



TIPLO News

AUGUST 2024 (E288)

This news mail distributed in Japanese and English from time to time provides updates on the development of law in Taiwan with focus on intellectual property rights law. For more information about the status of intellectual property right protection and practice in Taiwan, please visit our website www.tiplo.com.tw

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- 01 Pegavision filed patent infringement lawsuit against Yung Sheng Optical and Hydron**

On May 3, 2024, Pegavision made a major announcement that it filed an action with the Intellectual Property & Commercial Court (hereinafter "IP&C Court") to assert patent infringement against Taiwan-based Yung Sheng Optical and (hereinafter "Yung Sheng") China-based Hydron Contact Lenses (hereinafter "Hydron"), seeking court orders demanding removal and prevention of all infringing activities and damages payment by the two defendants, in order to eradicate malpractice of infringement in the same trade, avoid further damage to Pegavision's patent rights, and safeguard its competitive advantages developed by its long-term R&D investment.

Pegavision found Yung Sheng suspected of infringing upon its invention patents by the eye contact lenses manufactured by Yung Sheng and sold under the brand name, Hydron. Being aware of the occurrence of suspected infringement, Pegavision filed a patent infringement action with the IP&C Court to maintain that Yung Sheng and Hydron jointly infringed upon Pegavision's invention patents No. I634205 titled "Solution for treating contact lens" and No. I671086 titled "Ophthalmic product and ophthalmic composition thereof" by several products made and sold by Yung Sheng and Hydron falling within the scope of the claims of the said two invention patents.

Yung Sheng, Hydron, and Jiangsu Horien Contact Lens Co., Ltd. are the three major subsidiaries of Ginko International Co., Ltd. (hereinafter “Ginko International”), which is mainly engaged in the business of making and selling eye contact lenses and care solutions. In response to the patent infringement action initiated by Pegavision, Ginko International expressed that all of its products must undergo patent infringement analysis and evaluation to assure no occurrence and no likelihood of infringement before product launch. Likewise, Ginko International had conducted the aforesaid procedure of analysis and evaluation on the products involved in the lawsuit, and therefore, there should be no likelihood of infringement as alleged by Pegavision. (Released 2024.05.04)

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02 Court decision reversal for trademark infringement lawsuit of local well-known A-Sha Restaurant

With respect to the trademark infringement case involving the family business of the well-known restaurant in Tainan, A Sha Restaurant, the IP&C Court ruled in the first instance proceedings that WU, Jian-Hao and other defendants did not commit infringement by marketing and promoting delivery goods and online shopping services under the names of “A-Sha” and “A-Sha Restaurant”. The court decision was reversed in the second instance proceedings to find WU, Jian-Hao and other defendants in breach of contract and order them to pay damages of TWD4.5 million. The court decision is appealable.

According to the second-instance court decision, the well-known A-Sha Restaurant was jointly run by the founder, WU Jin-Xia and her fifth brother, WU Shou-Chun (who is the chef of both A-Sha Restaurant and the online store of A-Sha Restaurant). In April 2009, WU Jin-Xia, WU Rong-Can (the son of WU Jin-Xia’s second brother, WU Bing-Xiong), and WU Qing-Rong (daughter of WU Shou-Chun) negotiated and agreed upon the sale of real estate and also the following matters by a contract that (a) WU Jin-Xia should transfer the trademark rights of the “A-Sha” and “A-Sha Restaurant” marks to WU Qing-Rong and WU Rong-Can, either individually or jointly, (b) the right to run A Sha Restaurant should belong to WU Rong-Can, and right to its online store operation should belong to WU Qing-Rong. After that, WU Jin-Xia transferred the “A-Sha” and “A-Sha Restaurant” marks to WU Qing-Rong and WU Jian-Hao (son of WU Rong-Can) and others in the period between May and July 2010.

This trademark dispute was brought to the court after the death of the founder, WU Jin-Xia in 2020 when WU Qing-Rong found that WU Jian-Hao and others breached the contract by engaging in the online business of marketing and promoting delivery products and online shopping services by the name of “A Sha” and “A Sha Restaurant”, and even accepting media interviews. The court of the first instance did not sustain the alleged breach of contract but determined that another brand name, “Jinxialou” (transliteration of the brand name, “錦霞樓”) might cause consumers confusion and thus should constitute infringement, and ordered a damage payment of TWD500,000.

This case further moved to the second-instance proceedings upon both sides’ appeal. The court of the second instance adjudicated that WU Jian-How and other defendants (a) should be held in breach of contract, (b) without WU Qing-Rong’s prior consent, should not use, in their own names or in cooperation with others, the Chinese characters or English words identical or similar to “A-Sha” and “A-Sha Restaurant” in the manners of digital audio and video, electronic media, the Internet or any other methods similar to digital form or online media, for providing the services of

advertising, TV shopping, online shopping, mail order, or online retailing, etc., and (c) should jointly and severally pay TWD4.5 million in damages. This second-instance court decision is appealable. (Released 2024.05.03)

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03 A new chapter in science diplomacy: Taiwan and Australia ink Science and Technology Arrangement

The National Science and Technology Council of Taiwan (NSTC) visited the senior officials of the Australian Department of Industry, Science and Resources (DISR) and proposed the promotion of the Taiwan-Australia Science and Technology Arrangement (STA) in October 2023. After both sides' discussions and planning for six months, Taiwan and Australia successfully executed the Science and Technology Arrangement on May 13, 2024, making Australia the 5th country with which Taiwan signs a STA. According to the STA, the Taiwan-Australia cooperation will focus on the four main areas: information and communication technology manufacturing, semiconductor and critical technology supply chain resilience, biotechnology, and net-zero transition, etc..

The STA is an upgrade from the MOU signed by and between the two countries in 2012, an upgrade reflecting that both countries have been placing great importance on each other's scientific research capabilities. Under the framework of the STA, the bilateral relation of scientific research will be intensified and the scope of collaboration will continue to expand.

According to the NSTC, they have accomplished the execution of five science and technology cooperation agreements or arrangements with the United States, Germany, France, Canada, and Australia for the past four years since the end of 2020. Also, they have formulated and set up 22 programs for bilateral research collaboration and talent exchange with respect to semiconductors, quantum, artificial intelligence, net zero, and biomedical as the focus of future cooperation. (Released 2024.05.14)

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