

Latest Court Decisions

2012:

[December]

- **SAVOY Case (Cancellation Suit of Trial Decision)**

IP High Court 2012.12.5 H24(Gyo-Ke)10277

A trademark registration for the word "SAVOY" and device was partially cancelled by a cancellation trial for non-use with respect to "personal ornaments, precious stones and their imitations, clocks and watches" in Class 14. The trademark proprietor (plaintiff) submitted as a proof of use "logo charms" which were small ornaments with chains. However, the JPO judged that "logo charms" of the trademark proprietor were mainly used as ornaments for bags, and not for personal use.



The Court defined "personal ornaments" in Class 14 as ornaments attached directly to personal bodies and garments for dressing-up. The Court admitted that the "logo charms" submitted as the proof of use were ornaments for dressing-up to be used for bags and chains of watches and bracelets as well as for clothing accessories. In addition, they could be used as bracelets and necklaces as well. Therefore, it should be decided that "logo charms" were "personal ornaments" in Class 14 and the trial decision was cancelled accordingly.

- **TRUE WHITE Hi Case (Cancellation Suit of Trial Decision)**

IP High Court 2012.12.25 H24(Gyo-Ke)10179

A cancellation trial for non-use was filed against the registered trademark "TRUE WHITE Hi" with device in  Class 11 with respect to "LED lamps". However, the cancellation trial was dismissed and then, the cancellation suit was filed before the IP High Court.

The plaintiff alleged that the goods "LED lamps" submitted as the proof of use should not be considered as "lamps" in Class 11 because they were light-emitting diodes in Class 9 that were semiconductor devices emitting light when electrical current was applied.

However, the Court dismissed the plaintiff's petition as well saying that "surface-mounted LEDs" of the respondent were LED lamps which used light-emitting diodes as light sources. They emit the white light by the light radiated by LED chips exciting fluorescent materials.