

Song Yang Technology

1647th Commissioners' Meeting (2023)

Case: Song Yang Technology violated the Fair Trade Law by posting false advertisements to market “eco-friendly indoor slippers”

Keyword(s): False advertisement, slippers, patent

Reference: Fair Trade Commission Decision of May 3, 2023 (the 1647th Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 112027、112028

Industry: Wholesale of Footwear (4553)

Relevant Law: Article 21 of the Fair Trade Law

Summary:

(1) The FTC received complaints that when Song Yang Technology Co., Ltd. (hereinafter referred to as Song Yang Technology) displayed the texts of “Patent No.: D144859,” “ROC Patent Certificate: D144859,” and “Taiwan Patent Certificate No.: D144859” in product photos and on the products when marketing “eco-friendly indoor slippers” through pcone.com, PChome24h, Yahoo! Kimo, eslite.com and retail outlets HOLA and POYA. The informers thought it was false advertising in violation of Article 21 of the Fair Trade Law.

2. Findings of the FTC after investigation:

(1) Song Yang Technology provided information about the “All Clean eco-friendly indoor slippers” to be inspected by Mobix Corp., the company managing pine.com, before the products were accepted and marketed. When the advertisements were posted, the products were indeed patented. However, the patent was revoked on June 24, 2021 after a patent invalidation action filed was sustained.

(2) The patent number was printed on the soles of the slippers and the tags attached. Originally, Song Yang Technology thought the remaining stock in the warehouse could still be sold after the patent revocation. The company checked the Patent Act but found no related regulations. Hence, it did not notify its distributors and retailers that the patent had been revoked. The company did not realize the practice was false advertising until the company received an investigation notice.

- (3) Song Yang Technology's company name was printed on the tags of the All Clean eco-friendly indoor slippers sold at POYA. The slippers were shipped directly to POYA by Song Yang Technology. The reason why "Patent No.: D144859" was still indicated on the bottoms of the slippers and "Taiwan Patent Certificate No.: D144859" was still printed on the tags attached to the products after June 24, 2021 was that the slippers were manufactured in batches. Therefore, when the patent was revoked on June 24, 2021, there were still 60,000 to 80,000 pairs with "Patent No.: D144859" printed on the bottoms remaining in the factory. The company continued to ship out those products until corrections were made to the products and the tags starting in April 2022.
- (4) HOLA commissioned Song Yang Technology to produce the "HOLA Eva soft indoor slippers for children." On August 25, 2022, HOLA returned the products. Later, when Song Yang Technology supplied new products to HOLA, the text of "Patent No.: D144859" was not printed on the bottoms of the slippers.

3. Grounds for disposition:

- (1) The products in question were originally patented for the period from January 11, 2012 to May 17, 2023, but the patent was revoked on June 24, 2021 after a patent invalidation action filed was sustained. However, the products continued to carry the texts of "Patent No. D144859," "Registered Taiwan Patent No.," "ROC Patent Certificate: D144859," and "Super Lightweight Patented Technology Products." The difference between the advertising content and the fact obviously could cause trading counterparts to have wrong perceptions or make wrong decisions.
- (2) According to the Taiwan Intellectual Property Office, after patent revocation, the patent number could not be indicated or attached unless the products were already labeled and distributed before revocation. The production date of the slippers sold by POYA and HOLA was October 1, 2021. They were distributed after patent revocation, but the products still had the indication of "Patent No.: D144859" and "Patent Certificate No.: D144859" was still printed on the tags. In addition, Song Yang Technology stated the company did not stop producing slippers with "Patent No.: D144859" printed on them until early April 2022 when it received the investigation

notice. The tags also were not corrected until April 2022. Apparently, the slippers sold by POYA and HOLA were not products labeled and distributed before patent revocation and, therefore, the aforesaid proviso did not apply. There is no doubt that the difference between the product labeling and the fact could indeed cause trading counterparts to have wrong perceptions or make wrong decisions.

- (3) As described above, the claim made by Song Yang Technology was a false and misleading representation with regard to quality of product in violation of Paragraph 1, Article 21 of the Fair Trade Law. Regarding the violation of Song Yang Technology for posting false advertisements on pine.com and at HOLA and POYA, the FTC imposed an administrative fine of NT\$200,000 (same currency applies hereinafter) on the company. For the False advertising by HOLA, the FTC fined Test Rite International Co., Ltd. NT\$80,000. For the false advertisements posted by PChome24h, Yahoo! Kimo and Eslite.com, the FTC sent warning letters to PChome Online Inc., Yahoo! Taiwan Holding Limited, Taiwan Branch (H.K.), Eslite Spectrum Corporation and supplier Yipin Chuanliu International Marketing Co., Ltd.

Appendix:

Song Yang Technology Co., Ltd.'s Uniform Invoice Number: 28741244

Test Rite International Co., Ltd. 's Uniform Invoice Number: 89390488

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