

Ora Yu Jie Ltd.

1452nd Commissioners' Meeting (2019)

Case: Yu Jie violated the Fair Trade Law by posting false advertisements to market wireless Bluetooth headphones

Keyword(s): Wireless Bluetooth headphone, trademark right, patent right

Reference: Fair Trade Commission Decision of September 4, 2019 (the 1452nd Commissioners' Meeting); Disposition Kung Ch'u Tzu No.108046

Industry: Retail Sale via Mail Order House or via Internet (4871)

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

Summary:

1. The FTC received complaints that Ora Yu Jie Ltd. (hereinafter referred to as "Yu Jie") claimed on the Internet on July 25, 2018 that its wireless Bluetooth headphones had been patented and has been protected by trademark rights. However, the FTC's investigation showed that the company's trademark registration was still being processed at the time and the patent application was filed on August 14, 2018 which was later than July 25, 2018. Therefore, it was false advertising.

2. Findings of the FTC after investigation:

In addition to asking Yu Jie to present its statement at the FTC, the FTC requested the Intellectual Property Office of the Ministry of Economic Affairs for its opinion and the reply from the Office was that the products in question had not been patented and had no trademark rights at all when the advertisement was posted on July 25, 2018.

3. Grounds for disposition:

(1) Yu Jie filed the patent application for its wireless Bluetooth headphone with the Intellectual Property Office on August 14, 2018 and the approval of the application was announced on April 1, 2019. At the same time, the company applied for trademark rights on April 12 and July 24, 2018 respectively. The trademark registration approvals were received on October 16, 2018 and January 16, 2019 respectively. In other words, although ultimately the company obtained two trademark rights, the fact is that the products had not yet been patented and had not yet had trademark rights when the advertisement in question was posted on July 25, 2018.

(2) The representation or symbol Yu Jie posted in the advertisement in question was obviously inconsistent with the above fact and this advertisement could make consumers and potential trading counterparts to have wrong perceptions about its content or to make wrong decisions. It was false and misleading in violation of Article 21(1) of the Fair Trade Law. After assessing the company's motive behind the unlawful act, the level of harm to trading order on the market, the management condition and market status of the company, the number of violations in the past, the level of remorse and the 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 the company.

Appendix:

Ora Yu Jie Ltd.'s Uniform Invoice Number: 54863186