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

George Basharis (Wolters Kluwer Legal & Regulatory US) · Monday, October 19th, 2020

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](#)

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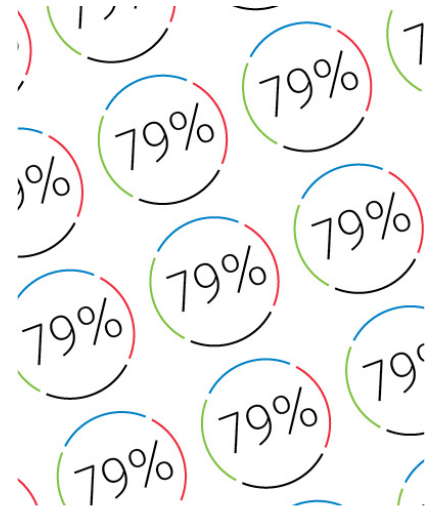
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