

## Latest Court Decisions

**2010:**  
[May]

### ● FILLMORE MOSRITE Case (Cancellation Case of Trial Decision)

**IP High Court 2010.5.27 H22(Gyo-Ke)10032**

The trademark "**MOSRITE COLLECTION/M/FILLMORE**" (right upper) was registered by a Japanese company, KK Fillmore, for the goods in Classes 14, 18, 24 and 25.



Mrs. Loretta Moseley, a widow of Mr. Semie Moseley who was the original manufacturer of the US MOSRITE guitars, filed an Invalidation Trial against Fillmore's registration under Article 4-1-7 (against public order and morals) of the Trademark Law because Fillmore registered the subject trademark including the word "MOSIRITE" that was well known to Japanese guitar fans, without permission by the interested persons of the US MOSRITE guitars.

However, the IP High Court dismissed Mrs. Moseley's petition saying that the subject trademark did not remind of the trademark of the US MOSRITE guitars (right lower) since even though the subject trademark contained the word "MOSRITE", the MOSRITE part was rather small. In addition, the subject trademark also included the word "FILLMORE" and the devices of the two trademarks were different. Therefore, they were not confusingly similar as a whole and the registration of the subject trademark was not against the public order and morals.



The IP High Court suggested considering application of Articles 4-1-8, 10, 15 or 19 of the Trademark Law rather than Article 4-1-7 regarding the public order and morals in order to dissolve the problems concerning the private interest.