

## Latest Court Decisions

**2014:**

**[February]**

- **St Ella Case** (Cancellation Suit of Trial Decision)

**IP High Court 2014.2.27 H25(Gyo-Ke)10251**

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

Stella McCartney, a world famous fashion designer and a daughter of Paul McCartney, filed an Invalidation Trial against the registered trademark "St Ella" (right) in handwriting characters specifying "cosmetics" in Class 3. She has trademark registrations for "STELLA" and "STELLA McCARTNEY" in Class 3.



However, her petition for invalidation was dismissed and she filed this cancellation suit with the IP High Court. What was the IP Court decision ?

### **[CASE]**

Ms McCartney alleged that the subject trademark "St Ella" was being used by a Malaysian corporation, "Stella's Choice (M) Sdn. Bhd." and that the founder's name of the brand was "STELLA K.Y. CHIN". Therefore, the subject trademark should be read as "Stella" as a whole.

However, the IP High Court also dismissed Ms. McCartney's petition because the subject trademark "St Ella" could not be read as "stella" with the following reasons.

- ① All the letters in both "St" and "Ella" parts consisting of the subject trademark were connecting.
- ② There was a space between "St" and "Ella" parts.
- ③ The initial letters of "St" and "Ella" were written in capital letters.
- ④ "St" even without a period could be read as "saint".
- ⑥ Therefore, the subject trademark "St Ella" should be read only as "saint ella" and was dissimilar to the cited trademark "STELLA" or "STALLA McCartney".

As to Ms. McCartney's allegations, the Court stated that even if such facts existed, the subject trademark could not be read as "stella" in view of the reasons mentioned above.

You will see that the IP High Court as well as the JPO judges trademarks only from their appearance.