

Trademark case: Ezaki Glico Kabushiki Kaisha v. Lotte International America Corp., USA

Kluwer Trademark Blog

October 19, 2020

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Please refer to this post as: George Basharis, 'Trademark case: Ezaki Glico Kabushiki Kaisha v. Lotte International America Corp., USA', Kluwer Trademark Blog, October 19 2020, <http://trademarkblog.kluweriplaw.com/2020/10/19/trademark-case-ezaki-glico-kabushiki-kaisha-v-lotte-international-america-corp-usa/>

Japanese confectionary company's Pocky cookie stick's shape was useful and not entitled to trade-dress protection.

A functional design that is useful, even if it is not an essential feature of a product, is not entitled to trade-dress protection, the U.S. Court of Appeals for the Third Circuit determined, affirming dismissal of a trademark lawsuit filed against the maker of a copycat chocolate-covered cookie. Trade dress protects only features that are ornamental or arbitrary and therefore identify a product's source, it does not protect useful features that are normally protected by patent law, the court explained (*Ezaki Glico Kabushiki Kaisha v. Lotte International America Corp.*, October 8, 2020, Bibas, S.).

Case date: 08 October 2020

Case number: No. 19-3010

Court: United States Court of Appeals, Third Circuit

A full summary of this case has been published on [Kluwer IP Law](#)