

# 5th Circuit: Unpatented Products Can Be Given Patent-Like Protections by Contract

✘ A post by **Liskow & Lewis** on the website of **JD Supra** discusses a breach of contract case involving the overlay of intellectual property and contract law.

In the case, *Luv n' care, Ltd*, a global leader in the design and sale of baby products, filed suit against its former distributor, *Grupo Rimar, a.k.a. Suavinex, S.A.*, for breach of *Suavinex's* contractual obligation not to copy any of *Luv n' care's* product designs.

"In defense, *Suavinex* asserted that the pertinent contract provisions were unenforceable illegal restraints of trade, that patent law precluded *Luv n' care* from obtaining patent-like protections over unpatented products offered for public sale, and that the parties' contract protected only confidential, proprietary designs in which *Luv n' care* had a 'protectable interest,'" according to the post.

The Fifth Circuit rejected *Suavinex's* argument that patent law precluded *Luv n' care* from protecting unpatented designs available in the public domain.

**Read the article.**

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