

## Singapore High Court rules in favour of Petra Foods in trademark infringement suit

- *Nestlé's claims that Petra Foods' two and four-finger Take-it chocolate bar had infringed on its trademark and copyrights for its Kit Kat bar judged as having failed in their entirety*

**SINGAPORE - 3 Dec 2014** - Petra Foods Limited ("**Petra Foods**" or the "**Group**") formally announced that it has won its counterclaim to invalidate Nestlé's trademark registration for the two and four-finger shapes of its Kit Kat bars ("**Registered Shapes**").

In 2012, Nestlé had filed a suit against Petra Foods and its subsidiary Delfi Singapore Pte Ltd in Singapore where it claimed that the shape and packaging of the Group's two and four-finger chocolate wafer "Take-it" had infringed on the trademark rights and copyrights of its own Kit Kat chocolate bar. The Group had filed a counterclaim to invalidate Nestlé's registered trademarks for the Registered Shapes.

In a decision dated 28 November 2014, the Singapore High Court declared Nestlé's Registered Shapes invalid, and ordered the registrations to be removed from the Trade Marks Register. The Judge found that the rectangular shape and grooves of the chocolate bar were features necessary to create a functional shape for cost-effective and efficient commercial mass production and packaging. They were also essential characteristics inherent to the generic functions of a chocolate bar that consumers look for, including ease of breaking it apart for consumption.

Nestlé's threats of commencing a trade mark infringement suit have been declared as "unjustifiable", and an injunction has been granted to restrain Nestle from making, or continuing to make, any such threats. The Judge has also ordered damages to be assessed by the Registrar in respect of the claim for groundless threats of trade mark infringement.

Mr John Chuang, Petra Food's Chief Executive Officer, said: "We are extremely satisfied with the outcome. The High Court has come to a fair decision after considering all aspects of the case objectively, including the need for free competition as well as the manufacturing process to create a chocolate bar that is not only delicious but is also functional and convenient for our consumers."

The outcome of the case has been reported in various media including:

- *The Business Times* (29-30 November 2014) – Sweet victory for Petra Foods;
- *The Straits Times* (30 November 2014) – Nestle loses battle over Kit Kat share; and
- *Asiaone Business* (1 December 2014) – Singapore’s food-maker wins chocolate bar dispute with Nestle. See link: <http://business.asiaone.com/news/singapores-food-maker-wins-chocolate-bar-dispute-nestle>.

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## **ABOUT PETRA FOODS LIMITED**

Headquartered in Singapore and listed on the SGX-ST since 5 November 2004, Petra Foods Limited and its subsidiaries (the “Group”) manufactures and/or distributes branded consumer products that are sold in over 17 countries including Indonesia, Singapore, Malaysia, Hong Kong, Australia, Thailand, the Philippines and China. Petra Foods has an established portfolio of chocolate confectionery brands which are household names in Indonesia. Its flagship brands in Indonesia include “SilverQueen” and “Ceres” that were introduced in the 1950s and “Delfi” in the 1980s. In addition, the Group also distributes a portfolio of well-known agency brands in Indonesia, Singapore, Malaysia and the Philippines.

Petra Foods was awarded the top spot in the annual Singapore Enterprise 50 Award in 2003. In addition, it was recognised as the “Best Newly Listed Singapore Company in 2004” in AsiaMoney’s Best Managed Companies Poll 2004. Petra Foods was named the “Enterprise of the Year 2004” by the 20th Singapore Business Awards on 30 March 2005 and was named one of “Singapore’s 15 Most Valuable Brands” in November 2005 by IE Singapore.

Over the years, Petra Foods has clinched awards in various categories at the annual Singapore Corporate Awards. The Group won a Silver award for its inaugural annual report in the “Best Annual Report/Newly Listed Company” category in 2006. In April 2009, it clinched a Gold award in the “Best Annual Report/Companies with \$300 million to less than \$1 billion in market capitalisation” category. In May 2010, it bagged two Silver awards for “Best Managed Board” and “Best Investor Relations” under the “companies with \$300 million to less than \$1 billion in market capitalisation” category.

The Group’s Chief Executive Officer, Mr John Chuang, was also recognised for his leadership and management of Petra Foods. He was named “Best Chief Executive Officer” at the 2011 Singapore Corporate Awards and “Businessman of the Year” at the 2012 Singapore Business Awards.

In November 2013, Petra Foods was awarded Runner-Up in the “Most Transparent Company Award” for the food and beverage sector at the Securities Investors Association (Singapore) Investors’ Choice Awards.

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