yours sincerely,

Philip Park

Claimant's Exhibit No. 6

Sale and Purchase Agreement

Art 1: Contracting Parties

Seller: Albas Watchstraps Mfg. Co. Ltd., 241 Nathan Drive, Yanyu City, Yanyu

Buyer: Gamma Celltech Co. Ltd., 17 Rodeo Lane, Mulaba, Wulaba

The Seller and Buyer together shall be referred to as “the Parties”.

Art 2: Description

- 2) The Seller will arrange for the manufacture of leather watchstraps:
 - a) Top material: soft genuine Yanyu leather:
 - i) Calf grain 3,000,000pcs. (Black-1,000,000pcs., Dark Brown-600,000pcs., White-400,000pcs., Red-300,000pcs., Off-white-200,000pcs., Orange-100,000pcs., Dark Green-100,000pcs., Yellow-100,000pcs., Turquoise-100,000pcs., Gold-50,000pcs., Silver-50,000pcs.)
 - ii) Crocodile grain 800,000pcs. (Black-600,000pcs., Dark Brown-200,000pcs.)
 - iii) Alligator grain 800,000pcs. (Black-600,000pcs., Dark Brown-200,000pcs.)
 - iv) Lizard Grain 400,000pcs. (Black-300,000pcs., Dark Brown-100,000pcs.)
 - b) Lining: genuine nubuck
 - c) Buckle: nickel-free
 - d) Ends: with plastic tubes
 - e) Edge: remborde
 - f) Stitching:
 - i) 40% with matching color stitching, 40% with off-white color stitching, and 20% without any stitching
 - ii) For White, Silver and Gold watchstraps, 50% with matching stitching and 50% without stitching
 - g) Size: strap to fit customer's watchcase
 - h) Logo: Hot stamped “Genuine Italian leather”, “Made in Yanyu”, and logo (to be provided by Gamma)

Art 3: Quantity & Price

5,000,000 straps @ special price of US\$2.40 per pc. DDP (INCOTERMS 2010)

Art 4: Payment

20% Deposit before the production of the straps and 80% within 14 days from receipt of the goods by Telegraphic Transfer to the Seller's bank:

Banco de Uno,

Yanyu Branch

Swift code: BDUYB

A/c no. 9612195087

A/c name: Albas Watchstraps Mfg. Co. Ltd.

Art 5: Shipment and Insurance

The Seller will ship the goods by sea within 60 days from receipt of the Deposit.

Insurance shall be borne by the Seller

[....]

Art 19: Dispute Resolution

(a): Disputes concerning payments shall be resolved amicably between the Parties. Failure to reach an amicable resolution within a reasonable period of time (not to exceed 14 days) means that the either party may submit the dispute to the China International Economic and Trade Arbitration Commission (CIETAC) Hong Kong Sub-Commission (Arbitration Center) for arbitration which shall be conducted in accordance with the CIETAC's arbitration rules in effect at the time of applying for arbitration. The arbitral award is final and binding upon both parties. The arbitration shall take place in Hong Kong, China. The arbitration shall be in the English language.

(b): All disputes arising out of or in connection with this agreement allows for either party to submit their differences to the Hong Kong courts for resolution.

(c): The clause would be interpreted in accordance with the laws of the State of New York, and any disputes shall be submitted to the courts in the State of New York.

Art 20: Choice of Law

The contract shall be governed by the national law of Wulaba. All other applicable laws are excluded.

Signed

Giovanni Konstantopoulos

7 November 2014

Signed

Anastasia Carter



Claimant's Exhibit No. 7

From: giovannikonstantopoulos@albaswatchstraps.com

To: enquiries@gammacelltech.com

Subject: leather watchstraps goods

27 February, 2015 11:20am

Dear Ms. Carter,

I am a bit confused by your email.

The prototypes were handmade, as it is impossible to make machine made watchstraps until we have the tooling. We would only invest in the tooling after receiving the customer's approval. This is the way we have been conducting our business for the past 30 years. Moreover if we were to produce hand-made goods, the cost of the watchstrap would be double.

You had approved the prototypes. There was no way for us to check in our factory as well as our office because you had sent us only 1 Cherry watchcase and asked us to be careful with it. If you check the goods to the prototypes, you will find that there is no difference in the size.

As to your first payment, that is all in the past and I have nothing more to say. A promise was a promise and you promised to pay that sum before we moved on to this arrangement.

Also, the prototype was not late, as we were required to deliver it within 14 days and we sort of did that.

Please do arrange for the balance payment as we need to pay our factory workers.

Kind Regards,

Giovanni Konatantopoulos



Joseph Cunningham QC
Cunningham Chambers
20 Innex Court
7 Garden Street, Mulaba
Wulaba

Email: josephcunninghamqc@cunninghamchambers.com

Tel: (916) 2369 3318

Fax: (916) 2369 3319

18 December 2015

Secretariat
China International Economic and Trade Arbitration Commission (CIETAC)
6/F, CCOIC Building,
No. 2 Huapichang Hutong,
Xicheng District, Beijing, 10035,
People's Republic of China

Dear Ms. Secretary,

Answer and Statement of Defense from
Gamma Celltech Co. Ltd.

I am the legal counsel representing Gamma Celltech Co. Ltd., the Respondent in the arbitration brought by the Claimant, Albas Watchstraps Mfg. Co. Ltd. I have enclosed in this letter a certified true copy of my power of attorney to represent the Respondent in all matters regarding this arbitration.

Attached to this letter, please find the Respondent's Statement of Defense.

Yours faithfully,
Joseph Cunningham QC

Attached:

Statement of Defense from Gamma Celltech Co. Ltd.
Certified copy of Power of Attorney for Joseph Cunningham QC

Statement of Defense

1. In reply to the Claimant's Application for Arbitration, the Respondent contests the jurisdiction of the Tribunal to decide on this dispute. In the event that the Tribunal finds that it has jurisdiction, the Respondent contests the Claimant's claim and denies that the Claimant is entitled to any relief.
2. We nominate Dr. Anne Descartes as our arbitrator for this dispute concerning the early termination of the Agreement. This nomination shall in no way be construed as an acceptance of the Tribunal's jurisdiction.

Objection to the Jurisdiction of the Tribunal

3. The Respondent objects to the jurisdiction of the Tribunal on the basis that there is no consensus to arbitrate. The Claimant conveniently relies on Article 19(a) of the Sale and Purchase Agreement no. 2, however, that is not the entire dispute resolution clause.

Defense on Merits

4. In the event the Tribunal decides that it does have jurisdiction to decide the dispute, the Respondent also contends the merits of the Claimant's Application for Arbitration
5. Contrary to the Claimant's submission, the Parties have agreed on the law of Wulaba to govern the Sale and Purchase Agreement. Moreover the Parties have opted out of the CISG as Art 20 of the Sale and Purchase Agreement provides:

"The contract shall be governed by the national law of Wulaba. All other applicable laws are excluded."

6. The Claimant rightfully submitted that it obtained the Respondent's approval of the prototypes. However, the Claimant failed to mention that the Respondent had provided a Cherry watchcase to the Claimant, which was extremely difficult to obtain (**Respondent's Exhibit No. 1**). The purpose was for the Claimant to manufacture watchstraps, which fit to the watchcase (**Claimant's Exhibit No. 2**).
7. The Claimant is correct that the prices were DDP. The reason, however, was because the Respondent did not have experience in dealing with such kind of goods and did not want to be surprised by any "extra" costs. The Claimant therefore assured the Respondent that it would bear all related costs, including import duty and VAT. Import duty is approx. 10% of the value of the goods and VAT is approx. 5% of the value of the goods, whereas insurance is only approx. 0.5%. Furthermore, the Claimant assured the Respondent that it only has to pay as per the amount stated in the Sale and Purchase Agreement. Hence it was the Respondent who was surprised at the fact that the Claimant did not purchase any insurance.

8. The Respondent needs the watchstraps urgently. The Claimant knew that the Respondent had informed all of its existing customers about the new line. It had even created a new website and taken posted photos of the prototypes on the website. The Respondent was forced to suffer the loss from the Sale and Purchase Agreement. In exchange, the Parties concluded the Sale and Purchase Agreement no. 2, which states that the Claimant shall bear the insurance. The Claimant also gave a discount of 20% of the total value (Claimant's Exhibit No. 6).
9. Upon receipt of the watchstraps on 29th January 2015 from the Sale and Purchase Agreement no. 2, the Respondent was in shock. First, the watchstraps did not have the high-end feel and look unlike the prototypes. Second, the Respondent took some of the goods to a large distributor only to find that the watchstraps did not fit Cherry's watchcase.

Request for Relief

10. Counterclaim compensation:
 - a) the sum of USD 17.4 million for the payments made to Albas
 - b) the sum of USD 10 thousand for the development of the website costs
 - c) the sum of USD 20 million for loss of profits
11. Albas to pay all costs of the arbitration, including GCT expenses for legal representation, the arbitration fee paid to CIETAC, and the additional expenses of the arbitration as set out in Article 52, CIETAC Arbitration Rules;
12. Albas to pay GCT interest on the amounts set forth in items 1 and 2 above, from the date GCT had paid the first deposit.



Respondent's Exhibit No. 1

Gamma Celltech Co. Ltd
17 Rodeo Lane, Mulaba, Wulaba
Anastasia Carter, CEO
Tel: (992) 2245 5422
Fax: (992) 2245 5422
E-mail: enquiries@gammacelltech.com

17 July 2014

Mr. Giovanni Konstantopoulos
Albas Watchstraps Mfg. Co. Ltd
241 Nathan Drive, Yanyu City, Yanyu

By courier

Dear Mr. Konstantopoulos,

Please find enclosed a Cherry watchcase for your technician to check if you will be able to manufacture watchstraps fitting to this case and if so, to calculate the price.

Please do be extremely careful with the watchcase, as I had to pull some strings to obtain it.

I look forward to hearing from you soon.

Yours sincerely,
Anastasia Carter



Respondent's Exhibit No. 2

From: enquiries@gammacelltech.com

To: giovannikonstantopoulos@albaswatchstraps.com

Subject: leather watchstrap goods

27 February, 2015 10:20am

Dear Mr. Konstantopoulos,

I have received the watchstraps.

There are a few problems:

- 1) The goods do not correspond with the prototypes. The watchstraps are not as soft, nor do they look handmade.
- 2) More importantly, I took some pieces of watchstraps with me to show to one of my biggest distributors with a hope to receiving a big order. However, he pointed out that the ends of the watchstraps do not fit into Cherry watchcases.

I am very disappointed that there was no quality control. I will not make the balance payment until I receive the correct goods.

I also demand a refund of the payment I reluctantly made to you in respect of the first shipment which we never received. As you know, I would never have signed the replacement agreement and offered to make that payment had I not been desperate for the products. The fact that the shipment was lost has nothing to do with us and everything to do with you, as you chose the shipping company and reassured us that we needn't think of any extra costs.

I should also point out that my lawyers tell me that you were in fact in breach of the first agreement well before the shipment was lost because your sample was late as per the agreed terms.

Anastasia Carter



Secretariat
China International Economic and Trade Arbitration Commission (CIETAC) 6/F,
CCOIC Building,
No. 2 Huapichang Hutong,
Xicheng District, Beijing, 10035,
People's Republic of China
Email: info@cietac.org
Tel: (009) 5569 8769

(sent by fax)

11 March 2016
7/F, The Bauxer Building
7 Garden Street, Yanyu City,
Yanyu

Dear Mr. Morrow and Mr. Cunningham,

Notice on the Formation of Arbitral Tribunal Case No. M2016/15

Concerning the captioned arbitration case between Albas Watchstraps Mfg. Co. Ltd. and Gamma Celltech Co. Ltd., Albas Watchstraps Mfg. Co. Ltd. appointed Ms. Felicity Chan as their arbitrator, while Gamma Celltech Co. Ltd. appointed Dr. Anne Descartes as their arbitrator. Both parties have jointly appointed Mr. Martin Mayfair as the presiding arbitrator.

The Secretariat has received the three arbitrators' Declarations of Independence and transferred them to the parties. According to the Arbitration Rules, the aforementioned three arbitrators formed the arbitral tribunal on 15 March 2016 to hear this case.

As the Parties have requested that the CIETAC Hong Kong Sub-Commission administer this case, this case is now transferred to the offices of CIETAC Hong Kong for administration.

Although CIETAC has the power to determine the existence and validity of an arbitration agreement, it hereby delegates such power to the Arbitral Tribunal.

Sincerely,

Secretariat
China International Economic and Trade Arbitration Commission

CC: Cunningham Chambers; CIETAC Hong Kong



Procedural Order no. 1

1. The Tribunal decided during a conference call on 14th March 2016 that the presiding arbitrator was authorized to make procedural decisions subject to later confirmation by the full tribunal.
2. The Parties came to an agreement on a schedule for proceedings. The agreed schedule will render it impossible for the Arbitral Tribunal to comply with Article 48(1) of the CIETAC Arbitration Rules. The Tribunal will request a further extension of time pursuant to Article 48(2) at a later stage.
3. The Parties agreed that jurisdiction and merits issue should be dealt with in a single hearing.
4. Taking into account the arguments raised by the Claimant and the Respondent in their respective Application for Arbitration and Statement of Defense, the Tribunal found that the following 4 issues should be addressed by counsel at the jurisdiction and the merits hearing:
 - a. Does the Tribunal have jurisdiction to deal with the payment claims raised by the Claimant?
 - b. Does the CISG govern the claims arising under the Sale and Purchase Agreement and the Sale and Purchase Agreement no. 2?
 - c. Assuming the CISG does apply, have its provisions been invoked on account of the following:
 - i. Lack of insurance coverage in the first transaction;
 - ii. Timing of delivery of prototype;
 - iii. Non-conformity of goods;
 - iv. Payment of money under the transactions.
5. The Parties agree that any arguments in relation to interests or costs would be deferred to a later hearing, so that the Tribunal may focus on the issues listed in paragraph 4 above only.

Martin Mayfair
(Martin Mayfair)
14 March 2016