

Federal Court



Cour fédérale

Date: 20120424

Docket: T-1298-08

Ottawa, Ontario, April 24, 2012

PRESENT: The Honourable Mr. Justice Harrington

BETWEEN:

CANADIAN PRIVATE COPYING COLLECTIVE

Plaintiff

and

JAZMYNS CASH & CARRY (ONTARIO) INC.,
9142-0794 QUEBEC INC.,
AMYN ABDULALI RATTANSEY AND
FATIMA FAZAL KAPOOSAJALA DOING
BUSINESS AS A.S ENTREPRISES,
RAJA RAJAB HASSAN DOING BUSINESS AS
SUPER VALUE TRADING INTERNATIONAL,
9156-4773 QUEBEC INC. OPERATING AS
SILVER STAR TRADING, ABDUL AZIZ
NASSIMZADA, COMMERCE VALUE STAR
INTERNATIONAL INC., ABDUL FATAH
NASSIMZADA, 9173-2859 QUEBEC INC.
OPERATING AS LE GEANT DU DOLLAR,
KHALID NASSIMZADA, 4370333 CANADA
INC. OPERATING AS LE GEANT DU
DOLLAR-2, OMAR NASSIMZADA AND
AMYN ABDULALI RATTANSEY

Defendant

JUDGMENT

**AGAINST RAJA RAJAB HASSAN DOING BUSINESS AS SUPER VALUE
TRADING INTERNATIONAL AND 9142-0794 QUEBEC INC.**

UPON the Plaintiff, the Canadian Private Copying Collective bringing this action under the provisions set out in Part VIII of the *Copyright Act*, R.S.C. 1985, c. C-42 entitled “Private Copying” (ss.79 to 88 inclusive) seeking the relief outlined in the Further Amended Statement of Claim including, *inter alia*, the payment of private copying levies certified by the Copyright Board of Canada in accordance with the provisions of Part VIII of the *Copyright Act*, on account of the manufacture or importation into Canada, and the sale or other disposition by various defendants, including Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc.;

AND UPON motion dated March 30, 2012, by the Canadian Private Copying Collective seeking by way of default judgment:

1. a declaration that Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. have failed to report and pay to the Canadian Private Copying Collective private copying levies certified by the Copyright Board of Canada in accordance with the provisions of Part VIII of the *Copyright Act*, on account of the importation and sale or other disposition by Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. of blank audio recording media as defined by the *Private Copying Tariffs*;
2. an order directing Raja Rajab Hassan doing business as Super Value Trading International to pay to the Canadian Private Copying Collective within 30 days of the judgment herein, unpaid private copying levies in the sum of \$86,159.25 plus

interest on the late payment of the private copying levies, calculated in accordance with the *Private Copying Tariffs* in the sum of \$19,793.55;

3. an order directing 9142-0794 Quebec Inc. to pay to the Canadian Private Copying Collective, within 30 days of the judgment herein, unpaid private copying levies in the sum of \$409,268.25 plus interest on the late payment of the private copying levies, calculated in accordance with the private copying *Tariffs* in the sum of \$65,377.20;
4. an order directing Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. to pay to the Canadian Private Copying Collective within 30 days of the judgment herein, a penalty equal to five (5) times the sum of the private copying levies owed by them pursuant to section 88(2) of the *Copyright Act*;
5. an order directing Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. to provide to the Canadian Private Copying Collective, within 30 days of judgment herein, detailed statements of account prepared in accordance with subsection 82(1)(b) of the *Copyright Act* and the *Private Copying Tariffs* in respect to their importation and sale of blank audio recording media;
6. an order reserving the Canadian Private Copying Collective's right to audit the books and records of Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. and reserving the Canadian Private Copying Collective's right to claim payment from these Defendants of any

additional amounts, including audit fees, which might be shown to be owing as a result of such audits;

7. an order directing Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. to provide to the Canadian Private Copying Collective, with respect to their sales of blank audio recording media in the future, a detailed statement of account prepared in accordance with subsection 82(1)(b) of the *Copyright Act* and the *Private Copying Tariffs*;
8. an order that Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. pay post-judgment interest on all monetary relief granted in the herein judgment pursuant to section 36 and 37 of the *Federal Courts Act*;
9. an order that Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. pay to the Canadian Private Copying Collective the costs relating to this motion and this action;

AND UPON reading the motion materials filed by the Canadian Private Copying Collective, including the affidavits of Laurie Gelbloom, Philip C. Levi and Karen Davidson:

THIS COURT DECLARES that:

1. Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. have failed to report and pay to the Canadian Private Copying Collective private copying levies certified by the Copyright Board of Canada in accordance with the provisions of Part VIII of the *Copyright Act*, on account of the

importation and sale or other disposition by Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. of blank audio recording media as defined by the *Private Copying Tariffs*;

THIS COURT ORDERS that:

1. Raja Rajab Hassan doing business as Super Value Trading International shall pay to the Canadian Private Copying Collective within 30 days of the judgment herein, unpaid private copying levies in the sum of \$86,159.25 plus interest on the late payment of the private copying levies, calculated in accordance with the *Private Copying Tariffs* in the sum of \$19,793.55;
2. 9142-0794 Quebec Inc. shall pay to the Canadian Private Copying Collective, within 30 days of the judgment herein, unpaid private copying levies in the sum of \$409,268.25 plus interest on the late payment of the private copying levies, calculated in accordance with the private copying *Tariffs* in the sum of \$65,377.20;
3. Raja Rajab Hassan doing business as Super Value Trading International shall pay to the Canadian Private Copying Collective within 30 days of the judgment herein, a penalty equal to five (5) times the amount of the private copying levies owed by him, being the sum of \$430,796.25 pursuant to section 88(2) of the *Copyright Act*;
4. 9142-0794 Quebec Inc. shall pay to the Canadian Private Copying Collective within 30 days of the judgment herein, a penalty equal to five (5) times the

amount of the private copying levies owed by them, being the sum of \$2,046,341.25 pursuant to section 88(2) of the *Copyright Act*;

5. Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. shall provide to the Canadian Private Copying Collective, within 30 days of judgment herein, detailed statements of account prepared in accordance with subsection 82(1)(b) of the *Copyright Act* and the *Private Copying Tariffs* in respect to their importation and sale of blank audio recording media;
6. The Canadian Private Copying Collective's right to audit the books and records of Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. and the Canadian Private Copying Collective's right to claim payment from these Defendants of any additional amounts, including audit fees, which might be shown to be owing as a result of such audits shall be reserved;
7. Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. shall provide to the Canadian Private Copying Collective, with respect to their sales of blank audio recording media in the future, a detailed statement of account prepared in accordance with subsection 82(1)(b) of the *Copyright Act* and the *Private Copying Tariffs*;
8. Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. shall pay post-judgment interest on all monetary relief granted in the herein judgment pursuant to sections 36 and 37 of the *Federal Courts Act*; and

9. Raja Rajab Hassan doing business as Super Value Trading International and 9142-0794 Quebec Inc. shall pay to the Canadian Private Copying Collective the costs relating to this motion and this action in the amount of \$2,500.00.

“Sean Harrington”

Judge