

Federal Court



Cour fédérale

**Date: 20160229**

**Docket: T-1839-15**

**Citation: 2016 FC 259**

**Toronto, Ontario, February 29, 2016**

**PRESENT: The Honourable Mr. Justice Barnes**

**BETWEEN:**

**TY INC.**

**Plaintiff**

**and**

**PROMOTIONS C.D. INC.**

**Defendant**

**JUDGMENT AND REASONS**

[1] **UPON THE PLAINTIFF'S MOTION** for judgment against the Defendant read this day;

[2] **AND UPON** reading the Motion Record of the Plaintiff and the consent of the parties, filed;

**JUDGMENT**

1. **THIS COURT’S JUDGMENT is that** as between the Plaintiff and the Defendant, without admission of liability or infringement, the Defendant shall:

- (a) immediately cease all importation into Canada and the offering for sale and sale, either directly or indirectly, of BEANIE BOOS plush toys as depicted in Schedule “B” hereto which bear the distinctive trade-mark shape designs of the Plaintiff as depicted in schedule “A” (the BEANIE BOOS Plush Toys); and
- (b) immediately cease all making, importing for sale into Canada, distribution, selling, exposing or offering for sale, exhibiting in public or parting with possession of unauthorized copies, in whole or substantial part, either directly or indirectly, of the BEANIE BOOS Plush Toys;
- (c) as Ty, Inc. may elect, either destroy or deliver up to Ty, Inc. all BEANIE BOOS Plush Toys or unauthorized copies within its possession; and
- (d) within 10 days of the date of issuance of the Judgment in this action:
  - 1) disclose the identity of the Chinese manufacturer(s) and/or any other manufacturers or distributors who sold the infringing products to Promotions C.D.; and
  - 2) deliver up to Ty, Inc. any documentation exchanged between Promotions C.D. and the Chinese manufacturer(s) one the on hand, and/or any other manufacturers or distributors on the other hand, who sold the infringing

products to Promotions C.D., including but not limited to marketing materials, invoices, customs declarations, shipping information, communications, etc.

2. The whole without costs.

“R.L. Barnes”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1839-15  
**STYLE OF CAUSE:** TY INC. v PROMOTIONS C.D. INC.

**CONSIDERED AT TORONTO, ONTARIO PURSUANT TO RULE 369**

**JUDGMENT AND REASONS:** BARNES J.

**DATED:** FEBRUARY 29, 2016

**WRITTEN REPRESENTATIONS BY:**

Kenneth D. McKay

FOR THE PLAINTIFF

Pascal Lauzon

FOR THE DEFENDANT

**SOLICITORS OF RECORD:**

SIM ASHTON & McKAY LLP  
Solicitors & Barristers  
Toronto, Ontario

FOR THE PLAINTIFF

BCF Business Law  
Montréal, Québec

FOR THE DEFENDANT