

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2023] SGHC 241

Suit No 164 of 2018 (Summons No 1589 of 2023)

Between

- (1) Amber Compounding
Pharmacy Pte Ltd
- (2) Amber Laboratories Pte Ltd

... Plaintiffs

And

- (1) Priscilla Lim Suk Ling
- (2) UrbanRx Compounding
Pharmacy Pte Ltd
- (3) Muhammad ‘Ainul Yaqien Bin
Mohamed Zin
- (4) Daniel James Tai Hann
- (5) Tee I-Lin Cheryl
- (6) Tan Bo Chuan

... Defendants

JUDGMENT

[Intellectual Property — Law of confidence — Breach of confidence]

TABLE OF CONTENTS

INTRODUCTION.....	1
BACKGROUND TO THE DISPUTE AND PARTIES' CASES.....	1
THE LAW.....	5
THE DECISION.....	8
REASON 1: NO CONFLICTING BINDING PRECEDENT	8
REASON 2: THE RATIONALE FOR THE WRONGFUL LOSS AND WRONGFUL GAIN INTEREST	10
REASON 3: NO CONFLICTING HIGH COURT DICTA.....	11
CONCLUSION.....	17

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Amber Compounding Pharmacy Pte Ltd and another
v
Lim Suk Ling Priscilla and others

[2023] SGHC 241

General Division of the High Court — Suit No 164 of 2018 (Summons No 1589 of 2023)
Dedar Singh Gill J
12 July 2023

31 August 2023

Judgment reserved.

Dedar Singh Gill J:

Introduction

1 The sole issue for my determination in Summons No 1589 of 2023 (the “Summons”) is whether a plaintiff, in a claim for breach of confidence, is entitled to plead and claim that both its wrongful gain interest and wrongful loss interest (as established in *I-Admin (Singapore) Pte Ltd v Hong Ying Ting and others* [2020] 1 SLR 1130 (“*I-Admin (CA)*”)) have been infringed by the defendant. In this judgment, I answer this question in the affirmative.

Background to the dispute and parties’ cases

2 I will briefly state the relevant facts.

3 On 14 February 2018, the plaintiffs filed HC/S 164/2018 (the “Suit”) against the first to fifth defendants.¹

4 The first plaintiff is a company incorporated in Singapore on 6 March 2008. It specialises in the compounding of medical and pharmaceutical products. The second plaintiff is also a Singapore-incorporated company and, among other things, provides support services to the business of the first plaintiff.² The plaintiffs claim to have, over the years, built up confidential information and/or trade secrets such as pharmaceutical formulations, price lists and client lists.³

5 The first, third and fifth defendants were former employees of the first or second plaintiff.⁴ The second defendant is a compounding pharmacy incorporated in Singapore on 28 April 2017. It is undisputed that the second defendant provides services and products that are highly similar to that offered by the first plaintiff.⁵ The first and fourth defendants are the directors of the second defendant.⁶ The sixth defendant, who is the husband of the first defendant, was later joined to the Suit.⁷

6 In short, the plaintiffs assert that the defendants had acted in breach of confidence by, among other things: (a) copying confidential documents from

¹ HC/S 164/2018 filed 14 February 2018.

² Statement of Claim (Amendment No. 2) dated 5 April 2019 (“SOC”) at paras 1–2.

³ SOC at para 5.

⁴ SOC at paras 8, 10 and 12; Defence of the 1st, 2nd, 3rd and 6th Defendants (Amendment No. 1) dated 8 April 2019 (“Defence”) at paras 9, 11 and 13.

⁵ SOC at para 9; Defence at para 10.

⁶ SOC at para 9 and 11; Defence at para 10 and 12.

⁷ SOC at para 13; Defence at para 14.

the plaintiffs and using the confidential information and/or trade secrets to set up and run the second defendant and sell identical products; (b) attempting to communicate with and solicit business from contacts listed in the first plaintiff's confidential list of clients; and (c) revealing confidential information of the plaintiffs to a third party.⁸

7 On 14 September 2020, the plaintiffs obtained a consent judgment against the first, second, third, fourth and sixth defendants (the "Consent Judgment") for, *inter alia*, the following orders:⁹

1. *The 1st and 2nd Defendants unconditionally admit to the claims in copying and breach of confidence in relation to the Plaintiffs' confidential information listed in paragraph 5 of the Statement of Claim (Amendment No. 2) (the "Confidential Information"), as pleaded in the Statement of Claim (Amendment No. 2).*

2. *The 1st and 2nd Defendants unconditionally admit to the unauthorized use of such Confidential Information ...*

3. The 1st and 2nd Defendants shall be jointly and severally liable to the Plaintiffs in damages in respect of the matters stated in paragraphs 1 and 2 above. Damages shall be assessed for paragraphs 1 and 2 above, considering, *inter alia*, the extent of the use of the Confidential Information, the extent of dissemination of Confidential Information ..., the extent to which the documents... were used, the benefit gained / derived by the 1st and 2nd Defendants from the said copying and breach of confidence, and the loss caused to the Plaintiffs for the said copying and breach of confidence. Insofar as any unauthorized use of Confidential Information is established, the Plaintiffs shall be entitled to an account of profits and/or damages (at the Plaintiffs' election). There shall be one set of damages payable to the Plaintiffs in relation to the orders above (i.e. damages to both Plaintiffs shall be assessed holistically). For the avoidance of doubt, the Plaintiffs are not entitled to any double recovery, in respect of damages and/or account of profits.

⁸ SOC at paras 64–107.

⁹ Jayne Wee Shir Li's affidavit dated 30 May 2023 at para 5 and pp 9–12.

[emphasis added in italics; emphasis in original in bold]

The first and second defendants unconditionally admitted to the unauthorised copying and breach of confidence in relation to the plaintiffs’ confidential information as listed in paragraph 5 of the Statement of Claim (the “Confidential Information”). The first and second defendants also unconditionally admitted to the unauthorised receipt, access, and use of the Confidential Information.¹⁰ However, notwithstanding the first and second defendant’s admission in the Consent Judgment, the defendants stress, in their Supplemental Defence filed in relation to the assessment of damages, that the extent of use and dissemination of the confidential information is a matter to be adjudicated on.¹¹

8 The plaintiffs and the first and second defendants are slated to go on trial for the assessment of damages claimed in the Suit (the “AD Trial”). On 3 May 2023, an agreed list of issues was filed for the AD Trial.¹² One area of disagreement was Issue 11, which was whether the plaintiffs are entitled to claim for both damages under the principles laid down in *Coco v A N Clark (Engineers) Ltd* [1969] RPC 41 (“*Coco*”) and equitable damages for breach of confidence under the principles laid down in *I-Admin (CA)*.¹³

9 On 5 May 2023, I directed parties to either reach an agreement on Issue 11 or otherwise file an application under O 33 r 2 of the Rules of Court (2014

¹⁰ Supplemental Statement of Claim (Amendment No. 2) dated 12 June 2023 at paras 8 and 9; Supplemental Defence (Amendment No. 2) dated 3 July 2023 (“SD”) at para 6.

¹¹ SD at para 8.

¹² Jayne Wee Shir Li’s affidavit dated 30 May 2023 at para 6; Plaintiff’s written submissions dated 3 July 2023 (“PWS”) at para 5.

¹³ PWS at para 1.

Rev Ed), for the issue to be preliminarily determined.¹⁴ Parties have now come before me in the present Summons.

10 The plaintiffs’ case is essentially that they are entitled to claim both damages under the principles laid down in *Coco* and equitable damages for breach of confidence under the principles laid down in *I-Admin (CA)*. This is because a claim for breach of confidence can protect both the wrongful loss interest and the wrongful gain interest at the same time, and each interest gives rise to its own remedies.¹⁵ Conversely, the defendants submit that the plaintiffs are not entitled to make such a claim because the interests are very distinct.¹⁶

The law

11 Traditionally, there were three elements for a successful claim for breach of confidence (*Coco* at 47; *I-Admin (CA)* at [20]; Ng-Loy Wee Loon SC, *Law of Intellectual Property of Singapore* (Sweet & Maxwell, 3rd Ed, 2021) (“Ng-Loy”) at [38.1.1]; *Shanghai Afute Food and Beverage Management Co Ltd v Tan Swee Meng and others* [2023] SGHC 34 (“*Shanghai Afute*”) at [100(b)]) (the “*Coco* approach”):

- (a) that the information in question has the necessary quality of confidence about it;
- (b) this information must have been imparted in circumstances importing an obligation of confidence; and

¹⁴ Jayne Wee Shir Li’s affidavit dated 30 May 2023 at para 7; PWS at para 6; Defendants’ written submissions dated 3 July 2023 (“DWS”) at para 1.

¹⁵ PWS at para 13–21.

¹⁶ DWS at para 18.

- (c) there must be an unauthorised use of that information, and in appropriate cases, this use must be to the detriment of the party who originally communicated it.

12 In the seminal case of *I-Admin (CA)*, the Court of Appeal took the opportunity to review and extend the law on breach of confidence in Singapore (at [43]–[66]). The Court of Appeal declared that two distinct interests guide the operation of breach of confidence claims. First, a plaintiff has an interest in preventing wrongful gain or profit from its confidential information (“wrongful gain interest”) (*I-Admin (CA)* at [50]). Second, the plaintiff also has an interest in avoiding wrongful loss (“wrongful loss interest”), *ie*, to seek protection for the confidentiality of the information *per se*. Wrongful loss is suffered so long as a defendant’s conscience has been impacted in the breach of the obligation of confidentiality (*I-Admin (CA)* at [53]); *Shanghai Afute* at [100(a)(ii)]).

13 Following the judgment of *I-Admin (CA)*, the Court of Appeal clarified in *Lim Oon Kuin and others v Rajah & Tann Singapore LLP and another appeal* [2022] 2 SLR 280 (“*Lim Oon Kuin*”) that different analytical frameworks apply depending on whether the wrongful gain interest or wrongful loss interest is at issue. Where the wrongful gain interest is at stake, the traditional *Coco* approach applies (*Lim Oon Kuin* at [39] and [41]). This means that the plaintiff bears the legal burden of proving unauthorised use of the confidential information. However, where the wrongful loss interest is engaged, the modified approach promulgated in *I-Admin (CA)* is adopted (the “*I-Admin* approach”). Under the *I-Admin* approach, the first two requirements of the *Coco* approach are preserved, *ie*, the relevant information must have the necessary quality of confidence, and it must be imparted in circumstances importing an obligation of confidence. If these two prerequisites are satisfied, the conscience of the

defendant is presumed to have been impinged, and an action for breach of confidence is presumed (*I-Admin (CA)* at [61]). The legal burden then shifts to the *defendant* to prove that its conscience was unaffected (*I-Admin (CA)* at [61] and [62]; *Lim Oon Kuin* at [40]). Further, the Court of Appeal in *Lim Oon Kuin* endorsed the observation of Prof Ng-Loy that the *I-Admin* approach is to be limited to “cases involving unauthorised acquisition of the confidential information, that is, the ‘taker’ cases” (*Ng-Loy* at [41.3.10]–[41.3.11]; *Lim Oon Kuin* at [41] and [42]).

14 Traditionally, where a claim for breach of confidence is satisfied, *ie*, where the wrongful gain interest has been infringed, the law has produced a “formidable armoury” of remedies, such as monetary remedies, “whether termed equitable compensation or damages” (*I-Admin (CA)* at [56]). On the other hand, where the defendant is liable for infringing on the wrongful loss interest, equitable compensation would be inappropriate as its restitutionary objective requires that a plaintiff be restored to the same position it would have been in if the breach had not been effected, but this may be highly speculative where there has been no actionable use of the confidential information (*I-Admin (CA)* at [72]). The Court of Appeal found that an account of profits was also not in consideration where there was no finding of actual use of the plaintiff’s confidential materials (*I-Admin (CA)* at [72]).

15 Instead, the Court may order the remedy of equitable damages for infringement of the wrongful loss interest (*I-Admin (CA)* at [73] and [77]). In *I-Admin (CA)*, the Court of Appeal then remitted the question of the precise measure of damages to the High Court judge. However, the Court of Appeal directed that in determining the appropriate award, the High Court judge ought to consider the additional cost the third respondent would have incurred to

develop its software without any reference to the confidential materials of the appellant, as well as the reduction in the time taken to set up the third respondent's business, allowing it to commence profit-making earlier. Taken together, these would provide a quantifiable impression of the value of the appellant's information to the respondents (*I-Admin (CA)* at [79]).

The decision

16 Having considered the existing jurisprudence on breach of confidence, as well as parties' submissions, I hold that a plaintiff is entitled to plead that it is proceeding on *both* the wrongful gain interest and the wrongful loss interest in a claim for breach of confidence. Therefore, within a claim for breach of confidence, the Court may, in fact, award both damages under the *Coco* approach as well as equitable damages under the *I-Admin* approach.

17 I now set out the reasons for my decision.

Reason 1: No conflicting binding precedent

18 Firstly, in my judgment, there is nothing in the authorities by the Court of Appeal that precludes a plaintiff from claiming that both its wrongful loss and wrongful gain interests have been affected by the defendant's breach of confidence.

19 In *I-Admin (CA)*, the Court of Appeal did not need to address the issue of whether a plaintiff could claim both interests under breach of confidence because the wrongful gain interest had not been engaged at all. The High Court Judge found that there had been no actionable use of the confidential information, *ie*, the appellant's case failed at the third limb of the *Coco* approach (*I-Admin (CA)* at [20] and [54]). Instead, only the wrongful loss interest was at

stake, and the Court of Appeal correspondingly found the respondents liable for impinging on the appellants' wrongful loss interest.

20 In fact, in *I-Admin (CA)* (at [54]), the Court of Appeal alluded to the possibility that a defendant's conduct can affect both the wrongful loss interest and the wrongful gain interest, such that there could be a "degree of overlap". I set out the paragraph in full:

A question that follows is whether there is a threat to this wrongful loss interest that warrants a more robust response by the law. The elements of breach of confidence set out in *Coco* ([20] *supra*) explicitly protect the wrongful gain interest. *Although there is often a degree of overlap, it may not always be the case that a defendant's conduct will affect both the wrongful gain and wrongful loss interests.* This is exemplified by the facts of the present appeal. It was not proven that the respondents directly profited from their use of the appellant's confidential materials. However, this does not detract from the fact that the respondents knowingly acquired and circulated these materials without consent. As submitted by Mr Lee, such conduct would have affected the respondents' conscience, invoking the wrongful loss interest, because it was known that the relevant materials had been subject to an obligation of confidence.

[emphasis added]

I agree with the plaintiffs' submission that if "it may not always be the case that a defendant's conduct will affect both the wrongful gain and wrongful loss interests", then it follows *a fortiori* that there are cases where the defendant's conduct affects both the wrongful gain interest and wrongful loss interest.

21 For completeness, I note that the Court of Appeal in *Lim Oon Kuin* also did not face the present issue that I have to determine, *ie*, whether a plaintiff in a claim for breach of confidence may plead and claim that both its wrongful gain interest and wrongful loss interest have been infringed. Therefore, I am not

bound by precedent to refuse a plaintiff from claiming for both its wrongful gain interest and wrongful loss interest.

Reason 2: The rationale for the wrongful loss and wrongful gain interest

22 The position that a plaintiff may plead and claim the wrongful gain interest and wrongful loss interest is also strengthened by the Court of Appeal’s rationale for declaring the existence of both forms of interest in *I-Admin (CA)*. Recognition of the wrongful loss interest is intended to bolster and enhance protection for confidentiality. In *I-Admin (CA)*, the Court of Appeal began its analysis on breach of confidence by reflecting on the circumstances where “defendants wrongfully access or acquire confidential information but do not use or disclose the same”. Nevertheless, the Court of Appeal stated that “their actions compromise the confidentiality of the information in question” (*I-Admin (CA)* at [43]). Later on in the judgment, the Court of Appeal suggested that the “policy objectives behind the early law of confidence may have extended *beyond* safeguarding against wrongful gain” [emphasis added] (*I-Admin (CA)* at [50]). At [58], the Court of Appeal then decided that the existing legal framework “[did] not adequately safeguard [the wrongful loss interest] or offer recourse where it has been affected”. Subsequently, in *Lim Oon Kuin*, the Court of Appeal made clear that “[t]he *I-Admin* approach was ... intended to specifically fill the lacuna in the law in so far as the legitimate objective of protecting the wrongful loss interest was concerned” (*Lim Oon Kuin* at [39]). Therefore, a plaintiff in a breach of confidence claim should be allowed to seek remedies under both the *Coco* approach and the *I-Admin* approach. The traditional approach should be applied for confidential documents involving harm to the plaintiff’s “wrongful gain interest” (see *Lim Oon Kuin* at [39]).

Where there is no basis for such a finding of harm, only the *I-Admin* approach should be applied.

Reason 3: No conflicting High Court dicta

23 I also take the opportunity to address two High Court decisions on breach of confidence that have discussed the law expounded in *I-Admin (CA)* and *Lim Oon Kuin*. The defendants averred that the *dicta* in these decisions support their position that the plaintiffs are not entitled to simultaneously claim damages under the *Coco* approach as well as equitable damages under the *I-Admin* approach.¹⁷ I disagree with this argument.

24 The first High Court judgment is that of *Writers Studio Pte Ltd v Chin Kwok Yung* [2022] SGHC 205 (“*Writers Studio*”). The defendants relied on the following *dictum* by Lee Seiu Kin J (*Writers Studio* at [135]):

I would add that in future cases, now that *Lim Oon Kuin* has provided clarity on the “modified approach” in *I-Admin*, *counsel should take care to plead with specificity, whether they are proceeding on the basis of the “wrongful loss” or “wrongful gain” interest.*

[emphasis added]

In my view, this statement by Lee J must be viewed in its rightful context.

25 In *Writers Studio*, the plaintiff, a business providing education support services to primary school students, claimed that the defendant, who had worked for the plaintiff as a tuition teacher, breached his duty of confidentiality by contacting the plaintiff’s clients privately, among other things (*Writers Studio* at [41]). One of the issues in *Writers Studio* was that the plaintiff did not plead

¹⁷ DWS at paras 12–15.

that the defendant had infringed on its wrongful loss interest. Even though the claim in *Writers Studio* commenced after the Court of Appeal had handed down its decision in *I-Admin (CA)*, the plaintiff in that case appeared unaware of the development of the *I-Admin* approach. The plaintiff’s pleadings had been framed based on the requirements set forth in *Coco*. Therefore, it appeared to have proceeded on the basis that the law was as it stood prior to *I-Admin (CA)* (*Writers Studio* at [134]). Given that the plaintiff had not pleaded that its wrongful loss interest was at stake, Lee J held that it was no longer open to it to rely on the *I-Admin* approach and that it “must now let the chips lie where they have fallen”. Lee J noted that even though there had been some uncertainty about the nature of the burden of proof for the defendant to show that his conscience was unaffected (prior to *Lim Oon Kuin*), “it was always open to [the plaintiff] to have pleaded the point”. Lee J also stressed that “pleadings are meant to give the other party notice of one’s case” (*Writers Studio* at [135]).

26 Viewed in this context, it becomes clear that the purpose of Lee J’s *dictum* was not to convey that a plaintiff may only plead *either* the wrongful loss interest or wrongful gain interest when claiming for breach of confidence. Rather, Lee J appeared to be imploring counsel to sufficiently plead their clients’ cases for breach of confidence. Given this recent development in the law, where the Court of Appeal had pronounced that not one but *two* distinct interests guide the operation of breach of confidence claims, it is important for a plaintiff to plead all facts pertaining to either or both of the interests that the plaintiff decides to proceed on.¹⁸ This is also consistent with the earlier analysis in *Singapore Civil Procedure 2021* vol 1 (Cavinder Bull gen ed) (Sweet & Maxwell, 2021) at [18/12/6]:

¹⁸ PWS at para 20.

The plaintiffs must provide all the particulars sought of the allegations of breach of confidence in their statement of claim. It is only fair for the defendants to know the information they are alleged to have used. (*Chiarapurk Jack & Ors. V. Haw Par Brothers International Ltd. & Anor. and another appeal* [1993] 2 S.L.R. (R.) 620, CA.)

Therefore, Lee J's *dictum* in *Writers Studio* fails to support the defendants' case.

27 The second judgment cited by the respondents is my earlier decision of *Shanghai Afute*. In *Shanghai Afute*, the plaintiff mounted its breach of confidence claim on two alternative bases – the defendants' breach of cl 6(5) of its master franchise agreement and breach of a general obligation of confidentiality in common law or equity. As I found that the defendants were in breach of cl 6(5), the plaintiff was not entitled to more damages under the alternative cause of action due to the rule against double recovery. Nonetheless, I considered the merits of the plaintiff's breach of confidence claim. This was because the plaintiff had sought an injunction on the use of the alleged confidential information and an order to deliver up any material containing the alleged confidential information only as part of the remedies for its breach of confidence claim (*Shanghai Afute* at [99]). The plaintiff's case was essentially that two of the defendants had misused the alleged confidential information or allowed the alleged confidential information to be misused to unlawfully gain a head start in establishing and operating the alleged competing business (*Shanghai Afute* at [23] and [24]). I found that there was a breach of confidence by the sale and disclosure of certain confidential information to a company owned by the third defendant and granted an injunction against the first defendant to restrain him from using that certain confidential information for any purpose (*Shanghai Afute* at [151] and [154]).

28 In that case, I summarised the law on breach of confidence and set out the relevant approach to analysing whether there was, in fact, a breach of confidence (*Shanghai Afute* at [100]):

In summary, the following bifurcated approach is applied to establish an action for the breach of the equitable obligation of confidence:

(a) *First, determine which interest the action for breach of confidence seeks to protect:*

(i) *wrongful gain interest ... ; or*

(ii) *wrongful loss interest ...*

(b) If the wrongful gain interest is at stake, the traditional approach in *Coco v AN Clark (Engineers) Ltd* [1969] RPC 41 (“*Coco*”) applies: *Lim Oon Kuin and others v Rajah & Tann Singapore LLP and another appeal* [2022] 2 SLR 280 (“*Lim Oon Kuin*”) at [39] and [41]. The *Coco* test requires the plaintiff to establish the following:

(i) That the information in question has the necessary quality of confidence about it.

(ii) The information must have been imparted in circumstances importing an obligation of confidence.

(iii) There must be an unauthorised use of the information, and in appropriate cases, this use must be to the detriment of the party who originally communicated it.

[emphasis added]

29 Subsequently, at [103], I similarly noted that:

[t]he correct approach is first to *determine whether the defendant’s actions were an incursion to the wrongful gain*

interest or the wrongful loss interest, before applying the traditional approach or the modified approach respectively...

[emphasis added]

The defendants have interpreted these *dicta* to mean that a plaintiff cannot pursue claims based on both the wrongful gain interest and the wrongful loss interest in the assessment of its damages.¹⁹

30 I accept that *Shanghai Afute* would have provided clearer guidance if it had stated that the first step in the inquiry is to determine whether the defendant’s actions were an incursion to the wrongful gain interest *and/or* the wrongful loss interest. That said, the issue that I am faced with here did not arise in *Shanghai Afute*. In *Shanghai Afute*, the plaintiff simply relied on the *I-Admin* modified approach in its closing submissions with no explanation proffered for its preference for this approach. Its pleadings were silent on the *nature* of the interest relied on in its claim for breach of confidence (*Shanghai Afute* at [103]). However, on the facts, the *I-Admin* approach did not apply. This was because *Shanghai Afute* was not a “taker” case. The plaintiff had itself pleaded that the alleged confidential information was *provided* by the plaintiff to further the arrangement pursuant to parties’ master franchise agreement. Therefore, the relevant interest in *Shanghai Afute* was the wrongful gain interest (*Shanghai Afute* at [104]). Given that the plaintiff had (wrongly) made an election between the *I-Admin* approach and the *Coco* approach, albeit, without any explanation, I sought to draw out the required steps to make such an election and applied the relevant approach. Therefore, the approach set out at [100] and [103] in *Shanghai Afute* was not intended to be exhaustive. The approach is to be applied where parties choose to elect between the *I-Admin* approach and *Coco* approach,

¹⁹ DWS at para 19.

but it does not mean that a plaintiff cannot simultaneously claim for its wrongful gain and wrongful loss interests in the same suit.

31 In principle, it also makes sense for a plaintiff to be entitled to plead and claim both forms of interests. To illustrate, in a “taker” situation, Party A has unauthorisedly acquired ten confidential documents belonging to Party B. Over the course of the proceedings, it is found that only three of the ten documents were, in fact, used by Party A (so as to satisfy the third limb of the *Coco* approach). As for the remaining seven documents, there is no evidence that there was actionable use by Party A (*ie*, these documents did not fulfil the third requirement of the *Coco* approach), but nonetheless, they were wrongfully “taken”. In such circumstances, Party B may claim for its wrongful gain interest and its wrongful loss interest. As held in *I-Admin (CA)*, the wrongful loss interest is “distinct” from the wrongful gain interest (*I-Admin (CA)* at [53]). The *Coco* approach and the *I-Admin* approach each seek to protect different wrongs that have been committed by the defendant against the plaintiff, and the plaintiff should be entitled to protect both interests. For completeness, I note that the parties have not argued before me that for the same document, the plaintiffs are entitled to claim for both the wrongful gain interest and the wrongful loss interest. Therefore, this judgment does not decide this issue.

Conclusion

32 In conclusion, a plaintiff is entitled to plead that it is proceeding on *both* the wrongful gain interest and the wrongful loss interest in a claim for breach of confidence and therefore claim for both damages under the *Coco* approach and equitable damages under the *I-Admin* approach.

Dedar Singh Gill
Judge of the High Court

Derek Kang Yu Hsien and Yeo Wei Ying Jolyn (Cairnhill Law LLC)
for the first and second plaintiffs;
Pereira George Barnabas and Chan Chee Yun Timothy (Pereira &
Tan LLC) for the first and second defendants.
