

## \* Corporate Marks

### (1) Company names

#### [Distinctiveness]

Common corporate names as well as common surnames are considered to be non-distinctive and thus unregistrable under Article 3-4-1 of the Trademark Law. Especially, corporate names without the terms of "Kabushiki Kaisha", "corporation" or "Limited" are commonly rejected because of lack of distinctiveness as well under Article 3-1-4 or 3-1-6.

In the past the Examiners automatically rejected such corporate names because of lack of distinctiveness. On the other hand, recently the number of registrations of corporate names has been increasing because the commonness of the corporate name in the industry is taken into account in the determination of whether a corporate name is lack of distinctiveness and accordingly if a corporate name is not commonly used in the industry, the corporate name is considered to be distinctive. However, not a few Examiners remain to automatically reject the corporate names without any consideration of the commonness of the corporate name in the industry.

When a Japanese company files their English name as a trademark with the Japan Patent Office, the English name is sometimes rejected on the ground that it is not their official name and the corporate name should be unified for avoiding the confusion in the market. However, the English name could be accepted where the English name is stated in articles of incorporation.

#### [Similarity]

The similarity of corporate names has been usually examined disregarding the terms which denote corporate statuses such as "Kabushiki Kaisha", "Corporation", "Company Limited" and "Company". However, in recent years, the company names are increasingly considered as a whole, which means that such terms indicating corporate statuses are considered as an integral part of a trademark and thus a corporate name with "Kabushiki Kaisha" or "Corporation" is considered to be dissimilar to the name without such terms.

On appeal trial against decision of rejection, not only the corporate statuses mentioned above but also business categories such as "Hanbai (Sale)", "Shokuhin (Food)" and "Seiyaku (Pharmaceutical)" are considered as an integral part of a trademark. Therefore, "Mitsubishi Bank Limited", "Mitsubishi Corporation" and "Mitsubishi Pencil Co., Ltd." peacefully co-exist one another.

#### Distinctiveness ( : Distinctive, X : Non-Distinctive)

Mark	Class	Distinctiveness	Case No.	Memo
NIPPON HEALTH FOOD	Old 3	○	S55-13530	Applicant: Nippon Health Food Kabushiki Kaisha
NIPPON TELEGRAPH AND TELEPHONE CORPORATION	Old 25		S62-11540	Applicant: Nippon Telegraph and Telephone Kabushiki Kaisha
HIRAOKA & CO., LTD	Old 16		S57-23161	Applicant: Hiraoka Shokusen Kabushiki Kaisha
ARAKAWA & CO., LTD	Old 17	X	S57-24625	Applicant: Arakawa Kabushiki Kaisha

#### Similarity (= : Similar, X : Dissimilar)

Mark	Similarity	Cited Mark	Class	Case No.	Memo
Star CO., LTD.	=	STAR	8	2006-23916	
A&A CO., LTD.	=	A&A	42	2005-25345	
VR-1, Inc.	=	VR-1	9	2001-12198	

Hanky Panky Ltd.	=	Hanky Panky	25	H11(1999)-8780	
MAX & CO.	=	MAX	3	H11(1999)-5348	
REGAL COPORATION	=	REGAL	Old 17	H04-3391	
INCS INC.	X	Inx	9	2008-4435	Applicant: Kabushiki Kaisha INCS
KOYO HOLDINGS	X	KOYO	36	2006-15225	Applicant: Koyo Holding K.K.
PINEAPPLE COMPNAY	X	PINEAPPLE	18	2005-8755	
WITH CORPORATION	X	WITH	28	2005-620	
MAX&Co.	X	MAX	9	2004-90305	
ACCESS SHOKEN KABUSHIKI KAISHA	X	ACCESS	36	2002-5006	"SHOKEN" means "Securities".
TOMY INTERNATIONAL INC.	X	TOMY	21	2002-5006	TOMY INTERNATIONAL is perceived as a whole.
CIAO COMPANY	X	CIAO	25	2001-17086	
KOWA SHOKUHIN KABUSIKI KAISHA	X	KOWA	Old 32	H04-18451	"SHOKUHIN" means "Food".
BROTHER HANBAI KABUSHIKI KAISHA	X	BROTHER	Old 15	S59-22573	"HANBAI" means "Sales".

## (2) Marks including Well-known Names

When trademarks include well-known names such as "DISNEY PET CLUB" and "CARTIER TATTOO", the trademarks including the well-known names are examined as a whole and thus the trademark with a well-known name is dissimilar to the mark without the well-known name. However, sometimes both marks are considered to be similar whether or not the mark includes a well-known name. Where is the difference between them? The point is whether the other part of the mark than a well-known name is strong or whether the mark including a well-known name has a specific meaning as a whole.

### Similarity (= : Similar, X : Dissimilar)

Mark	Similarity	Cited Mark	Class	Case No.	Memo
GILLETTE Mach	=	MACH	8	2004-89048	
PriusDigicam	=	Digicam	9	2002-90770	"Prius" is famous in the field of computers.
RENUALT ESPACE	=	MAZDA ESPACE	12	H11-1531	"RENAULT" and "MAZDA" are well-known marks.
REGAL VINTAGE	=	VINTAGE	Old 22	H04-21809	Applicant: Regal Corporation
L'OREAL EVERYDAY	=	EVERYDAY	Old 4	H03-16289	Applicant: L'OREAL
MINOLTA MASTER	=	HiMASTER	Old 11	H01-16169	Applicant: Minolta Kabushiki Kaisha
Feelin' YAMAHA	=	Feelin'	Old 21	S63-4005	Applicant: Yamaha Corporation
DISNEY PET CLUB	X	PET CLUB	9	2008-18445	"PET CLUB" is not separated from "DISNEY PET CLUB".
CARTIER TATTOO	X	TATTOO	14	2006-14671	"TATTOO" is not separated from "CARTIER TATTOO".
PANTENE AGE DEFYING	X	AGE DEFYING	3	2007-16140	Applicant: P&G Company
TDK-Lambda	X	LAMBDA	9	2007-3152	Applicant: TDK Kabushiki Kaisha
EPSON INTELLIGENCE	X	INTELLIGENCE	35	2006-13169	Applicant: Seiko Epson Kabushiki Kaisha
Mitsukoshi Christmas Story	X	Christmas Story	3	2005-12567	Applicant: Kabushiki Kaisha Mitsukoshi

Nikkei Glocal	X	Glocal	16	2004-22711	Applicant: Nikkei Inc.
JUJU Whitenature	X	Whitenature	3	2004-89039	Applicant: JUJU COSMETICS
Nikkei Shushoku Navi	X	Shushoku Navi	16	2003-14619	Applicant: Nikkei Inc.
TBC Cyber	X	Cyber	42	2002-10317	Applicant: Esthetic TBC

### (3) Shop Names or Trade Names

Shop names or trade names are often used and registered as trademarks instead of their official company names. Here lists trial decisions concerning distinctiveness and similarity of shop names or trade names.

#### Distinctiveness ( : Distinctive, X : Non-distinctive)

Keyword	Mark	Class	Distinctiveness	Case No.	Memo
<b>Shop</b>	Shop 1048	7		2005-23021	
	Child Shop	Old 24		S62-19014	
	V Shop	Old 19		S58-17813	
<b>House</b>	House Costume	Old 17	X	S62(1987)-975	
<b>Studio</b>	Studio	9	X	2000-91010	
	Gems Studio	14	X	H11(1999)-4124	
<b>Factory</b>	HOTDOGFACTORY	Old 29		S59(1984)-9890	
<b>Laboratory</b>	Cosmetic Laboratory	3		H11(1999)-90519	

#### Similarity (= : Similar, X : Dissimilar)

Key word	Mark	Similarity	Cited Mark	Class	Case No.	Memo
<b>Shop</b>	Rakuten Shop	=	Rakuten	35	2004-89084	Invalidation Trial
	Angel Shop	X	ANGEL	42	2002-9903	
	TOP SHOP	=	TOP FLOOR	Old 7	H02(1990)-11476	
	THE RITZ SHOP	=	RITZ PARIS	Old 17	H01(1989)-1019	
	university shop	=	UNIVERSITY	Old 21	S58(1983)-21917	
	PATIOSHOP	=	PATIO	Old 20	S57(1982)-17588	
	ADO SHOP	=	ADO	Old 13	S57(1982)-20148	
<b>Store</b>	COMPUTER STORE	X	COMPU	16	2002-20858	
	COCO STORE	X	COCO	Old 31	H03(1991)-17785	
	KEISEI STORE	X	KEISEI	Old 17	S59(1984)-10669	
<b>House</b>	COCOHOUSE	X	COCO	Old 25	H10(1998)-90482	
	ALBIONHOUSE	=	ALBION	Old 17	H03(1991)-666	
	KARUBI HOUSE	X	HOUSE	Old 32	S63(1988)-4896	
	KITCHEN HOUSE	X	HOUSE		Tokyo High Court Case H1(行ケ)163	
	KITCHEN HOUSE	X	KITCHEN	Old 34	S61(1986)-17381	
<b>Cafe</b>	MONTEROZA CAFE	X	MONTEROZA	43	2008-25226	
	DRAGON CAFE	X	DRAGON	Old 42	2002-7753	
<b>Salon</b>	EpiSalon	X	EPI	44	2005-8797	
<b>Studio</b>	STUDIO356X24	X	Kstudio	Old 17	S63(1988)-5339	
	LIZA STUDIO	X	LIZA	Old 17	S56(1981)-4914	
<b>Factory</b>	POP FACTORY	X	POPPUN JOT	16	2004-90307	

	VISIONFACTORY	X	Vision	9	2003-90038	
<b>Hotel</b>	HOTEL PACIFIC	X	PACIFIQUE	35	2007-19044	
	APPLE HOTELS	X	APPLE	Old 42	2001-23034	
	Hotel Harvest	=	HARVEST	Old 42	H10(1998)-3936	
	HOTEL CHEF	X	CHEF	Old 31	S60(1985)-16211	
	HOTEL CENTURY	X	CENTURY	26	S57(1982)-5960	
<b>Laboratory</b>	LABORATORY ZORA	X	ZORA	25	2005-900093	
	pulplaboratory	X	PULP	25	2003-15948	
<b>Ristrante</b>	Ristorante Hiro	X	HIRO	41	2006-7808	