

JE Best International Co., Ltd.

1438th Commissioners' Meeting (2019)

Case: JE Best violated the Fair Trade Law by posting false advertisements to market its blue light shield product

Keyword(s): Anti-blue light screen protector, patent, false advertising

Reference: Fair Trade Commission Decision of May 29, 2019 (the 1438th Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 108018

Industry: Wholesale of Electronic and Communication Equipment and Parts (4642)

Relevant Law(s): Paragraph 1 of Article 21 of the Fair Trade Law

Summary:

1. The FTC received complaints from private citizens that JE Best International Co., Ltd. (hereinafter referred to as JE Best) claimed that the product had been awarded anti-blue light patents in Taiwan, Japan, Germany and China" when marketing its blue light shield anti-blue light screen protector (hereinafter referred to as the product at issue). Furthermore, in the advertisement pictures of the corresponding patent certificates (Utility Model Patents M461811 and M455622) were displayed. However, the patents either had become extinguished or had been revoked. Therefore, it was false advertising.
2. Findings of the FTC after investigation:
 - (1) According to the Intellectual Property Office of the Ministry of Economic Affairs, the M451811 Utility Model Patent right of the product at issue had become extinguished on September 11, 2016 as a result of the owner's failure to pay the patent fee within the statutory period. As for the M455622 Utility Model Patent right, after an invalidation request was sustained and the administrative remedy filed by the owner was overruled, it was revoked on April 21, 2017.
 - (2) The patents awarded in Japan, Germany and China had also been invalidated after the owner failed to pay the patent fees.
3. Grounds for disposition:
 - (1) When JE Best claimed on its website that the product at issue had been awarded anti-blue light patents in Taiwan, Japan, Germany and China, it gave people the impression that the product was protected by the patent domestically and competitors could not copy its design. Besides deterring competitors from entering the market, it could also make consumers think the product at issue was patented and its performance and quality were both better than similar products that were not patented. According to the Intellectual Property Office, the patents for the product at issue (Utility Model Patents M461881 and M455622) had respectively become extinguished in September 2016 and had been revoked in April 2017. As set forth in Article 79 of the Enforcement Rules of the Patent Act, marking of the patent certificate number as specified in Article 98 of the Patent Act was illegal after the corresponding patent right became extinguished or was revoked. JE Best contested that it did not know the patents had become extinguished or had been revoked. However, the company had the responsibility to assure the claims it posted in the advertisements were true. In addition, the Patent Search System of the Intellectual Property Office was accessible to the public and therefore anyone, including JE Best, could access it on the Internet and find

the patent information about the product at issue. The company could not shirk the responsibility by saying that it had not been notified about the fact or the posting had been a mistake out of negligence. In other words, the fact that JE Best claimed that the product at issue was patented and at the same time posted pictures of the patent certificates after the domestic patent rights had become extinguished or had been revoked, could cause the general public to have wrong perceptions about the product at issue or make wrong decisions. The conduct was in violation of Paragraph 1 of Article 21 of the Fair Trade Law.

- (2) After assessing the motive of JE Best for the unlawful act, the profit it gained, the level of harm to trading order, the scale of business, the management condition and market status of the company, its record of past violations, the level of remorse and cooperativeness throughout the investigation, the FTC cited the first section of Article 42 of the Fair Trade Law and imposed an administrative fine of NT\$50,000 on JE Best.

Appendix:

JE Best International Co., Ltd.'s Uniform Invoice Number: 42769279

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