

Latest Court Decisions

2010:

[**October**]

● DOUGHNUTS CUSHION Case (Infringement Case)

Tokyo District Court 2010.10.21 H21(wa)25783

The trademark "**DOUGHNUS**" in katakana letters is registered by a Japanese company, Nishikawa Sangyo K.K., for the goods "cushions, pillows, mattresses" in Class 20.

A Japanese company, Tempur Japan Y.K., used the word "**DOUGHNUTS CUSHION**" for cushions, which shapes were doughnuts-like and the low rebound materials called "TEMPUR" (TM) were put in the central holes.

Nishikawa Sangyo sued Tempur Japan for the trademark infringement before the Tokyo District Court. However, the Court dismissed the Nishikawa Sangyo's claims because "DOUGHNUTS CUSHION" was not used as a primary trademark to indicate the origin of the goods of Tempur Japan.

The Court said that the word "DOUGHNUTS CUSHION" was used to show the shapes of the goods that were round cushions with central holes like doughnuts, together with the explanatory text and the photographs, while their main trademark was the well known "TEMPUR".

Therefore, "DOUGHNUTS CUSHION" did not infringe the registered trademark "DOUGHNUT".