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HHR Paris Secures Appellate Victory for CoorsTek Bioceramics

News & Events

July 15, 2021 – The firm won another victory on the merits for CoorsTek Bioceramics when the Paris Court of Appeal, acting as an EU trademark court, confirmed a lower court decision that paves the way for the medical device manufacturer to offer pink hip implants in Europe.

On June 25, the appeals court upheld the Paris Court of First Instance's ruling to cancel three EU trademarks covering the color pink and the shape of ceramic orthopedic implants on the basis that the trademark owner acted in bad faith when it filed the trademarks to extend the exclusivity of the expiring patents protection on its technology. The appeals court also partially reversed that court's decision and sanctioned the plaintiff-appellant for abuse of trademark law.

The dispute began in December 2013 when German competitor CeramTec sued CoorsTek Bioceramics for trademark infringement and parasitic competition in France and Germany after CoorsTek Bioceramics began marketing hip ball implants made of a high performance ceramic material (alumina matrix composite) that was in the public domain following the expiration of CeramTec's patent on this ceramic material. The plaintiff's patent had expired less than a month before it applied for the trademarks. The German infringement lawsuit is pending.

In February 2018, the Paris Court of First Instance canceled CeramTec's three EU trademarks.

In parallel U.S. proceedings, a Colorado federal court cancelled CeramTec's U.S. trademarks. CeramTec appealed that decision and won a reversal on procedural grounds.

The Paris Court of Appeal's ruling confirms the cancellation of not only the plaintiff appellant's color mark, but also its 3D mark combining the color pink Pantone C677 and the shape of a hip ball, as well as its figurative mark combining the same color and the shape shown from different angles.

The court held that pink is the color of the composite ceramic material that the plaintiff had patented and was perceived by the relevant public as a characteristic of the ceramic material and an indicator of its superior
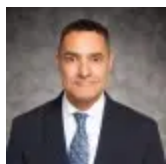
performance compared to earlier generations of ceramic materials used for medical implants. The appeals court also found that the technical and scientific aspects of the case were well proven by CoorsTek Bioceramics and rejected the plaintiff appellant's request to submit prejudicial questions to the Court of Justice of the European Union. CeramTec has four months to appeal to the French Supreme Court.

Based in Colorado, CoorsTek Bioceramics is a subsidiary of technical ceramics manufacturer CoorsTek, owned by the prominent Coors brewing family. CoorsTek Bioceramics supplies ceramic implantable components for many devices, including neurological sensors and stimulators, cochlear implants, cardio pacemakers and defibrillators and spinal total disc replacement.

CeramTec has gained an 85 percent worldwide market share with its fourth-generation implants made of composite ceramic that includes chromium oxide, which renders the material pink. This composite ceramic material has nearly completely displaced earlier generations of ceramic materials and has taken market share from metal hip ball implants.

Stefan Naumann leads the Paris team, which includes Elsa Malaty. During the course of the litigation, HHR alums Elodie Desgranges, Jahnika Colmar, Laurenn Goreta and Esperanza de la Forest-Divonne have also assisted.

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 Stefan Naumann

 Elsa Malaty

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