

Symbols of Goods in the Fair Trade Act

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Abstract

Taiwan's Patent Law and Trademark Law have been implemented for many years, and the scope of the owner's rights or protection has been clearly defined in them. Therefore, people can easily understand and judge the scope of the owner's rights in order not to infringe the owner's patent or trademark rights, and hence reduce the risks faced by his or her commercial operation.

When a patent right expires or is extinguished, a previously protected product or method, no longer protected by patent law, will have to freely compete in the market. Such a product or method may also promote further inventions, innovation, or novel techniques through research and development. Therefore, the relevant industries or business activities will be continuously developed and the consumer will be able to freely purchase cheaper, qualified products in a competitive market. Similarly, if the trademark owner does not specifically request the renewal of the trademark right before the expiry of the period covered by the trademark right, he may no longer be able to claim an exclusive right to the trademark. Therefore, according to the provisions of the Trademark Law and Patent Law, the exclusive right to the patent right and trademark right has a time limit. When the owner's right to the patent or trademark right expires or is extinguished, the owner of the right may not lay claim to the exclusive right by law.

The term "Symbols of goods" is defined in Article 22-1-1 of the Taiwan Fair Trade Act. However, the so-called "Symbols of goods" are not registrable and cannot be formally assessed by an appropriate Taiwanese government organization. Even if a search or analysis has been conducted, it is difficult to completely exclude an infringement against an owner's Symbols of goods. This paper seeks to examine and analyze the criteria for judging Symbols of goods, as well as related lawsuit cases for RIMOWA in both Taiwan and the PRC, so as to provide a resolution or proposal for preventing the infringement of a patent owner's Symbols of goods. If such a resolution is not reached, an

ambiguous definition of the rights attached to Symbols of goods may increase the risks faced by management or pose a danger to the enterprises because of infringement, and may conflict with the product design system. Accordingly, a reasonable level of protection for the owner's rights in relation to the Symbols of goods may be achieved and the costs of unexpected lawsuits as well as the management risks of the competitive enterprises thereby minimized.

Keywords: Fair Trade Act, Symbols, RIMOWA, Famous, Confusion.