[*State Emblem*]

**At the District Court in Tel Aviv-Yafo**

Civil File 7431-09-16 Disney Enterprises Inc. Vs. New Time Food Machines Ltd. et al

November 23, 2016

Motion number: 2

Before District Court Registrar

The honorable Judge Oded Maor

The Petitioners/Defendants 1. New Time Food Machines Ltd.

2. Arela Ben Haim

Versus

The Respondent/Plaintiff Disney Enterprises Inc.

Represented By :

On behalf of the Petitioner by Ariel Dubinsky, Adv. And Moti Zwilling, Adv.

On behalf of the Respondents Liad Whatstein, Adv. and Liron Cohen, Adv.

**Decision**

1. Before me is the Defenders’ motion to dismiss the claim brought against them by the Plaintiff and alternatively to transfer discussion of the claim to the competent court, which is the District Court in Haifa (hereinafter: the “**Motion**”).

2. The Plaintiff, who is a foreign country domiciled in the United States, filed a claim for , and for charging accounts against three: the Petitioners, and against the State of Israel.

3. As argued in the Statement of Claim, the customs authorities in Haifa notified the Plaintiff that they seized a shipment of inflatable devices bearing figures that are owned exclusively by the Plaintiff and trademarks – both by virtue of copyright, and by virtue of trademarks registered around the world, imported into Israel by the Petitioners, whereby violating the Plaintiff’s trademarks, copyrights, committed the tort of passing off and tried to achieve unjust enrichment on account of the Plaintiff as well as various injustices, all as set forth in the Statement of Claim.

4. The principal remedies sought in the framework of the claim are directed at the Petitioners, while with respect to the State it has been asked that it destroy the counterfeit products and that the expenses of storing the counterfeit products, supervising and destruction apply exclusively on the Petitioners.

5. According to the Plaintiff in the Statement of Claim local authority vests with this Court “**in light of the domicile of the Defendant 3**” [the State – O.M.].

6. In the framework of the Motion to dismiss brought as set forth above, it was argued that the domicile of the Petitioners is in the area of Haifa and that the domicile of the Defendant 3, the customs unit, is in Haifa, and in fact there is no relevant link for the court in Tel Aviv to discuss the claim.

7. The Plaintiff argues, since one of the defendants is the State of Israel – that action can be brought against the State at any court in the country.

8. Reviewing the Statement of Claim we see that the dispute is between the Petitioners and the Plaintiff. The State is not a necessary party to the disagreements between them (see in this regard also the arguments of the State’s Statement of Defense).

Indeed, the State, through the customs unit in Haifa, is delaying the violating goods being stored by it, however from here to being a necessary litigant the distance is great. The dispute is about payment of storage fees and costs associated to supervising the destruction.

8. The State is not a material party to the proceeding, as it is merely a party that has no interest, and when the time comes shall carry out the instructions of the Court, and only asks that the Court order which of the parties is to bear the costs of implementing judgment; thus, also the Plaintiff understands that the expenses of the State must be paid, while in its claim it asks to charge them to the Petitioners.

Even if the State was a necessary party to the proceeding, it cannot be ignored that the relevant customs unit is in Haifa, seizure was in Haifa, and the goods are in Haifa. Also the State’s witnesses – if needed can be assumed to come from the customs unit in Haifa.

Save for the general and vague argument that action can be brought against the State at any Court in the country, the Plaintiff has no real argument; ultimately, the Court is not a material party to the proceeding, and in practice the entire proceeding shall be conducted between the Plaintiff and the Petitioners.

9. For what reason are we to trouble everyone to the big city?

The Plaintiff – who is a foreign company domiciled in the Unit States of America – might have the answers, but if any such exists it did not share them with us.

10. I ask to close with the pretty and intelligent words of one of the Plaintiff’s most prominent representatives, Winnie the Pooh: “**A little consideration, a little thought for others, makes all the difference**”.

11. After all this, and in light of the aforementioned, I order the transfer of the discussion in this case to the District Court in Haifa.

Expenses in the framework of this Motion – shall be determined upon conclusion of the proceeding.

**Granted under my authority as Registrar, today, 22nd of Cheshvan 5777, November 23, 2016, *in absentia*.**

[signature]

Oded Maor, Judge