

## Latest Court Decisions

2022:

[March]

• RED SOLE Case (Unfair Competition Injunction Suit)

Tokyo District Court 2022.3.11 H31(Wa)11108

**[SUMMARY/INTRODUCTION]**

Christian Louboutin, a luxury fashion brand in Paris (Plaintiff), sued a Japanese company (Defendant) for violating the Unfair Competition Prevention Law because the Plaintiff's high-heeled red soles (right upper) were famous in Japan and the Defendant Japanese company's high-heeled red soles (right lower) imitated the Plaintiff's products and could be confused (Article 2-1-1 of the Law).



What was the Tokyo District Court decision ?



**[Court Decision]**

As the result, the Tokyo District Court dismissed the Plaintiff's claims. As you see, both products were high heels for women and had the common feature that the soles of the shoes were red. However, the heel shapes and designs of the shoes as well as their prices were different. Of course, the Plaintiff's shoes were quite expensive while the Defendant's shoes were rather inexpensive and further the Plaintiff's products were branded.

That is, the only thing that both products had in common was the red sole, and there were many differences in the form of the products. In such a situation, what would happen if the sale of the Defendant's product was suspended because only one point was in common ?

In this respect, the Court mentioned as follows.

In the case of including multiple product forms, if the sale of the entire product was stopped as a violation of the Law even though part of the forms of the product did not become unfair competition, the result would be that even common product forms that should not be protected by the Law were also protected. Rather, it should hinder the fair competition between businesses.

In this case, in addition to the red sole, the Plaintiff's product had many features such as the combined pattern, luster, texture, color without limitation. The sole color, the

Plaintiff red, was not a special color itself, and therefore the Plaintiff's shoes included a wide range of product forms as well as the Defendant's product.

Specifically, the sole form of the Plaintiff's product was lacquered on the leather sole, so it was a glossy red (lacquer red) like a manicure, whereas the sole of the Defendant's product was made of rubber and was not specially painted like dull red. The form of the Plaintiff's product and the form of the Defendant's product clearly differed in the gloss and texture of the sole.

Therefore, the court did not admit that the Defendant's product form should be considered as the well-known indication of the source of origin of the Plaintiff's product taking into consideration of the luxury brand value provided by the Plaintiff.

The court concluded that the Plaintiff's product as a whole did not correspond to the product indication provided in Article 2-1-1 of the Unfair Competition Prevention Law because the high heels with red rubber sole shown in the Plaintiff product should not be considered as the product indication.