

## Latest Court Decisions

**2014:**  
**[June]**

- **B◆MING/LIFE STORE Case** (Cancellation Suit of Trial Decision)  
**IP High Court 2014.6.11 H25(Gyo-Ke)10342**

### **[SUMMARY/INTRODUCTION]**

The subject application for the trademark "**B◆MING/LIFE STORE**" in two lines (right) for clothing in Class 25 was rejected by the cited trademark "**LIFE STORE**" in Katakana letters.



Then, the plaintiff (=applicant) filed a law suit with the IP High Court requesting cancellation of the Trial Decision.

You will see that the "**B◆MING**" part of the subject trademark is more distinctive than the "**LIFE STORE**" part which seems to be somewhat a common word.

Do you think whether the trademark "**B◆MING/LIFE STORE**" is confusingly similar to the cited trademark "**LIFE STORE**" or not? What was the IP High Court decision?

### **[CASE]**

The Plaintiff filed a trademark application for "**B◆MING/LIFE STORE**"(right) specifying clothing in Class 25. However, the Japanese Patent Office rejected the application because the subject trademark was confusingly similar to the cited trademark "**LIFE STORE**" in Katakana letters.



You will see that the "**B◆MING**" part of the subject trademark is more distinctive than the "**LIFE STORE**" part because "**B◆MING**" is written in larger fonts in blue than "**LIFE STORE**" in red.

The Plaintiff alleged that the "**B◆MING**" part in the subject trademark was distinctive as a trademark because the word "**LIFE STORE**" was common and descriptive. The Plaintiff submitted as evidence samples such as "**CAR LIFE STORE**", "**FASHION LIFE STORE**", "**NATURAL LIFE STORE**", "**OUTDOOR LIFE STORE**", "**PRIVATE LIFE STORE**" and "**BEUATY LIFE STORE**" to show the word "**LIFE STORE**" now being used in common.

In addition, the Plaintiff stated that the subject trademark was written in a unified design and therefore, the pronunciation of the subject trademark was "**B MING LIFE STORE**" or just "**B MING**" and the consumers never referred to the subject trademark merely as "**LIFE STORE**".

The IP High Court dismissed the Plaintiff's petition with the following reasons.

- (1) The "B♦♦MING" part in the subject trademark was arranged apart from the "LIFE STORE" part.
- (2) The "B♦♦MING" part and the "LIFE STORE" part were written in different colors and sizes.
- (3) The "B♦♦MING" part was written as upstanding while the "LIFE STORE" part was written as rounding.
- (4) The pronunciation of "B MING LIFE STORE" was too long and it did not have any unified meaning as a whole.
- (5) The Plaintiff failed to submit any samples showing use of "LIFE STORE" alone without other words and therefore, it could not be said that "LIFE STORE" was now in common and descriptive.

We think that the above listed reasons (1) to (3) are all external points and if the words "B♦♦MING" and "LIFE STORE" were written in the same color, same font and same size closely in two lines, the trademark might be considered as dissimilar to the cited trademark "LIFE STORE".

Furthermore, we know many trial decisions at the Japan Patent Office regarding the long pronunciation trademarks which were decided as dissimilar to the short trademarks as follows.

- No.2014-197 UNJOUR STRAWBERRY FIELDS X UNJOUR (Classes 14 and 25)
- No.2013-14968 METAMORPHOSIS QUARTZ X METAMORPHOSIS (Class 14)
- No.2013-667 GOOSEBUMPS NEVER LIE X GOOSEBUMPS (Classes 9, 16...)
- No.2011-15536 THERMOCOOL SMARTTOUCH X THERMACOOL (Class 10)
- No.2011-15694 Aqua Jelly Matrix X MATRIX (Class 3)
- No.2009-900124 IMPREZA BEAMS EDITION X BEAMEDITION (Class 12)

In view of these trial decision, the subject trademark "B♦♦MING LIFE STORE" might not be too long to pronounce as the Court said.

For your reference, the trademark "B♦♦MING LIFE STORE" written in one line (right) was registered under No. 5513281.

**B♦MING LIFE STORE**

Therefore, we feel that the IP High Court decision does not have a bad or big influence on the Plaintiff.