

## UNREGISTERED DESIGNS

### ✓ Background

Laranjon is a European SME operating from Italy focussing on the fashion industry. The marketing department of the company launched the new spring-summer campaign. New merchandising was created for this purpose, including a pen with a new, stylish and very attractive design for promotional purposes.

### ⚙️ Actions taken

Upon consultation with their in-house legal staff, Laranjon decided to proceed as usual and did not register the pen's design created by their team.

A few months later, the Italian SME was surprisingly invited to join the I-Design competition, which was taking place in Montevideo the following month.

This three-day event was regarded as a great business opportunity that could eventually open unexplored markets for the company, so they accepted it and attended without further legal consultation.

The competition was a major success and the promotional pens played a significant part. After a few months, the company found out that the pen's design had been copied and was being sold in several Latin American countries by Pucha, a Uruguayan company.

### 📊 Outcome

The European company's lawyers sent a C&D letter to Pucha to stop the infringement and to demand compensation.

They received a fast response from the Uruguayan enterprise, which stated that:

- **Unlike in Europe, in most Latin American countries**, unregistered Designs do not benefit from a three-year protection period from the date of the first disclosure.
- Since the design was not registered in Uruguay or in any other Latin American countries where the infringement took place, Laranjon was neither entitled to file any legal actions against Pucha for the unauthorised use of their design nor to claim damages.

### 📖 Lessons learned

- Intellectual Property Rights (IPR) are territorial, so think globally: you should take into account the local particularities and regulations of the countries that interest you as regards the design of your IP strategies.
- Consider IP protection costs in advance in order to prevent undesirable situations. Good planning, supported by IP experts, is crucial and reactive strategies rarely have a good ending.
- Always seek professional assistance before moving forward. Remember that legal advice is more useful before the problem arises.
- Latin American countries do not protect unregistered designs, except for Guatemala, Nicaragua and Panama. Therefore, the author of a design must apply for registration in order to prevent any unauthorised use by third parties.