

Latest Court Decisions

2011:

[June]

● **Three Dimensional Trademark Case (Cancellation Case of Trial Decision)**

The IP High Court 2011.6.29 H22(Gyo-Ke) 10253

The JPO rejected the application for the three dimensional trademark for the chair called "**Y Chair**" specifying "armchairs" in Class 20 filed by Carl Hansen & Son in Denmark. The applicant brought the case before the IP High Court requesting the cancellation of the Trial Decision.



The IP High Court cancelled the Trial Decision by accepting the plaintiff's (applicant's) claims on the basis of the secondary meaning acquired by use in Japan.

The Y Chairs were firstly introduced into Japan in about 1958 and 97,548 chairs in total were sold in Japan from July, 1994 until June, 2010. Although this number of the sales is not so large among the whole table chairs, it is rather distinct and extremely large in terms of one kind of the chair.

The advertising expenses of approx. 120,000,000 Yen (≒US\$1,500,000.00-) have been paid in Japan for various magazines, interior dictionaries, newspapers and so on since 1960.

Also, the Y Chairs were presented to the Tokyo International Furniture Exhibitions, Interior Lifestyle Living Exhibitions and other exhibitions between 1992 and 2009 and approx. 32,210,000 Yen (≒US\$403,000.00-) were paid for them.

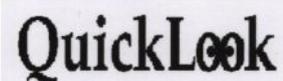
There were many imitation chairs sold at the internet. These chairs were explained as "generic products of Y Chair" and "reproduced chairs of Y Chair". The plaintiff dispatched warning letters against these imitation chairs demanding the stop of the similar names and the sales of the imitations.

As the result, consumers have been able to recognize the plaintiff's goods as those pertaining to a business of a particular person, as provided under Article 3-2 of the Trademark Law.

● **Quick Look Case (Damage Suit)**

Tokyo District Court 2011.6.29 H22(wa)18759

The trademark proprietor (plaintiff) of the registered trademark "**Quick Look** (design)" (right upper) specifying "electronic machines, apparatus and their parts" etc. in Class 9 filed a damage suit as the trademark infringement against Nippon Hewlett-Packard KK (defendant) who used the words "Quick Look" with respect to OS software products.



However, the Court dismissed the plaintiff's demand because the words "Quick Look" was used to merely indicate the function of the OS software products of the defendant, HP and it was not used as a trademark. Therefore, it did not infringe the plaintiff's trademark right.

In this May, another Court Decision to the same effect was issued on May 16, 2011 at the Tokyo District Court to the defendant, Apple Japan KK. Please refer to our comments on the Apple case.