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**Gore-Tex's 'Guaranteed to keep you dry' slogan held to be descriptive
Israel - Gilat, Bareket & Co., Reinhold Cohn Group**

**Examination/opposition
National procedures**

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The Israeli Trademark Office has refused to register the mark GUARANTEED TO KEEP YOU DRY for protective clothing, textiles, and clothing, footwear and gloves (Application to register marks Nos 209978, 209979, 209980 in the name of WL Gore & Associates Inc, December 10 2012).

The applicant, [WL Gore & Associates Inc](#), applied for the registration of the word mark GUARANTEED TO KEEP YOU DRY for protective clothing in Class 9, textiles in Class 24, and clothing, footwear and gloves in Class 25 of the [Nice Classification](#).

The examiner refused registration on the grounds that the mark consisted of a descriptive word combination and, therefore, was unregistrable under Section 11(10) of the [Trademarks Ordinance \[New Version\] 5732-1972](#).

The applicant argued that the mark was suggestive rather than descriptive. Further, it sought to rely on registrations in other jurisdictions and on the recent ruling in [Eveready](#) (FREE YOUR SKIN), in which it was held that the registrability of slogans should be examined in accordance with the general criteria applicable to all marks, and following which Circular Letter MN 29, which addressed the registrability of slogans, was cancelled.

The IP adjudicator noted that, according to the applicant's website, the slogan at issue was not used as a trademark to identify the source of the goods, but only in conjunction with other words, primarily the applicant's name. The adjudicator also remarked that a device mark, which contained the words 'GORE-TEX Guaranteed to Keep You Dry', had been registered by the applicant in the meantime.

The adjudicator held that, even assuming that the combination 'Guaranteed to Keep You Dry' was used as a trademark, it was not registrable since it was, when considered as a whole, directly descriptive of the quality/purpose of the goods. Therefore, it was devoid of distinctive character.

Finally, the adjudicator noted that the applicant had failed to adduce evidence of acquired distinctiveness, and further held that the mark was not eligible for *telle quelle* registration, because Section 16(a)(2) of the ordinance bars from *telle quelle* registration marks composed only of words that are liable to be used in trade to designate (among other things) the quality and purpose of goods.

Accordingly, the mark was refused registration.

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