



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL DIVISION**

**CIV CASE 1667 OF 1999**

**KENYA TEA PACKERS LTD. .... PLAINTIFF**

**VERSUS**

**JUANINA WAMBUI T/A OKAY TEA PACKERS ..... DEFENDANT**

**CONSOLIDATED WITH**

**CIVIL CASE NO. 1668 OF 1999**

**KENYA TEA PACKERS LTD. .... PLAINTIFF**

**VERSUS**

**LIMLAND TEA PACKERS ..... DEFENDANT**

**CONSOLIDATED WITH**

**CIVIL CASE NO. 1669 OF 1999**

**KENYA TEA PACKERS LTD. .... PLAINTIFF**

**VERSUS**

**PETER NJUGUNA THUKU T/A KAZABET TEA PACKERS ..... DEFENDANT**

**CONSOLIDATED WITH**

**CIVIL CASE NO. 1670 OF 1999**

**KENYA TEA PACKERS LTD. .... PLAINTIFF**

**VERSUS**

**FURAHA TEA PACKERS ..... DEFENDANT**

**JUDGMENT**

All these 4 cases, which have been consolidated arise from the alleged infringement by the defendants of

the plaintiff's copyright. After the plaint in each case had been filed, none of the defendants could be traced despite diligent investigations by the plaintiff. Upon application by the plaintiff in that behalf, it was ordered that service of summons be effected by substituted service. Again despite that having been done in respect of each suit, none of the defendants entered appearance or filed a defence and as a consequence thereof, interlocutory judgments were entered against each of the defendants upon which the suits were set down for formal proof.

The suits came up for formal proof on 21.9.2000 at which the plaintiff called three witnesses namely Mr. William Busienei Arap Chuma who is the Chief Accountant and the Ag. Corporation Secretary of the plaintiff, Mr. Joseph Irungu Kimani, a partner in the firm of Wachira Irungu and Associates who are Certified Public Accountants and the auditors of the plaintiff since 1990 and lastly Mr. Tom Tisa Kulo, the media manager of a firm known as Nuturn Marketing which, as the name indicates, deals in marketing.

On the basis of the combined evidence of these 3 witnesses, I am satisfied that each of the 4 defendants has infringed the plaintiff's trade mark and is therefore liable to the plaintiff in damages which I assess at Shs.5 million against each defendant. Accordingly, I enter judgment in favour of the plaintiff against each defendant as prayed in each of the plaints. In addition, each of the defendants will pay to the plaintiff damages as assessed above together with costs and interest on both the damages as well as costs at court rates.

Dated at Nairobi this 2nd day of October, 2000.

**T. MBALUTO**

**JUDGE**