

*** Theme: Similarity between Goods and Services**

[Similarity between Goods and Services]

The examination by Japan Patent Office (JPO) for similarity of Goods or Services is performed based on so called "similar group code", which is assigned officially in "Examination Guidelines for Similar Goods and Services". The "similar group code" was assigned based on an old Japanese Classification of Goods which was classified by the concept that the goods which have a same intended purpose or sold in same place are similar.

Meanwhile, the International Classification of Goods and Services, which was first introduced in Japan in 1992, has a notion that the goods in principle should be classified according to its function or purpose or the material of which the product is made.

Because of the difference of classification concept between the old Japanese Classification and International Classification, as a matter of fact, the adoption of the International Classification in Japan raised many cases that the goods which had been classified in same old Japanese Class were separately classified into different International Classes.

For example, "Chemicals" in Old Japanese Class 1 was re-classified in "Plant growth regulating preparations" in International Class 1 and "Pharmaceutical, veterinary and sanitary preparations" in International Class 5. Both goods have similar group code of 01B01 and they are regarded as similar goods under the Japanese trademark practice.

The JPO Examiners treat Goods or Services having same similar group code as similar Goods or Services automatically almost without exception. Thus, if we receive a preliminary rejection regarding the similarity of Goods or Services with a cited trademark based on "similar group code", it is almost impossible to overcome such judgment.

However, by the applicants effort, some trial decisions which overcome the "similarity group code" can be seen today. The followings are such trial decisions.

We also introduce the case which were contested the similarity between Goods and Services.

Similarity between Goods and Goods (= : Similar, X : Dissimilar)

Similar group code	Class	Goods	Similarity	Class	Goods	Case No.
01A01	1	Carbon functional silane	X	1	Silica	2005-13680
01B01	5	Medicated bath preparations	X	1	Plant growth regulating preparations	2006-16635
"	5	Pharmaceutical, veterinary and sanitary preparations	=	1	Plant growth regulating preparations	2007-890184
"	5	Antiphlogistic analgetic patch	X	1	Plant growth regulating preparations	2007-9444
"	5	Hair remedies	X	1	Plant growth regulating preparations	2000-16158
"	5	Nutritional additives for medical purposes, medicinal tonics and substitutes therefore	X	1	Soil improving agents	H03(1991)-5380
07A04	6	Prefabricated building assembly kits of metal	X	11	Sanitation device	2003-13932

07A04	11	Set units of bathroom	X	Old 7	Sheeted materials for building or construction	2005-20176
09A68	7	Exposure apparatus for printed circuit board	X	7	Grinding apparatus for mirror surface of semiconductor substrate	2003-2894
10D01	10	Artificial skin for surgical purposes	X	10	Filter vessels and filtering apparatus used in correcting and transferring of cells and grain of cells when making biospecimens	2000-9810
"	10	Catheters, guide wires	X	12	Wheelchairs	2002-19440
"	10	Artificial joints	X	10	Electric medical machines and apparatus	2003-3300
"	10	Stent graft	X	12	Wheelchairs	2004-14608
"	10	Oxygen concentrator for medical purposes	X	12	Wheelchairs	2005-12103
"	10	Catheters	X	12	Wheelchairs	2006-26768
"	10	Implants	X	12	Wheelchairs	2008-4803
11B01 11C01 (similar on remarks)	9	Telecommunication devices and apparatus	X	9	Electron tubes, Semi-conductor elements, Electronic circuits [not including those recorded with computer programs]	2003-90365
11A03	9	Solar batteries (11A01,A03) and other batteries	X	9	Distribution boards	2005-23174
17A04	10	Gloves for medical purposes	X	25	Gloves and mittens [clothing]	2003-24278
"	25	Socks and stockings	X	5	Incontinence diapers	2008-3026
20A01	20	Furniture (except jewelry cases)	X	14	Jewelry cases of precious metal	2003-12771
22A01	25	Shoes and boots for infants	X	25	Japanese split-toed work footwear [Jikatabi]	2006-6193
24A01	9	Consumer games (apparatus for-) adopted for use with an external display screen or monitor, etc.	X	20	Cradles, infant walkers	2004-18305
24B02	9	Slot machines (amusement machines)	X	28	Japanese vertical pinball machine [Pachinko machines], other Game machines and apparatus	2007-32604
26A01	16	Newspapers, magazines	=	9	Electronic publications	2006-24133
32F04	32	Vegetable juices [beverages]	X	30	Almond paste	2001-10887
32F15 32F05	29	Processed foods mainly made of soy milk in capsule	=	29	Soya milk added with symbiotic cultured lactic acid bacterium generated essence	2006-89047 Tokyo High Court H19(Gyo-Ke)10042

32F15	29	Processed foods mainly made of bee larva powder in the form of granule	=	Old 32	processed food	2005-12614
"	30	Coffee, Confectionery, etc. (29A01,B01,30A01,31A02,A03,B01,32F03)	X	30	Processed foods mainly made of [Konnyaku] in the form of granule and noodle	2003-65126
"	29	Edible fats, etc.	X	29	Processed foods mainly made of fermented bean in the form of a liquid, etc.	2005-90546

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*These are all Opposition Cases.

Class	Goods	Similarity	Class	Services	Case No.
33 (28A02)	Wine, Alcoholic beverages of fruit, Western liquor [in general]	X	Old 42 (42B01)	Providing foods and beverages	2008-900109
30 (30A01, 32F09)	Confectionery and bread, Instant confectionery mixes	X	Old 42 (42B01)	Providing foods and beverages	2003-90102
9 (11C01)	Recording medium recorded with computer programs, and other electronic machines, apparatus and their parts.	X	42 (42P02)	Computer software design, computer programming, or maintenance of computer software	2003-90003
"	"	X	"	"	H10(1998)-92271
Old 9 (09A11)	Machines and apparatus for correcting the press	X	Old 42 (42F01)	Printing	H10(1998)-91005
9 (11B01,C01)	Telecommunication devices and apparatus, Electronic machines apparatus and their parts	X	38 (38A01,B01)	Telecommunication, Television broadcasting	H10(1998)-90764
1 (01A01)	Chemicals (surface finishing agent for stainless steel)	X	40 (40C01)	Surface finishing of stainless steel	H10(1998)-90463
9 (11B01,C01)	Telecommunication devices and apparatus, Electronic machines apparatus and their parts	X	38 (38A01,B01)	Telecommunication, Television broadcasting	H09(1997)-90453