
HIGHER RIGHTS OF AUDIENCE ASSESSMENT

IN RESPECT OF CIVIL PROCEEDINGS

THE PRACTICAL ASSESSMENT

TRIAL BUNDLE FOR MINI-TRIAL

Witness statement of John Smith for United Importers Limited

I, JOHN SMITH of [Hong Kong address], do solemnly, sincerely and truly state as follows:

1. I am the founder and CEO of United Importers Limited (“UIL”). I make this witness statement in support of UIL’s claim for loss and damages suffered against Home World Limited (“HWL”) by reason of the latter’s breach of contract in the subject transaction.
2. UIL was founded by me in or around 2002. For the past 15 years, UIL specialized in purchasing home electrical appliances and products from Asia and Europe and re-selling these home appliances to the retail and department stores in Hong Kong.
3. Within UIL, we have several buyers/sourcing agents who are responsible for attending home appliances exhibitions and trade fairs all over the world. They report to me the latest products for every season and place orders on behalf of UIL with manufacturers for import and re-sale in the Hong Kong local market.
4. Since the establishment of UIL in 2002, until 2014, Ms. Sarah Butler was the most senior and experienced buyer within UIL. She was responsible for sourcing products for UIL from vendors in the European market.
 - a. After serving as the buyer for European market in UIL for more than 12 years, Sarah Butler retired from such position and decided to return to the United Kingdom to reunite with her family and parents.
 - b. Therefore, in the beginning of 2014, I promoted Ms. Angela Wong to take up the position from Sarah Butler as the buyer of UIL in the European market.
 - c. Prior to taking up this post, Angela Wong was UIL’s buyer for the Asian market. She had more than 10 years’ experience in the Asian market, working for UIL and, before that, other importers.
5. As far as I am concerned:
 - a. I am ultimate decision maker within UIL. I rely on my buyers to report to me the product and its specifications, and the volume of supply that the vendor is able to manufacture in the coming year.
 - b. If I am interested in the relevant product and its specifications, I would ask my buyer to place an order on behalf of UIL.
 - c. Since I have many other duties to attend to on a daily basis, I rely principally on my buyers to perform the necessary formalities such as paperwork, contracts

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- etc. irrespective whether the manufacturers or vendors are based in Europe or Asia.
- d. Sarah Butler had previously handled all these formalities and paperwork when dealing with and placing orders with vendors located in Europe. I expected Angela Wong to do the same.
 - e. Therefore, I really do not care about the paperwork and documents required to be signed when dealing with vendors and manufacturers.
 - f. What I cared most about is making the right decision. That means, choosing the right product and deciding the quantity that UIL wanted to import for that particular year.
 - g. After making the relevant decisions, sometimes the buyers may ask me to sign some documents for them. Sometimes, I am not required to sign anything.
6. In relation to the subject order placed with HWL which gave rise to the present action, my recollection can be summarized as follows.
7. I remember in around mid of February, I received a telephone call from Angela Wong in respect of the subject order with HWL:
- a. Angela Wong told me that she had attended a trade fair and found that the toasters promoted at the HWL were the most interesting. According to the sales person of HWL, their toasters were the fastest and safest available in the market.
 - b. Angela Wong further mentioned to me over the phone that the sales person of HWL demonstrated the toasting of a piece of bread by HWL's toasters at the trade fair, which took less than 20 seconds. Angela Wong was most impressed by its performance, and she therefore recommended the HWL toasters to me.
 - c. I was also told by Angela that HWL indicated that they had sufficient production capacity to meet an order for 15,000 toasters on time. Before Angela Wong went to the trade fair, I had told Angela that UIL was planning to purchase up to 15,000 toasters for the fourth quarter of 2014.
 - d. Upon Angela Wong's report to me and given her experience as a buyer, I heeded to her suggestion and told her that I wanted her to make an order on behalf of UIL for 15,000 toasters for delivery by 1 October 2014.
 - e. Angela Wong told me that she would call up HWL immediately to place an order with them and will report to me thereafter.

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8. Some 30 minutes later, I received another telephone call from Angela Wong:-
- a. She told me that she managed to get in touch with a Ms Stacey Lee, the head of operations of HWL.
 - b. Angela Wong told me that she had placed an order with Stacey Lee for 15,000 toasters on UIL's behalf for delivery to Hong Kong by 1 October 2014.
 - c. Angela Wong said Stacey Lee of HWL confirmed that the order was acceptable to HWL.
9. In light of the said confirmation by Stacey Lee of HWL and the report by Angela Wong to me, I expected that the 15,000 toasters would be delivered to Hong Kong by 1 October 2014 and that an order for 15,000 toasters had been placed by UIL with HWL accordingly.
10. Since my telephone conversation with Angela Wong and the confirmation by HWL (relayed to me by Angela) in February 2014, UIL did not receive any further contact from HWL indicating to us that they had any problem producing and manufacturing the 15,000 toasters that we had ordered.
11. At the same time, in or around February 2014, I directed our sales and marketing team based in Hong Kong of UIL to start approaching various home appliance retail stores and department stores with the intention to sell the toasters to them.
12. In this regard, I believe that the sales and marketing team of UIL had done an excellent job. By August 2014, UIL had already received from various leading retail and department stores located in Central, Causeway Bay and Tsim Sha Tsui full orders for all the 15,000 toasters from HWL.
13. It was only in September 2014 that I was informed by Angela Wong that HWL could not deliver the 15,000 toasters which we ordered from them in February 2014.
- a. According to Angela Wong, HWL told her that it was far too late for them to commence production for the 15,000 toasters, and all of their production lines were already occupied with orders at the time.
 - b. HWL only had 5,000 toasters in their warehouse, which HWL could deliver to UIL by 1st October 2014.
 - c. Angela Wong confirmed the purchase of the 5,000 toasters, so that UIL could at least fulfil some of its sales to the retail and department stores

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14. I was extremely furious with the situation created by HWL. I also thought that they could not lay the blame on us by saying the paperwork re-confirming the order of 15,000 toasters was only sent to them in early September 2014. This is because as early as in February 2014, Angela Wong had already confirmed such order with their Stacey Lee, who had accepted such order on behalf of HWL.
15. In any event, it turned out that all 5,000 of HWL's toasters were prone to overheating. Due to numerous complaints, UIL had to recall them from the retail and department stores. UIL suffered a further loss in refunding the retail and department stores.

[Please assume that the statement has been dated and signed with a statement of truth.]

Witness Statement of Angela Wong for United Importers Limited

I, ANGELA WONG of [Hong Kong address], do solemnly, sincerely and truly state as follows:

1. I have been employed by United Importers Limited (“UIL”) since 2010 as a product buyer/purchaser, my job being to source and purchase on behalf of UIL home appliances products from, initially Asia, and then Europe, which are then to be imported into Hong Kong. In the course of my employment I have been stationed in Hong Kong but need to travel to attend trade fairs.
2. Prior to my employment with UIL, I have worked in several home appliances importers based in the Taiwan and Japan and thus have more than 10 years of experience in sourcing and buying home appliances products in Asia. Since my joining of UIL, I have been responsible for sourcing home appliances in the Asia market until 2014.
3. In the beginning of 2014, the former buyer of UIL for the European market, Ms. Sarah Butler, decided to retire and return to the United Kingdom for good. As a result, Mr. John Smith, the CEO of UIL promoted me to the position as the buyer for Europe in UIL. Since January 2014 I was only responsible for sourcing products in Europe.
4. The established practice to source and purchase products in the Asia markets for UIL (which was consistent with my previous experience) has been that:
 - i. I would travel to source home appliance at trade fairs held in Asia. At the trade fairs, I will meet many home appliance manufacturers and try out their products.
 - ii. Specifically, at the trade fairs, I will mainly discuss with the manufacturers the product specifications of the home appliances they produce.
 - iii. I will further discuss with the vendor manufacturers the number of products that they can mass produce in the following year.
 - iv. Since the practice has always been that contracts with the vendor manufacturers are made informally and by verbal agreements, the vendor would not provide details (viz product specifications and volume of supply) in a written document. I will only be told by the manufacturer such details and I will note down such details in my notebook.
 - v. After attending the trade fairs, I will report accordingly to UIL’s CEO i.e. Mr. Smith and inform him of (a) the product and its specifications; and (b) the volume of supply that the vendor is able to produce and sell in the coming year.

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- vi. If Mr. Smith was interested in the product and its specifications, he would let me know that he wanted to place an order on behalf of UIL and how many of the products he wanted.
 - vii. Upon receipt of instructions from Mr. Smith, I would then telephone the vendor manufacturer and inform them verbally that UIL wanted to place an order for a number of products by certain date of the year.
 - viii. As part of the established practice, UIL would treat this verbal notification to the vendor as the order for the product, even though UIL would issue a formal purchase order later on.
5. Since my promotion as the buyer for Europe in UIL, I was asked by Mr. Smith to attend the first Europe trade fair of the year held in the United Kingdom in February 2014. Because it was the first trade fair in 2014, it was very well attended and attracted many home appliances vendors from all over the world. Amongst other things, Mr. Smith had told me that UIL planned to purchase up to 15,000 toasters for the fourth quarter of 2014.
 6. I understand the present dispute concerns the toasters which UIL had ordered from Home World Limited (“HWL”). I do recall that on 15 February 2014, when I attended the promotion booth of HWL, it was towards the evening of that day. A Mr. Alexander James whom I understand to be HWL’s head of marketing started to introduce and promote the toasters of HWL to me.
 7. I do remember that I was attracted to and interested in the electric toasters of HWL which were heavily promoted by Mr. James at the time. Although my notebook had run out of pages, I still retained vivid recollection of the statements made by Mr. James and the specifications that he detailed and outlined at the booth:
 - a. When compared with other toasters available at the trade fair, Mr. James assured me that the HWL’s toasters were the fastest and safest toasters on the market.
 - b. I was told that in light of the advanced technology that was implemented and introduced into HWL’s toasters, HWL toasters were 50% faster than their competitors.
 - c. Mr. James further assured me that being fastest toasters on the market had not compromised their quality and safety. HWL’s toasters were all made in Britain, so HWL had direct oversight over the production and quality control. This ensured that the toasters remain the safest toasters available in the market.
 - d. In fact, right on the spot, Mr. James demonstrated the toasting of a piece of bread by the HWL toasters. Everything was computerized. I recall the HWL toaster only

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- required a “one-touch” instruction from Mr. James. Then it would automatically determine the time required to toast the piece of bread. Mr. James used a timer to measure and demonstrate how fast it took the toaster to toast the piece of bread. I remember that it took fewer than 20 seconds.
- e. Given the illustration by Mr. James above and my first-hand experience of tasting the piece of bread instantly toasted by HWL toasters, I was most impressed by their products. I decided to recommend to Mr. Smith that UIL should place purchase orders with HWL for this toaster.
8. After the illustration by Mr. James, I remember I sought further details from him as regards HWL’s production capacity and the time they required to manufacture and deliver the products to UIL.
- a. I expressed my strong and keen interest in HWL’s toasters and I do recall telling Mr. James that UIL could order up to 15,000 toasters with HWL.
- b. Mr. James then assured me that HWL had a production plant based in the UK, which had sufficient production capacity to meet UIL’s order for 15,000 toasters.
- c. Towards the end of our conversation, I thanked Mr. James for his time and told him that I would seek my boss’s approval and revert to HWL as soon as possible.
- d. Since it was getting late, I left the trade fair without attending any further booths.
- e. I remember clearly that I was not given any promotion leaflets or specification sheets of HWL toasters when I left the booth of HWL. I also recall that Mr. James never told me that HWL’s toasters operated at higher than normal temperatures.
9. As soon as I left the trade fair held in King’s Cross, London, I had to meet up with a friend for dinner in Holborn. I recall we had dinner at a very nice Italian restaurant. It was the birthday of this very good friend of mine. We had a bit of wine and I was slightly drunk but I thought I was okay. In fact, I managed to go back to my hotel by taking the London tube afterwards. Since I stayed in a hotel in the Knightsbridge area, it only took me 30 minutes to get back to my hotel.
10. As soon as I returned to my hotel, I opened a new notebook and noted down what Mr. James told me about HWL’s toasters for the purpose of reporting to Mr. Smith.
11. The next day, on 16 February 2014, I telephoned Mr. Smith to discuss HWL’s toasters.
- a. I reported to Mr. Smith my conversation with Mr. James of HWL.

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- b. In particular, I remember telling Mr. Smith that the toasters of HWL were the fastest and safest available on the market.
 - c. I also told Mr. Smith that HWL indicated that they had sufficient production capacity to meet an order of 15,000 toasters.
 - d. I also relayed to Mr. Smith that I had seen Mr. James demonstrate the toasting of a piece of bread by HWL's toasters at the trade fair in less than 20 seconds and that I was most impressed by its performance and I would highly recommend HWL products to Mr. Smith and UIL.
 - e. After my reporting to Mr. Smith, Mr. Smith made up his mind and told me that he wanted to make an order on behalf of UIL for 15,000 toasters for delivery by 1 October 2014. I therefore recorded the instructions of Mr. Smith accordingly in my notebook whilst I was at my hotel room.

12. Below I reproduce what I had written in my notebook:

"Home World's toasters:

- *Made in UK.*
- *Advanced technology.*
- *Fastest and safest on market.*

Confirm. Place order of 15k toasters by 1 October 2014."

13. After Mr. Smith hung up the phone, I immediately called HWL to place an order for UIL. I was put through to a Ms. Stacey Lee, whom I was told was the head of operations of HWL.

14. Over the phone:

- a. I expressly told Stacey Lee of HWL that UIL would place an order for 15,000 toasters with HWL for delivery to Hong Kong by 1 October 2014.
- b. I recall that Stacey Lee replied and said that that was acceptable to HWL and they would start production.
- c. As a matter of formality, Stacey Lee asked me to send her the purchase order thereafter.

15. In light of the positive confirmation with Stacey Lee of HWL, I honestly believed that an order for 15,000 toasters had been placed by UIL and that UIL was entitled to expect those 15,000 toasters to be delivered by 1 October 2014. Therefore, I rang up Mr. Smith

after my conversation with Stacey Lee and reported to Mr. Smith that an order had been placed.

16. Since my telephone conversation with Stacey Lee in February 2014, I did not receive any further news from either Mr. James or Stacey Lee of HWL, indicating to us that they had any problem producing and manufacturing the 15,000 toasters that we had placed an order with them.
17. At the same time, in or around February 2014, UIL also started to approach various home appliance retail stores and department stores with the intention to sell the toasters to them.
18. In this regard, I believe that the sales/marketing team of UIL had done an excellent job. By August 2014, UIL had already received from retail and department stores full orders for the 15,000 toasters.
19. On 1 September 2014, before the toasters were due to be delivered to UIL and as a matter of formality, I issued and sent Stacey Lee the purchase order for the 15,000 toasters.
20. To my great surprise, upon receiving the purchase order from UIL, Stacey Lee called me and told me that it was for too late for them to commence production for the 15,000 toasters. She told me that HWL did have 5,000 toasters in their warehouse, which HWL could deliver to UIL by 1 October 2014. Since UIL had to fulfil its orders to the retail and department stores, I agreed to the purchase. On Stacey Lee's request, I sent her an amended Purchase Order for the 5,000 toasters only.
21. As a result, HWL sold only 5,000 toasters to UIL.
22. In any event, it turned out that all 5,000 of HWL's toasters were prone to overheating. Due to numerous complaints, UIL had to recall them from the retail and department stores. UIL suffered a further loss in refunding the retail and department stores.

[Please assume that the statement has been dated and signed with a statement of truth.]

Witness Statement of Stacey Lee

I, STACEY LEE, of [United Kingdom address] say as follows:

1. I am the Head of Operations of the Defendant, Home World Limited (“**HWL**”).
2. Unless otherwise stated, all the facts and matters contained in this witness statement are within my personal knowledge and are true. Where they are not within my personal knowledge, they are based on the sources identified and are true to the best of my information and belief.

Introduction

3. In this litigation, I understand that the Plaintiff (“**UIL**”) sues HWL, claiming that HWL had breached its contract with UIL, on the grounds that HWL failed to supply UIL with sufficient quantity of toasters; and that the toasters that were supplied were defective.
4. In this witness statement, I shall:
 - (1) Give some background to the HWL company, its toasters and its operations.
 - (2) Explain why the contract between UIL and HWL was only for the sale of 5,000 toasters.

Background to HWL and its Toasters

5. HWL is a manufacturer of toasters in the United Kingdom. It was founded by the Ferguson family, and is still wholly owned by them. HWL has been in business for over 30 years.
6. HWL is different from most of its competitors in the industry because it does not outsource production overseas. It takes pride in the fact that its products are all ‘Made in Britain’, as they have been since the very beginning.
7. Since HWL’s toasters are made in HWL’s own factory in Northampton, this means that HWL has direct oversight of production and quality control, ensuring that its products rank at the top end of the market.
8. In around 2010, HWL also introduced a new technology which reduces toasting time by 50%. The research behind this technology is cutting-edge, and HWL continually improves and develops this technology and the design of its toasters each year. HWL focusses on improving the toasters’ toasting speed and also the external cooling of the toasters so that they do not overheat.
9. This combination of high quality and high technology does have its trade-offs. In particular, it means that HWL’s production capacity is not as high as its competitors who use imported components.

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10. It also means that HWL's profit margins are lower than the competition, due to the cost of research and relatively higher cost of making toasters in the United Kingdom. However, since HWL is a family-owned company, it does not have the same amount of pressure to make profits as larger publicly listed companies.

HWL's Operations

11. HWL sells its toasters to distributors, who in turn sell its toasters to retailers. HWL finds new distributors for its products by setting up booths in trade fairs in Europe. Mr Alexander James ("**Mr James**"), the Head of Sales and Marketing of HWL, is responsible for representing HWL at these trade fairs. He will explain this aspect in more detail in his witness statement.
12. It suffices for me to say that Mr James will meet interested customers at the trade fairs and give them a sales pitch about HWL and its toasters. If the potential distributors are interested in purchasing HWL's products, Mr James will give them a specification sheet and ask them to contact me at HWL.
13. The specification sheet sets out further technical details, including a safety warning stating "*Warning: Operates hotter than normal but still safe. Please use in a well-ventilated environment*". The specification sheet also details the ordering process, which I shall now explain:
- (1) When I am contacted by potential distributors, I will briefly discuss any further queries they have and also run through the ordering process again. I then email or fax them a formal tender form (the "**Tender Form**"). In the Tender Form, the distributor will fill in the details of, amongst other things, the quantity of toasters that the distributor will require, and the delivery dates and location.
 - (2) After HWL receives the Tender Form, HWL will then compare this information against its records and its anticipated production capacity over the year. If HWL believes that it is able to meet the distributor's requirements, then HWL will issue a confirmation back to the distributor by email or fax (the "**Confirmation**").
 - (3) If the distributor intends to go ahead with the purchase, it will then place a purchase order (the "**Purchase Order**"). As soon as the distributor places the Purchase Order, the contract becomes final and HWL will include the order into its production queue.
14. It is convenient for me to here observe that the aforesaid ordering process is the usual and well-established practice in the European market. I have never heard of any vendors or distributors adopt any other practice. It is certainly not normal for contracts to be concluded orally over the telephone.

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15. HWL will not start production until it receives this Purchase Order. In this connection, I should explain that in order to streamline its operations, and because HWL is constantly improving its toasters, HWL does not keep significant amounts of stock at hand, and instead normally manufactures its toasters to order. However, it does retain a buffer of several thousand toasters just in case.
 16. Since HWL manufactures its toasters to order, in order to ensure that HWL can manufacture the toasters in time to meet the delivery dates required by the distributor and confirmed by HWL in the Confirmations, HWL requires the distributor to place a purchase order within 3 days of receiving HWL's Confirmation.
 17. I understand that one document HWL has produced in discovery is an email dated 17 December 2013 from myself to Mr James. In that email, I tell Mr James *"to try harder at selling HWL's toasters, and if you do not, I will cut your bonus for next year (i.e. 2014) and you can forget about the regular annual raise. I know you think that the overheating may put off customers, but any half-decent salesman would know how to deal with it."*
 18. First of all, I would like to say that Mr James and I have a very friendly relationship, so we normally speak with each other in a frank tone and get to the point. Secondly, as I have explained above, HWL is a family-owned company which places a much higher value on its long-term reputation than on short-term profits. Therefore any contention by UIL that Mr James was put under any pressure to unduly push HWL's toasters at the trade fairs, or find new distributors, would be groundless. Thirdly, when I said that a salesman would know how to deal with the overheating, I meant that a proper salesman would be able to persuade potential customers that the heat was not really a problem, and certainly not a safety issue, so it should not impede sales.

The Contract between UIL and HWL

19. My first contact with UIL was when Ms Angela Wong ("**Ms Wong**") called me on around 16 February 2014.
20. Ms Wong asked me whether HWL could produce an order for 15,000 toasters for a delivery by 1 October 2014. I checked HWL's computer system and told Ms Wong that HWL could probably meet this order.
21. I told Ms Wong that UIL needed to submit a Tender Form, and if HWL could meet UIL's requirements, HWL would confirm this on paper. After that, UIL would have 3 days to place the Purchase Order. She should have known this in any event, as this was the established practice in the European market, and it was also detailed on the specification sheet which Mr James should have given to her.
22. After we finished our conversation, I believe I faxed Ms Wong a copy of the Tender Form, because I cannot find a copy of an email to Ms Wong in HWL's computer system.

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23. I did not subsequently receive any Tender Form from Ms Wong, so I assumed that UIL was not interested in purchasing the toasters from HWL. However, on 1 September 2014, I unexpectedly received a Purchase Order from Ms Wong for 15,000 toasters to be delivered to Hong Kong by 1 October 2014.
24. On the same day, i.e. 1 September 2014, I called Ms Wong telling her that HWL did not have enough stock for 15,000 toasters, but we could supply 5,000 from our warehouse. Ms Wong agreed. In order to confirm the purchase as soon as possible, I cut short the usual ordering process and asked Ms Wong to send me an updated Purchase Order for 5,000 toasters only. (The relevant details which I would normally see from the Tender Form were already contained in the first Purchase Order that Ms Wong had sent me earlier.) Shortly thereafter, Ms Wong did send me the Purchase Order after the telephone conversation.
25. This contract, namely the sale of 5,000 toasters to Ms Wong for delivery to Hong Kong by 1 October 2014, was the only contract entered into by HWL and UIL.

[Please assume that the statement has been dated and signed with a statement of truth.]

Witness Statement of Alexander James

I, ALEXANDER JAMES, of [United Kingdom address], say as follows:

1. I am the Head of Sales and Marketing of the Defendant, Home World Limited (“**HWL**”).
2. Unless otherwise stated, all the facts and matters contained in this witness statement are within my personal knowledge and are true. Where they are not within my personal knowledge, they are based on the sources identified and are true to the best of my information and belief.

Introduction

3. In this litigation, I understand that the Plaintiff (“**UIL**”) sues HWL, claiming that HWL had breached its contract with UIL, on the grounds that HWL failed to supply UIL with sufficient quantity of toasters; and that the toasters that were supplied were defective.
4. In this witness statement, I shall:
 - (1) Explain the practice adopted by HWL when marketing and selling its goods.
 - (2) Explain what I told Ms Angela Wong (“**Ms Wong**”) of UIL.

HWL’s Practice In Marketing and Selling Toasters

5. HWL is a manufacturer of toasters in the United Kingdom. It has been in business for over 30 years. HWL was founded by the Ferguson family and is still wholly owned by them.
6. HWL has regular distributors that purchase HWL’s toasters, but HWL also sets up booths at trade fairs to get new customers. I have represented HWL at trade fairs for over 15 years.
7. Unlike most of HWL’s competition, HWL’s toasters are not only designed in Britain but, since the very beginning of HWL’s business, have all been entirely ‘Made in Britain’ at its factory in Northampton. This means that HWL has complete oversight over the production process, ensuring that HWL’s toasters are of the highest quality.
8. In around 2010, after several years of research, HWL introduced a new technology in its toasters which reduces the toasting time by around 50%. The heat generated by this process does mean that the toasters should be used in a well-ventilated environment, but we make sure to include suitable warnings on our packaging.
9. HWL also continually works to improve its toasting and cooling technology, and we introduce revisions to our products each year.

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10. When I go out and present HWL's toasters to new customers, I make sure to draw these matters to potential customers' attention so that they know that HWL is not just an ordinary toaster manufacturer, but that it makes some of the best and highest quality toasters on the market.
 11. If the purchasers are interested in more information, I give them a specification sheet which contains the details of HWL's toasters, including a safety warning stating "*Warning: Operates hotter than normal but still safe. Please use in a well-ventilated environment*". I also tell the purchasers that to place an order, they should contact Ms Stacey Lee ("**Ms Lee**"), HWL's Head of Operations, at HWL's headquarters. I am not myself responsible for taking orders on behalf of HWL. The specification sheet also contains details on how to place an order (namely, the process involving the tender form, confirmation and purchase order), as is described in further detail in paragraph 13 of Ms Lee's statement.
 12. Often the purchasers also tell me about the approximate volume of toasters that they wish to buy in the coming year, and ask whether HWL has sufficient capacity to meet this order. I cannot answer such queries since I do not have access to HWL's ordering system where the relevant information is located. Therefore I tell purchasers that HWL is normally able to commit to most normal volumes of orders, but the purchasers would have to check with Ms Lee at HWL's headquarters to confirm whether HWL has sufficient production capacity.
 13. I understand that amongst the documents HWL has produced in discovery is an email dated 17 December 2013 from Ms Lee to me, in which Ms Lee tells me "*to try harder at selling HWL's toasters, and if you do not, I will cut your bonus for next year (i.e. 2014) and you can forget about the regular annual raise. I know you think that the overheating may put off customers, but any half-decent salesman would know how to deal with it.*" I took this email very seriously, since the bonus forms a large portion of my overall compensation. I also do not want to let HWL down. However, this does not mean that I would fail to mention that the toasters were hotter than normal. I understood Ms Lee to mean that I should be able to persuade potential customers that the heat was not really a problem, but just a consequence of the new technology, and that the toasters were safe to use.

The Trade Fair in February 2014

14. As usual, I manned HWL's booth at the first trade fair of the year, in King's Cross, London, held in around the middle of February 2014.
15. On 15 February 2014, towards the end of the opening hours of the trade fair, Ms Wong of UIL approached HWL's booth and asked me about HWL's toasters.
16. I proceeded to give Ms Wong my usual sales pitch where I described HWL's history and its toasters. I also performed a demonstration by toasting a slice of bread for her.

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17. I should have told Ms Wong that since HWL's toasters were especially fast, they generated relatively higher heat than normal and therefore the toasters would need to be used in spaces with good ventilation. Even if I had not mentioned this to Ms Wong, she would have known this from the specification sheet I had gave her.
 18. Ms Wong then asked me how much capacity HWL could produce. I told her, as I normally tell other customers, that HWL should be able to meet most normal volumes of orders.
 19. I then gave Ms Wong a specification sheet to take with her, and told her to contact Ms Lee if UIL was interested in placing an order.
 20. I do not recall Ms Wong saying that UIL would order up to 15,000 toasters. But even if Ms Wong did tell this to me, it would not have made a difference because HWL would only have confirmed an order when Ms Wong spoke to Ms Lee.

[Please assume that the statement has been dated and signed with a statement of truth.]