

PRESS RELEASE

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REPEAL OF PRELIMINARY INJUNCTION IN THE MATTER CONCRETE CANVAS AGAINST EUROBENT

Following the dismissal of Concrete Canvas Ltd's lawsuit against Eurobent sp. zo.o. alleging breach of patent EP 2027319, on 21 July 2022 the Regional Court in Legnica, Poland has additionally repealed the preliminary injunction granted to Concrete Canvas Ltd against Eurobent sp. zo.o., which prohibited Eurobent sp. z o.o. from manufacturing and placing on the market certain goods, potentially infringing that patent.

The preliminary injunction was (incorrectly) interpreted in the past as applicable to the "Tiltex" and "Tiltex Plus" products. In the decision of 7 July 2021, the Court has sided with Eurobent and removed all judicial barriers against Eurobent's manufacturing and selling its products, including "Tiltex" and "Tiltex Plus". Once that decision becomes final, there can be no grounds whatsoever to claim that sales of "Tiltex" or "Tiltex Plus" breach any court decision, as no decisions shall remain in force that could be interpreted as applicable to those products.

The detailed reasons for the Court's decision of 21 July 2022 have not been published yet, however the Court's reasoning may be inferred from the justification of Eurobent's motion, which convinced the Court to repeal the injunction. Eurobent argued, that following the judgement of 9 May 2022, claims of Concrete Canvas can no longer be considered probable. The 9 May 2022 judgement was based on the finding, that "Tiltex" and "Tiltex Plus" display different features from products disclosed in the patent EP 2027319 and those differences cannot be disregarded pursuant to the doctrine of equivalents, as evidenced in 5 court expert opinions rendered during the 4 years of the proceedings. The weight of evidence of no infringement was so significant, that the Court has agreed to repeal the injunction before the appeal is heard by the Court of Appeals, by way of an exception from the general rule (in most cases, an injunction remains in force until the decision of the court of the second instance).

The decision of the Regional Court in Legnica of 21 July 2022 is the most recent in the chain of events which validate Eurobent's position consistently presented during the dispute with Concrete Canvas, that "Tiltex" and "Tiltex Plus" do not infringe intellectual property, but are advanced products designed by Eurobent Sp. z o.o. in full compliance with law, which can be legitimately manufactured and traded in Poland, just as in other countries of the world. Earlier judgements of the German courts in Duesseldorf dismissing allegations of breach of the same patent by the same products, dismissal of Concrete Canvas' request for preliminary injunction in the patent court in Warsaw, favourable expert opinion rendered in the proceedings in Legnica, the first instance decision dismissing the lawsuit in the case VI GC 184/18, and now the repeal of the preliminary injunction all point to the same conclusion.

The decision of the Court in Legnica of 21 July 2022 is not final, and can be appealed by Concrete Canvas. We are confident, however, that it is the right decision and should Concrete Canvas file the appeal against it, it is likely to be upheld.