

World Trademark Review *Daily*

**Marks struck off register as goodwill did not attach to registrant
Israel - Gilat, Bareket & Co., Reinhold Cohn Group**

**Cancellation
National procedures**

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In *Asulin v Parvari* (Application to cancel and revoke trademark registrations 171173 (word mark) and 171174 (device), November 8 2012), the IP adjudicator has cancelled two trademark registrations in the name of a creditor of the company that owned the marks, due to the likelihood of consumer confusion. The IP adjudicator found that the goodwill attached to the marks remained with the original company: it was the company, and not the registrant, that had been engaged in the relevant business since 1958 (as implied by one of the marks).

The IP adjudicator struck off the registrations for the word mark FALAFEL ASULIN (in English and Hebrew) and the device mark ASULIN - HOT AND FRESH FALAFEL - ESTABLISHED IN 1958 (in Hebrew, with device) in Class 43 of the [Nice Classification](#) with respect to "falafel and fast-food" services.

The marks were registered in 2005 in the name of the creditor, who gave loans in 2003 to the company Falafel Asulin 2003 Ltd. The company was set up by the Asulin family, which has owned a falafel eatery since 1958. The creditor received the majority of the shares in the company, redeemable upon the repayment of the loans.

As the IP adjudicator found that the goodwill associated with the marks belonged to the Asulin family, the marks were held to have been improperly registered, as the registration holder was not the lawful owner of the goodwill attached to the mark. Therefore, from the outset, there existed a likelihood of confusion as to the source of the goods/services. Furthermore, there was a likelihood of confusion due to the wording "established in 1958", as it was the Asulin family, and not the registration holder, that had been engaged in the business since 1958.

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