**THE TRADE MARKS ACT (CAP. 332)**

**IN THE MATTER OF**

Singapore Trade Mark Application No. 13102018Z

**"ET TU BRUTUS?"**

In Class 43 in the name of J Caesar Pte Ltd (the "**Applicant**")

**AND**

**IN THE MATTER OF** an Opposition thereto by Chiellini Immobiliari S.r.l (the "**Opponent**")

**COUNTER-STATEMENT**

We, **J CAESAR PTE LTD**, a company incorporated under the laws of Singapore with registered address at 51 Raffles Boulevard, Singapore 428770, hereby give notice that the following are grounds on which we rely upon in resisting the opposition raised by Chiellini Immobiliari S.r.l, the Opponent, against the registration of Singapore Trade Mark Application No. 13102018Z for the mark “ET TU BRUTUS?” in Class 43 (the “**Application Mark**”). Save as otherwise defined herein, the Applicant adopts the defined terms as used in the Notice of Opposition dated 25 December 2019:

1. Paragraph 1 of the Notice of Opposition is admitted.
2. Paragraph 2 of the Notice of Opposition is admitted save for the averment that it was part of the Opponent’s commercial strategy to expand its chain of restaurants into Asia starting with Singapore and a planned launch was to be in June 2020, which is denied. The Applicant avers that while the Opponent may have entertained talks with the Applicant to launch “ET TU BRUTE” in Singapore, the Opponent, via Mr. Chiellini, had categorically stated in his email of 15 April 2019 that he was no longer interested in the Asian and Singapore markets. This is elaborated upon further below.
3. Paragraphs 3 to 8 of the Notice of Opposition are admitted.
4. Save that the Applicant had sent an email to Mr. Chiellini, the contents of which are accurately summarised and extracts of which are accurately reflected and are admitted, paragraph 9 of the Notice of Opposition is denied. The Applicant avers that Mr. Chiellini could not have been either surprised or shocked by the contents of the email dated 14 April 2019 as these were discussed between Mr. Chiellini and Mr. Jin during the breakfast meeting pleaded at paragraph 8 of the Notice of Opposition.
5. Paragraph 10 of the Notice of Opposition is admitted. The Applicant further avers that Mr. Chiellini had further stated in his email that:

“*I am deeply affected by your traitorous actions and cannot believe that I allowed myself to be seduced by your promises of honour and glory. Your actions have unequivocally demonstrated that I cannot trust anyone outside my inner circle. The irony that you have betrayed me is not lost on me, and the words uttered by the greatest roman of all, Julius Caesar, et tu brute?, is apt here. I will never again enter into any venture with anyone again. As far as I am concerned, I will never again do business in Singapore. You can therefore forget about entertaining any thoughts of persuading me to reconsider my decision. It is irrevocable and forever lasting.*”

1. Mr. Jin was surprised by Mr. Chiellini’s words and email. Nevertheless, Mr. Jin issued two (2) follow up emails, the contents of which are essentially that he had done everything that Mr. Jin and Chiellini had discussed and agreed during the breakfast meeting on 1 April 2019, and pleaded with Mr. Chiellini to reconsider because the lease for the premises at the Marina Bay Sands was already executed by the Applicant and Mr. Jin had further issued a personal guarantee over the lease in favour of the landlord. Mr. Chiellini however responded to Mr. Jin’s last email with a curt sentence:

“Good luck with that!”

1. In the circumstances, Mr. Jin, having already invested S$87,500 in promotional and advertising fees, as well as having committed to taking over the premises at the Marina Bay Sands, the Applicant had no choice but to continue with its planned launch of a roman themed restaurant with to tweak to the brand in order to distinguish the Applicant from the Opponent. In particular, Mr. Jin was mindful that the typical Singaporean would pronounce “BRUTE” as “brut”, the word itself means a savagely violent person or animal, as opposed to the Latin pronunciation “brooh-tay” which Mr. Chiellini had to consistently correct and remind Mr. Jin. As a consequence, Mr. Jin, decided to change the word “BRUTE” with the more commonly known Anglicised name of “BRUTUS”, which was more in line with the common phrase and expression used by the English speaking world. To cement what Mr. Jin felt was questionable behaviour by Mr. Chiellini, Mr. Jin decided to add the question mark at the end. This was the genesis of the Application Mark “ET TU BRUTUS?”.
2. Paragraphs 11 and 12 of the Notice of Opposition are not admitted as these are not within the purview or knowledge of the Applicant.
3. Paragraphs 13 to 16 of the Notice of Opposition are denied. The Applicant avers that the Opponent has no goodwill in Singapore. The Applicant further avers that the marks “ET TU BRUTE” and “ET TU BRUTUS?” are not similar and thus there cannot be any misrepresentation. Finally, the Applicant also avers that following from the above, there cannot be any damage suffered by the Opponent. Instead, if the Application Mark is not allowed to proceed to grant, the Applicant will be the one who will suffer damage.
4. Paragraph 17 of the Notice of Opposition is denied. The Applicant avers that the application behind the Application Mark is not tainted with bad faith. The Applicant repeats paragraphs 5 and 6 above and avers that because the Opponent had unequivocally abandoned any thoughts of venturing into the Singapore market, the Applicant was thus free to make full use of the Application Mark and that the changes made to the Opponent’s mark would in any event sufficiently distinguish the respective marks.
5. For all of the above reasons, the Applicant humbly prays that the opposition be dismissed in its entirety with costs.

Dated this 5th day of January 2020

**SOLICITORS FOR THE APPLICANT**

**CORVUS, JAY, GARRULUS AND PARTNERS**