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## Don't lose hope! – “Chef Line” found distinctive in Israel despite challenging circumstances

Avi Ordo, Moran Katz (S.Horowitz & Co.) · Wednesday, May 25th, 2022

The Israeli Deputy Registrar, in a recent decision, overturned a rejection made by the examiner, and allowed the registration of a trademark for the Hebrew transliteration of “Chef Line” in classes 11 and 35 (Trademark Application No. 315406). In her decision, the Deputy Registrar accepted the arguments of the applicant, A.M. Chef Line Limited, which markets industrial kitchens products, and ruled that it had been proven that the mark had acquired a distinctive character through extensive use.\*

The Deputy Registrar ruled in favor of the applicant despite the following challenging circumstances: (a) the applicant had not submitted a market survey; (b) the amount of written publication presented by the applicant was not extensive; and (c) a significant portion of the evidence submitted by the applicant presented use in a stylised version of the mark, while the registration was sought in connection with a word mark. These things have often proved fatal in the past in such cases.

Referring to the above challenging circumstances the Deputy Registrar accepted the following arguments:

(a) conducting a reliable market survey in the case at hand would be almost a mission impossible since the relevant public, consisting of professionals engaged in procurement in the fields of food and hotels, is very specific and hence very difficult to randomly encounter;

(b) affidavits signed by the applicant's customers, indicating the use of the mark and the connection of the mark to the applicant, as well as confidential data presented to the Deputy Registrar regarding the scope of the applicant's activities – should be given adequate evidentiary weight. This is particularly true in view of nature of the market, and the fact that the mark is intended for a professional public, and that advertising in this sector is made by a word of mouth;

and (c) the use of the mark in a stylised version may also be taken into account when considering the distinctive character of the same mark in a non-stylised version. This is due to the fact that the verbal element constitutes a substantial part of the stylised mark and as a result, extensive use of the stylised mark is likely to create consumers' awareness to the verbal element.

To sum up: the tendency of the Israel Trademark Office to object to the registration of trademarks on the basis of descriptiveness, as well as to set a high bar for proving secondary meaning, is

constantly increasing. Yet, there are still ways to challenge such rejections in appropriate cases. So don't lose hope!

\* The applicant was represented by the authors of this post.

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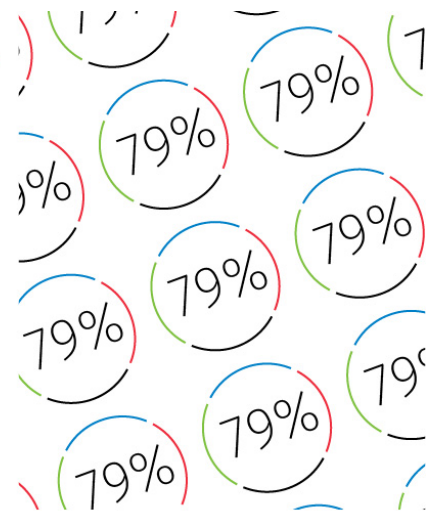
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