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Israeli Patent Office Cancels Cotton Candy Designs – Key Takeaways for IP Owners

Client Updates

The Israeli Patent Office has recently invalidated two registered designs in Case Nos. 63961 and 63960, setting a critical precedent for design owners, importers, and IP professionals. The cancellation stemmed from prior public disclosure and improper ownership claims, emphasizing the need for diligence when filing design applications.

Ownership Matters – A Common Pitfall for Importers

Ownership disputes played a key role in the cancellation. The applicant, an Israeli company that imported the machines used to produce the cotton candy designs, filed the design registrations without a valid assignment from the original Chinese manufacturer, relying on the import rights agreement. The decision underscores that ownership must be clearly established before filing, as improper claims can lead to invalidation.

Importers often assume they can register designs for products they distribute—but without a formal IP transfer, such registrations can be challenged and canceled. Businesses should ensure proper documentation, including executed by relevant parties written assignments, before proceeding with filings.

Grace Period in Israel – Limited Protection

Under the Israeli Design Law (2017), a 12-month grace period allows applicants to file a design application after public disclosure—but only if the disclosure originates from the true owner. This decision clarifies that grace period protection does not apply if a third party discloses the design first. Applicants must carefully assess prior disclosures before relying on this provision.

Prior Disclosure on Social Media – A Cautionary Tale

The ruling confirmed that the cotton candy designs had been publicly disclosed before registration. Importantly, even restricted-access social media posts (e.g., WeChat's Moments feature) can constitute prior art if at least one person outside the applicant's control could access them. Applicants must carefully monitor supplier websites, trade fairs, and online platforms before filing.

Patents Do Not Equal Design Rights

The ruling reinforced a fundamental distinction: patents protect functionality, while designs protect aesthetics. Owning a patent for a machine does not automatically confer design rights to the products it creates. This serves as a reminder that businesses must separately protect both aspects.

Good Faith Considerations – Unresolved but Important

The decision raised but did not decide on the issue of good faith in design filings. While the analysis suggested concerns regarding the applicant's conduct, the ruling ultimately rested on novelty and ownership. Future cases may place greater emphasis on good faith, particularly if misleading statements or omissions are involved.

What This Means for You

This decision serves as a clear warning for businesses seeking design protection in Israel. Before filing, verify that your design is truly new, has not been publicly disclosed beyond the grace period's protections, and that ownership is properly documented.

For guidance on design registrations or enforcement strategies, contact our team. Proactive due diligence can safeguard your intellectual property and prevent costly invalidations.

This update is intended to provide general and concise information only. It does not constitute a complete analysis of the issues discussed, does not constitute a legal opinion or legal advice, and should not be relied upon.

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