Contract for the International Sale of Goods

Semicontronics is an Australian manufacturing company that has been in the business of semi-manufactured electronics for over a decade. Semicontronics has a solid reputation for meeting customer demands for quality products on time and on budget. The majority of Semicontronics customers are international, mid-market manufacturing companies that produce generic electronics such as cell phones, digital media players and game consoles. Retail stores in foreign countries purchase the generic products and rebrand them for sale.

Recently, Semicontronics was approached by Phoneson to act as a supplier in their supply chain. Based in Japan, Phoneson is an original design electronics manufacturing company specializing in high-end mobility devices including cell phones, navigation systems and PDAs. Phoneson is impressed with Semicontronics’ reputation and wants Semicontronics to supply several components for its next release of legacy products.

Phoneson has a reputation for producing best in class brands of electronics, and is recognized for innovative technology and aesthetic design. It has built a loyal following from electronics enthusiasts in its native Japan as well as other Asian and European electronics markets. Phoneson wants to extend its brand into the highly competitive North American market and sees standard Internet and GPS functionalities in its cell phones and PDAs as the key to its success.

In order to offer its products as a high-end alternative to the established North American competitors and at its existing top market price, Phoneson has decided to spend millions of dollars on aggressive marketing. It plans to cut production costs by having Semicontronics produce its computer chips instead of its existing supplier.

Semicontronics has enthusiastically accepted Phoneson’s invitation to join its supply chain. If Semicontronics can maintain its record of accomplishment for supplying cost efficient, quality products on target, it could open an entire new customer market for expansion.

While negotiating the supplier contract, Semicontronics realizes the memory in its current computer chips will have to be significantly increased to support the technical capabilities of Phoneson’s electronics. Its current manufacturing plant in Brazil is not equipped to meet these new demands, and an upgrade at this stage in a new customer endeavour is not economically feasible for Semicontronics.

Semicontronics realizes it must find a quality subcontractor with the capabilities to manufacture the Phoneson computer chips, including the enhanced memory requirements.

After careful market research and consideration of options, Semicontronics decides to subcontract the computer chip manufacturing to Singatron, a relatively new electronics manufacturer in Singapore. Singapore has been a hotbed for electronics manufacturing, and Singatron was created by venture capitalist hoping to get a foothold in Singapore’s electronics market, specifically, in the next generation of computer chips. Although Singatron markets itself as a top quality manufacturer, its lack of experience is proving to be a major obstacle to it winning contracts.

The subcontracting offer from Semicontronics has the potential to be mutually beneficial for both parties, because they both have a market entry opportunity to prove they are a viable subcontracting option for high-end electronics manufacturing.

1. Both Australia and Singapore are common law countries. Singatron and Semicontronics conclude their first round of negotiations with a Letter of Intent (LOI). If the deal falls through, will either party be bound to their commitments as detailed in the LOI? What can the parties do to limit the obligations to the terms of the LOI?
2. Because Semicontronics’s manufacturing plant in Brazil is not suitable to fulfil the Phoneson contract for computer chips, a new contract must be arranged for the transportation of computer chips from Singapore to Phoneson’s assembly plant in Japan. Which of the three parties is responsible for the transportation? In addition to contractual issues such as timelines, payments and packaging, list at least two issues Singatron lawyers should consider to reduce risks associated with transportation delays or losses when contracting a third party for transportation.
3. What are some IP areas that can be at risk for infringement for Phoneson and Singatron if not properly mitigated?