

Latest Court Decisions

2012:

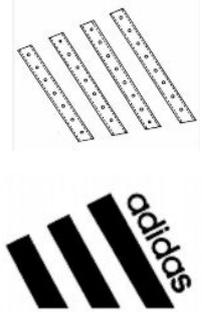
[**November**]

• 4 Stripe Device Mark Case (Cancellation Suit of Trial Decision)

IP High Court 2012.11.15 H23(Gy-Ke)10326

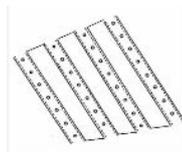
Adidas AG filed an Invalidation Trial against the registered 4 stripe device trademark specifying "footwear, special sport footwear" in Class 25 in the name of a Japanese company. Adidas asserted that since 3 stripe device mark was well-known, the above 4 stripe device mark was liable to cause confusion with the shoes bearing the Adidas 3 stripe device marks (Article 4-1-15). However, the Adidas's allegation was dismissed because the trademarks were not confusingly similar.

Then, Adidas filed the Cancellation suit with the IP High Court.



The IP High Court cancelled the Trial Decision by accepting the Adidas's allegation. The Court said that it was not enough to judge the similarity of the trademarks only on their appearances. Actual conditions in the sport shoe market had to be considered as well.

When the subject 4 stripe device mark was actually applied to sport shoes, the upper and lower parts of the device would be unclear. In addition, the subject trademark could be seen as the 3 stripe device by the 3 spaces between the 4 stripes like the below illustration. In that case, the consumers would associate the well-known Adidas 3 stripe device mark with the subject trademark and might confuse with the Adidas shoes.



• ECO MINI Case (Cancellation Suit of Opposition Decision)

IP High Court 2012.11.29 H24(Gy-Ke)10143

BMW filed an Opposition against the registered trademark "**ECO MINI**" specifying "automobiles and their parts" in Class 12 on the basis of the prior trademark "**MINI**" and the MINI logo mark (shown right).



The JPO cancelled the trademark registration of the "ECO MINI" trademark because the BMW's MINI trademarks were well-known in Japan. Then, the proprietor of the ECO MINI trademark filed the cancellation suit with the IP High Court.

The IP High Court also accepted the BMW's petition because the word "ECO" in the ECO MINI trademark was a weak part suggesting "ecological cars" or "environment-friendly cars" and the MINI part would have a function to distinguish the goods from the others. As the result, the subject trademark "ECO MINI" was similar to the cited trademarks.