

Latest Court Decisions

2011:

[December]

● MULTI-TOUCH Case (Cancellation Suit of Trial Decision)

IP High Court 2011.12.15 H23(Gyo-Ke)10207

The trademark application for the word mark "**MULTI-TOUCH**" filed by Apple Inc. for personal digital assistances (PDA) was rejected due to lack of distinctiveness since "MULTI-TOUCH" meant the input method that the screens were handled by fingers. Then, Apple Inc. filed the cancellation suit before the IP High Court requesting the cancellation of the Trial Decision.

However, the petition by Apple Inc. was dismissed by the Court with the following reasons.

- (1) At the time of the trademark application filed on January 2, 2007, 3 Japanese patent applications regarding the multi touch input methods were filed.
- (2) The multi-touch screens were adopted by "iPhone" and "iPhone touch" sold in 2007 in USA and in 2008 in Japan.
- (3) The term "Multi touch" was included in the Nikkei Personal Computer Term Dictionary issued in October 2008.
- (4) The magazine "Nikkei Science" October 2008 Issue included the articles that the research regarding the multi touch interface was started from 1980's and that the research regarding the technical barriers thereto was started in about 2000.
- (5) The explanations such as "multi touch possible", "multi touch with fingers", and "multi touch compliant" were used at the web-sites of Fujitsu Component, Sharp, Microsoft, KDDI and NTT docomo.

Apple Inc. insisted that the applied-for trademark "MULTI-TOUCH" was a coined word with no specific meaning created by them for the iPhone products. Therefore, the traders in the related industry had the close associative relation between the trademark MULTI-TOUCH and Apple's products while the consumers might have misunderstood the term MULTI-TOUCH as a technical term.

However, the Court rejected such Apple's allegation.