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MAGIS – KING OF THE TANGO!

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Italian designers, innovators and ACID (Anti Copying In Design) members Magis, known for the famous "Bombo" chair spend thousands on design, product development and the marketing of all their ranges. At Ideal Home in March 2002 they spotted almost identical stools being marketed under the name of "Tango" produced by Furniture Craft International (FCI). Lengthy legal correspondence with FCI failed to produce a satisfactory result and Court proceedings were commenced against FCI for infringement of Magis' copyright in its Bombo stool design.

ACID's UK associate lawyers advised Magis that because of the way in which the Bombo stool was made, the design was likely to be protected by copyright as a work of artistic craftsmanship. Design law expert Simon Clark, Head of IP at Berwin Leighton Paiser, commented "There is a potentially powerful provision in copyright law which enables a designer to benefit from copyright protection for a design which has an artistic element and is made in a craftsman-like manner". Although there is little case law on what a work of artistic craftsmanship is, Magis were advised that the Bombo stool should qualify for copyright protection. During the design and development process, according to Magis there were over 100 design meetings with the well known Italian designer Stefano Giovannoni and numerous models were produced, the final prototypes being made in fibreglass and metal before injection-moulded production stools were made. The whole process cost in excess of £500,000 and took about two years from concept to market reality.

The Bombo stool is famous for its film and television appearances worldwide and, as a recognised national symbol of excellence, was featured on a limited edition range of Italian postage stamps depicting Italian design in 2001. FCI's Tango stool was almost identical to Magis' Bombo stool in everything except price and Magis knew that this huge price differentiation would not only reduce profits but, just as importantly for design leaders Magis, dilute their design credibility with existing clients. Finally, after lengthy communications, both the parties agreed to a settlement and FCI have agreed to a Court Order which prevents them from producing the Tango stool or any other products which infringe Magis' copyright in its Bombo range of products. They also agreed to deliver up or destroy upon oath their remaining stock of Tango stools and any advertising materials and agreed to a detailed costs assessment by the Court should there be a failure of agreement between the parties on the subject of costs.

Dids Macdonald, ACID's CEO added, "The investment in the development of innovative new product lines like "The Bombo" stool is massive – its value has to be realised, protected and not exploited by others!"

Editors Notes

At the recent DESIGN INTERIORS, LIGHTING AND FURNITURE SHOWS there were no less than five alleged copying incidents of the Magis stool. Magis' UK distributor spent the whole day going around the shows identifying the look-alikes. Most believed that the stool, because it is copied so much is "commonplace" and therefore free for all to emulate – it is not. Magis own the IP rights and have the evidence to prove this as they have demonstrated by taking action against all apparent copies of this design. They believe that it is right that they can fully exploit their IPRs and are committed to reaping the rewards of the cost, time and investment they have made in their design.

ACID's legal rovers were able to act immediately, identify the apparent copies and implement the ACID Protocol. Further action is ongoing. In the majority of instances the products were removed there and then and there was a verbal commitment not to market the products in the future – written undertakings are being pursued.

ACID ADVICE

If you think a product is a free for all to market because you see so many around – check out first who owns it. In one of the five instances a UK exhibitor had invested heavily in buying from a Chinese manufacturer - he had a container full of "Bombo" stools with nowhere to sell them.

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