

Latest Court Decisions

2021:

[December]

• **VEGAS Case (Cancellation Suit)**

IP High Court 2021.12.20 R3(Gyo-Ke)10079

[SUMMARY/INTRODUCTION]

An Invalidation Trial was filed against the registered trademark "VEGAS" specifying "providing amusement facilities" and other services in Class 41.

The ground for invalidation was that "VEGAS" was known in Japan as an abbreviation of "Las Vegas", USA, famous for game casinos. Therefore, since the trademark "VAGAS" indicated the place where services were provided or the quality of services, it fell under Article 3-1-3 of the Trademark Law.

However, the JPO issued the Trial Decision dismissing the petition for the invalidation.

Then, the Plaintiff (= the petitioner of the trial) brought the case before the IP High Court demanding cancellation of the JPO's Trial Decision.

What was the Court decision ?

[Court Decision]

The IP High Court firstly admitted that the word "Vegas" was published in the large Japanese Language Dictionaries such as KOJIEN, DAIJIRIN and DAIJISEN as well as Basic Knowledge of Modern Terms, etc. as an abbreviation for "Las Vegas", and that "Vegas" was used as an abbreviation for "Las Vegas" in website articles etc.

However, the IP High Court stated that the dictionaries generally only indicated the content of words, and each dictionary had different publication criteria. Therefore, the number of dictionaries in which the word appeared did not account for whether the word was well-known or not.

Also, in the case of articles on the website, the Court indicated that the word "Vegas" is mostly used only for headlines, and the word "Las Vegas" is used instead of "Vegas" in the main texts.

Almost all were used in the texts to infer that "Vegas" was a place name in the United States, or in the context of reporting facts about gambling.

As a result, the IP High Court judged that it is hard to admit that the use of the word "Vegas" alone as an abbreviation for "Las Vegas" was well established in Japan and that the trademark "VAGAS" did not fall into Article 3-1-3 of the Trademark Law.

Finally, the IP High Court added that the service "providing amusement facilities" against which the invalidation was sought did not essentially include "providing a gambling place."

For your information, according to "Acceptable Names of Goods and Services" listed on the JPO's web-site "J-PlatPat", the services "providing a gambling place" is listed in "the Unacceptable Names of Services".

In Japan, gambling is prohibited as an illegal act under Article 185 of the Penal Code, except for public gambling. Therefore, "providing a gambling place" will be a violation of public order and morals under the Trademark Law.