

# World Trademark Review *Daily*

**Jeweller prevents competitor from copying bestseller ring**  
**Israel - Gilat, Bareket & Co, Reinhold Cohn Group**

**Related rights**  
**Confusion**  
**Passing off**

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In *H Stern Comercio e Industria SA v AN Arneel Ltd* (CC (TA) 1253-05, March 13 2011), the Tel Aviv District Court has granted *H Stern Comercio e Industria SA* a permanent injunction preventing the defendant from copying one of H Stern's rings.

H Stern, an international jewellery manufacturer, brought an action against a large local jewellery manufacturer on the grounds of copyright infringement, trademark infringement and passing off. H Stern argued that the defendant had copied the look of its Giuliana diamond ring, and requested an injunction, accounting of profits and damages.

The court held that, by copying the three principal elements of H Stern's ring (ie, the form of the pavé-set cylindrical ring, a diamond-studded star on the outside and multiple engraved stars on the inside of the ring), the defendant had infringed H Stern's copyright. It held that H Stern's ring, due to the original combination of its elements, constituted an original artistic work protectable by copyright.

The court rejected the defendant's claim that H Stern's ring was ineligible for copyright protection due to the fact that it was registrable as an industrial design: it held that only articles "replicated through industrial process" were excluded from copyright protection, and that H Stern's rings were handcrafted articles.

H Stern also claimed that the defendant's use of a star in the inner part of the ring constituted infringement of its registered 'star' mark. The court held that the difference between H Stern's five-pointed star and the defendant's six-pointed star did not eliminate the substantial similarity on which the finding of copyright infringement was based. However, it ruled that there was no likelihood of confusion for trademark infringement purposes, principally in view of the distinct concept and name of the Star of David (in Hebrew, the 'shield of David').

As to the claim of passing off, the court determined that, while the defendant's copying of H Stern's design pointed to the latter reputation in the trade, there was no risk of confusion arising from the overall conduct of the defendant and the circumstances of the case.

H Stern was awarded attorney fees in the amount of IS40,000, as well as legal costs. H Stern was also given the option of receiving statutory damages for copyright infringement or an accounting of the defendant's profits.

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