

## Miss Sexy and Miss Sixty not Confusingly Similar

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Fronsac, a clothing manufacturer based in Germany, applied for Israel Trademark 205879 for *Miss Sexy*. Iris Line which has a registered trademark for *Miss Sixty* opposed the registration. Both marks are for clothing in the same class, but the list of goods is somewhat different.

Iris Line claimed that their mark is well known, with worldwide annual sales exceeding \$40,000,000. They claimed that the word *sexy* is descriptive and lacks inherent distinctiveness. They also claimed that the proposed mark offended public sensibilities.

Ya'ara Shoshani-Caspi, Arbitrator of Intellectual Property for the Israel Patent Office, ruled that the opposers failed to establish that their mark fell into the category of a well known mark and that the nature of the words *Sexy* and *Miss* are so lacking in distinctiveness that the combination is also lacking in distinctiveness. She also decided that the Israel public would not find the brand *Miss Sexy* offensive to their sensibilities.

It is to be hoped that women interested in clothing offered by *Miss Sixty* will agree with the arbitrator: A registration for *Miss Sixty* is not sufficient grounds to prevent a different applicant from receiving a trademark for *Miss Sexy*. In this case both brands offer the same class of goods (clothing) and the similar appearance and sound of the two marks.

It seems that in the realm of women's clothing the word *Miss* is less than distinctive and the meaning of the two words *Sixty* and *Sexy*, though similar in English, are sufficiently well known as to prevent confusion - even in countries where English is not the first language.

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