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, Groupo 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.

Join Our LinkedIn Group