

Lego 'builds' trademark case

Iconic toy maker, Lego, has launched a bid to reclaim its plastic brick trademark from the European Union.

In November last year, rival toy maker, Megabrand, famous for their Mega Blocks, appealed to European judges over the legality of Lego's trademark on plastic bricks.

The three-dimensional, 2x4 shape, was initially granted as a trademark in 1999, but Megabrand's appeal forced judges to reconsider whether a functional, technical shape could be owned by one company.

Lego's case rests on its belief that Lego bricks are set apart from competitors through design, size and the characteristic studs atop each piece. At present, competitors are able to copy the design and offer the products within the EU without remuneration or penalty.

Research by the company found that consumers identified the plastic red brick with studs as its brand, and that the courts must take into account consumer perception. However, judges have previously ruled that consumer perception is not relevant to an analysis of the functionality of Lego's design.

The Office of Harmonisation for the Internal Market (OHIM) also ruled that Lego's two rows of studs atop each brick, performed a "utilitarian function" and were not "for identification purposes in the trademark sense".

Lego has already lost one appeal attempt to recover its trademark, and its lawyers returned to Luxembourg's European Court of First Instance this week for the fresh challenge.

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