

February 3, 2025

Israeli Patent Office Cancels Cotton Candy Designs

Client Updates

The Israeli Patent Office has recently invalidated two registered designs in Case Nos. 63960 and 63961, 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.

IP Ownership Matters – A Common Pitfall for Importers

Ownership disputes played a key role in the cancellation. Under Israeli Design Law, ownership is a multi-layered issue, as distinctions exist between the original designer, service designer (employee designing for employer), commissioning entity, and any subsequent assignee. The ILPTO emphasized that mere involvement in design's commercialization does not automatically confer ownership rights. Businesses should ensure that ownership is contractually assigned and properly documented before proceeding with registration.

The applicant, an Israeli company that imported machines manufactured by a Chinese company that also held patents related to their operation, filed multiple design registrations with the ILPTO. However, as was discovered during the examination and later during the cancellation proceedings, the designs were registered without an assignment of rights transferring ownership from the Chinese manufacturer to the Israeli importer.

Instead, the importer relied on an import agreement that did not clearly specify an assignment of design rights, resulting in a misrepresentation of ownership before the ILPTO. The ILPTO determined that the lack of a clear transfer of rights, coupled with prior use of the designs, invalidated the registrations.

The decision underscores that ownership must not only be clearly established before filing, but applicants must also ensure that the design was not independently developed or used by unrelated parties before claiming exclusive rights.

Importers often assume they can register designs for products they distribute—but without a formal transfer of intellectual property rights, such registrations can be challenged and canceled. Businesses should ensure proper documentation, including written assignments executed by relevant parties, 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 or during the grace period. 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 on a private account like WeChat's Moments feature constituted prior art as at least one person outside the applicant's control could access them. Applicants should conduct thorough prior art searches, including supplier websites, e-commerce platforms, social media, and trade fair catalogs, to identify potential disclosures.

Patents Do Not Equal Design Rights

The ruling reinforced a fundamental distinction: patents protect functionality, while designs protect aesthetics. Holding a patent for a machine does not establish ownership of the design of the products it manufactures. This serves as a reminder that businesses must separately protect both aspects – the functional and the aesthetic.

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. If you are an importer, involve an IP specialist in preparation of your commercial agreement.

A thorough review of ownership rights and potential prior disclosures is essential to securing enforceable design rights and avoiding costly invalidations.

For guidance on IP registrations, enforcement strategies, and commercial agreements contact our team.

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.

Key Contacts



Dr. Maya Shmailov

Patent Attorney, Lead of Patent Practice