

Trademark Right	Date	December 4, 2023	Court	Intellectual Property High Court, First Division
	Case number	2023 (Gyo-Ke) 10067		
<p>- A case in which the court determined that the Trademark (a trademark consisting of the letters, etc. "5252by O ! O i" written in Gothic script), which is a registered trademark held by the Defendant, and the Cited Trademarks (trademarks such as one consisting of the letters "OIOI" written in round Gothic script) are similar, and rescinded the JPO Decision which dismissed a request for a trial for invalidation by holding that the Trademark does not fall under the cases stipulated in Article 4, paragraph (1), items (xi) and (xv) of the Trademark Act.</p>				

Case type: Rescission of Trial Decision to Maintain

Result: Granted

References: Article 4, paragraph (1), item (xi) of the Trademark Act

Related rights, etc.: Trademark Registration No. 6371693

Decision of JPO: Invalidation Trial No. 2021-890031

Summary of the Judgment

1. The Defendant holds the trademark right holder to the Trademark, which consists of the letters and the like "5252by O ! O i" written in Gothic script (Designated goods: "Cell phone straps", etc. in Class 9; "Bags, etc." in Class 18; "Clothes", etc. in Class 25). The Plaintiff requested for a trial for invalidation of trademark registration for the Trademark, but the JPO rendered a decision which dismissed the request for a trial, by holding that the Trademark does not fall under either of the cases stipulated in Article 4, paragraph (1), items (xi) and (xv) of the Trademark Act.

2. In the judgment of the present case (Judgment), the court determined that the Trademark is similar to Cited Trademark 3 (a trademark consisting of the letters "OIOI" written in red, in round Gothic script) and that there is also similarity in designated goods and services and thus the Trademark falls under the case stipulated in Article 4, paragraph (1), item (xi) of the Trademark Act, thereby rescinding the JPO Decision. The outline of the reasons based on which the Judgment determined that the Trademark and the Cited Trademark 3 are similar is as follows.

(1) The Trademark consists of numbers, alphabetic letters, and an exclamation mark written in black, in Gothic script, in the same size, in a horizontal line with equal spaces in-between. Given that in Japan, people are familiar with the English word "by", which is widely used and is generally employed in the usage of "by XYZ", as an English preposition that indicates that "the source of goods and service is XYZ", and also given that "by" is written in small letters, it can be said that the Trademark,

as a whole has a structure that captures the attention of onlookers in a way that suggests that the part "O!Oi" after "by" is an independent part. The part "5252" is only a listing of numbers and is not particularly distinctive, but the part "O!Oi" gives a visually prominent impression, and is unique in that it can be understood either as a coined word or a figure. In that case, it can be said that the part "O!Oi" gives a strong and dominant impression as an indicator of source, and has a function as an indicator of source for the entire trademark, so that it is permissible to extract this part as an important part of the Trademark (Important Part) for comparison with another person's trademark to determine the similarity of the trademarks.

(2) It is difficult to say that the concept generated from the Important Part and the concept generated from the Cited Trademark 3 are the same. Strictly speaking, the appellations generated from the two trademarks are different, but they share many of the same sounds, so that the sounds are reasonably similar. As for the appearances of the two trademarks, they are similar in shape in that each consists of a single vertical line, or a single vertical line and a dot placed on a continual line, and the placement of the letters, including the spaces in-between, are also very similar, so that while differences can be found under close observation, the two trademarks are confusingly similar under isolated observation of each trademark at a different time and in a different place, respectively.

In addition to the above, upon holistically considering the designated goods of the Trademark and other factors as well as the actual circumstances of transaction, it is acknowledged that the Trademark is similar to Cited Trademark 3.

Judgment rendered on December 4, 2023

2023 (Gyo-Ke) 10067 Case of seeking rescission of trial decision

Date of conclusion of oral argument: October 4, 2023

Judgment

Plaintiff: Marui Group Co., Ltd.

Defendant: Y

Main text

1. The judgment rendered by the JPO on May 18, 2023 for Invalidation Trial No. 2021-890031 shall be rescinded.

2. Court costs shall be borne by the Defendant.

3. An additional period of 30 days shall be set for filing final appeal and for filing a petition for acceptance of final appeal against this judgment.

Facts and reasons

No. 1 Claims

Same as per the main text

No. 2 Outline of the case

The present case is a lawsuit seeking rescission of a judgment which dismissed a request for a trial for invalidation of trademark registration. The issue concerns the applicability of Article 4, paragraph (1), item (xi) and item (xv) of the Trademark Act.

1. Background of JPO procedures, etc.

(1) The Defendant is the trademark right holder of the following trademark, which is identified as Trademark Registration No. 6371693 (hereinafter referred to as "Trademark") (Exhibits Ko 1 and 2).

Registered trademark:

5252byO!Oi

Date of application for registration: March 11, 2020

Date of decision for registration: March 8, 2021

Date of registration: April 1, 2021

Classification of goods and services, and designated goods:

Class 9 "Cell phone straps; Cell phone cases; Protective films adapted for

smartphones; Selfie sticks for smartphones; USB cables; Sound mixers with integrated amplifiers; Power amplifiers; Headphones; Wireless speakers; Speakers; Mobile communication terminal devices; Cellular phones; Sunglasses; Glasses; Batteries"

Class 18 "Bags; Accessories for bags; Bags of leather; Business card cases of leather; Bags of imitation leather; Traveling bags of leather; Multi-tool bags; Bags for climbers; Belt bags; Hip bags; Shopping bags; Garment bags for travel; Purses; School bags; Vanity cases; Umbrellas; Pouches; Leather shoulder belts; Pouch baby carriers"

Class 25 "Clothing; Coats; Jumpers; One-piece suits; Clothing of blue jeans fabric; Breeches for wear; Outer clothing; Underclothing; Shirts; Coats for sports; Liveries; Layettees [clothing]; Children's clothing; Footwear; Hats; Leather belts; Clothing of leather; Gloves [of leather, animal skin, or fur, etc.]; Short-sleeve shirts; Aloha shirts; Socks; Stockings"

(2) On July 14, 2021, the Plaintiff filed a request for a trial for invalidation of trademark registration for the Trademark. The JPO examined the request as Invalidation Case No. 2021-890031, and on May 18, 2023, rendered a judgment to the effect that "the request for a trial of the present case is dismissed" (hereinafter referred to as "JPO Decision"), and a certified copy thereof was delivered to the Plaintiff on the 26th of the same month.

(3) On June 26, 2023, the Plaintiff filed the lawsuit of the present case seeking rescission of the JPO Decision.

2. Summary of reasons for JPO Decision

In the JPO Decision, the JPO ruled that it cannot be said that the trademark registration of the Trademark was in violation of either item (xi) or item (xv) of paragraph (1) of Article 4 of the Trademark Act, so that the Trademark cannot be invalidated pursuant to the provisions of Article 46, paragraph (1) of the same Act. The summary of the reasons is as follows.

(1) Applicability of Article 4, paragraph (1), item (xi) of the Trademark Act

A. The Trademark consists of the numbers "5252", and the alphabetic letters and an exclamation mark "byO!Oi" written in the same script, in the same size, in a horizontal line with equal spaces in-between, and the Trademark is recognized as a type of coined word that has no specific meaning. As such, the Trademark generates the appellation of "go-ni-go-ni-by-oh-oi" in correspondence with the constituent letters, and no specific concept is generated.

B. The mark indicated in the Attachment 1 titled "List of Mark" consists of a

figure that shows two circles and two vertical bars placed alternately (hereinafter referred to as "Plaintiff's Mark"). At the time when an application for registration was filed for the Trademark, and as of the time of the decision for registration, Plaintiff's Mark was widely recognized among traders and consumers in Japan as a trademark that indicates the goods or services (hereinafter sometimes referred to as "Goods, etc.") pertaining to the businesses of the Plaintiff and its group company, a retailer called "Marui Co., Ltd." (hereinafter the company and the Plaintiff are collectively referred to as "Plaintiff, etc.>").

The cited trademarks indicated in the Attachment 2 (hereinafter simply referred to as "Cited Trademarks" together) are trademarks which closely resemble, or which are regarded as identical with, the Plaintiff's Mark, which is widely known among traders and consumers as a mark that indicates Goods, etc. pertaining to the business of Plaintiff, etc., or are trademarks whose important part consists of Plaintiff's Mark. In correspondence with the composition, the Cited Trademarks generate the appellation of "marui", and generate the concept of "a mark for Marui", as referring to a brand of Plaintiff, etc.

C. When the Trademark and the Cited Trademarks are compared, the appearance is such that the Trademark, which consists of numbers, an exclamation mark, and alphabetic letters, and the Cited Trademarks, which consist of a figure that alternately shows two circles and two vertical bars, or whose important part is such figure, are clearly different in the entire composition, so that it is easy to make distinction. The appellation "go-ni-go-ni-by-oh-oi", which is generated from the Trademark, and the appellation "marui", which is generated from the Cited Trademarks, are clearly different in terms of constituent sounds and the number of constituent sounds, so that there is no risk of mistaking the Cited Trademarks with the Trademark by sound, or vice versa. As for concept, the Trademark does not generate any specific concept, whereas the Cited Trademarks generate the concept of "a mark for Marui", as referring to a brand of Plaintiff, etc., so that there is no risk of causing confusion.

In that case, the Trademark and the Cited Trademarks have no risk of causing confusion in appearance, appellation, or concept, so that, upon comprehensively taking into consideration the impression, recollection, association, and the like which traders and consumers receive from the appearance, appellation, or concept, the trademarks are not similar and have no risk of causing confusion as to the source of the designated goods of the Trademark, and of the designated goods and designated services of the Cited Trademarks (hereinafter sometimes referred to as "Designated Goods, etc.>").

D. The part "O!Oi" of the Trademark is easily recognized as consisting of the alphabetic letter "O", the symbol (exclamation mark) "!", the alphabetic letter "O", and the alphabetic letter "i", and it can be said that the Trademark is clearly different from Plaintiff's Mark in composition, and it is natural to consider that the Trademark, as a whole, is grasped and recognized as an inseparable trademark that is a combination of numbers and alphabetic letters that include an exclamation mark, which are indicated in a line without any space in-between. As such, the "O!Oi" part of the Trademark cannot be extracted to say that there is similarity with the Plaintiff's Mark.

(2) Applicability of Article 4, paragraph (1), item (xv) of the Trademark Act

It is acknowledged that, at the time when an application for registration was filed for the Trademark, and as of the time of the decision for registration, the Plaintiff's Mark was widely recognized among traders and consumers in Japan as a trademark that indicates the Goods, etc. pertaining to the businesses of the Plaintiff, etc. Furthermore, the Trademark is highly unique, and the designated goods of the Trademark include goods that are similar to the services in which Plaintiff's Mark is used. However, the Trademark and the Plaintiff's Mark can be clearly distinguished in appearance, appellation, and concept, so that upon holistically considering the overall impression, recollection, association, and the like which traders and consumers receive from the appearance, appellation, and concept of the Trademark and the Plaintiff's Mark, the trademarks are not similar and have no risk of causing confusion, and are therefore different trademarks, so that the degree of similarity is low.

In that case, even when the Trademark is used for its designated goods, it does not cause traders and consumers to recollect Plaintiff's Mark or be reminded of Plaintiff's Mark, and there is no risk of causing confusion as to the source of the goods as if the goods pertain to the business of the Plaintiff or a person who is somehow economically or organizationally related to the Plaintiff.

(omitted)

No. 5 Judgment of this court

1. According to evidence (Exhibits Ko 4 to 11, and 27; Exhibit Otsu 2) and the entire import of oral argument, the following is acknowledged.

In 1937, the Plaintiff (the trade name prior to change in 2007 was "Marui Co., Ltd."); in the same year, the company switched to holding company system, and

changed its name to Marui Group Co., Ltd., and transferred the retail business to newly established "Marui Co., Ltd.") was founded as a stock corporation that engages in businesses such as installment selling of furniture at a shop located in Nakano-ku, Tokyo. After it resumed operation after the war, the Plaintiff expanded its network of shops by focusing on the method of opening up shops by taking the form of fashion buildings located around terminal stations in Tokyo and its neighboring prefectures. Since around the 1970s, the goods the company handled shifted to clothing and other items of apparel and fashion, and the company created a logomark that has the composition of Cited Trademarks 1, 2, and 8 and consists of the letters "OIOI" written in round Gothic script (however, the lower right corner of each "O" being slightly broken), and posted the logomark on the tower house of a fashion building or at the entrance of a shop, etc. in a conspicuous manner, and informed people, through TV commercials and the like, of the logomark by calling it "marui marui" or "marui", etc., in addition to promoting an integrated image for the company by using the same numbers "0101" for the last four digits of the shops' phone numbers. Around 1995, the Plaintiff renovated the logomark to Cited Trademarks 3 and 10 as well as one that consists of Plaintiff's Mark (the "O" whose shape is not broken in the lower right corner), and later, expanded the network of shops to the Tohoku region, the Tokai region, the Kinki region, and the Kyushu region rather than covering only the metropolitan area, while maintaining the basic direction of opening shops around terminal stations, including operation as tenants.

The Plaintiff has sequentially reviewed the business style that focuses on retail business, whose market has deteriorated since before and after the Lehman Shock in 2005, and the Plaintiff has maintained operation of 20 or more shops mostly in the metropolitan area as of 2020, and has also diversified its operation of the entire group with the Plaintiff as the holding company, by engaging in financial business, investment business (FinTech business), information system business, total fashion logistics business, etc., deriving from the conventional installment seller business. The sales made by Marui Co., Ltd., a group company of the Plaintiff operating as a retailer, for the fiscal year of 2021 ending in March, amounted to 72,067,000,000 yen. The company also operates EC sites such as Marui Web Channel and Marui Rakuten Market Online Store, which account for approximately 10% of the sales of the entire group (other than food and restaurants).

By 2010, if not earlier, the Plaintiff's Mark, which consists of the letters "OIOI" written in black, in round Gothic script, had come to be acknowledged as a famous trademark through being used on goods such as clothing and bags, and in

services such as retail of clothing, even in JPO's examination practices.

2. Reason 1 for rescission (Whether or not the decision as to the applicability of Article 4, paragraph (1), item (xi) of the Trademark Act is incorrect)

(1) Decision on the applicability of Article 4, paragraph (1), item (xi) of the Trademark Act

Similarity between trademarks should be determined based on whether or not the two trademarks, which are to be compared, have a risk of causing misunderstanding or confusion as to the source of the goods or services when they are used on the same or similar goods or services. Such determination should be made by holistically considering factors such as the impression, recollection, and association which traders and consumers receive from the appearance, concept, and appellation, etc. of the trademark, which is used for the relevant goods or services, thereby considering the similarity from an overall perspective in light of the actual circumstances of transaction pertaining to the relevant goods or services. Furthermore, as long as the actual circumstances of transaction of the goods or services can be clarified, it is reasonable to make the determination based on the specific circumstances of transaction (Refer to Supreme Court Judgment 1964 (Gyo-Tsu) 110; Judgment rendered on February 27, 1968 by the Third Petty Bench; Minshu Vol. 22, No. 2, page 399).

In addition, a composite trademark made up of multiple constituent parts is created as something that is distinguished from another person's trademark because of the entirety of the constituent parts, so that in principle, it is not permissible to extract a part of the constituent parts for comparison with another person's trademark to determine the similarity of the trademarks themselves. However, in a case where it is acknowledged that a part of the constituent parts of a trademark gives a strong and dominant impression to traders and consumers as an indicator of source for goods or services, or in a case where it is acknowledged that no other part generates any appellation or concept as an indicator of source, and in other cases where it cannot be acknowledged that the constituent parts of a trademark are inseparably joined together so much so that it is unnatural in transaction to separately observe such constituent parts, it should be permissible to extract a part of the constituent parts for comparison with another person's trademark to determine similarity between trademarks (Refer to Supreme Court Judgment 1962 (O) 953; Judgment rendered on December 5, 1963 by the First Petty Bench; Minshu Vol. 17, No. 12, page 1621; Supreme Court Judgment 1991 (Gyo-Tsu) 103; Judgment rendered by the Second Petty Bench on September 10, 1993; Minshu Vol. 47, No. 7, page 5009; the above-mentioned Supreme Court

Judgment rendered on September 8, 2008 by the Second Petty Bench).

(2) The Trademark

A. As described above under No. 2, 1 (1), the Trademark consists of numbers, alphabet letters, and an exclamation mark, written in black, in Gothic script, in the same size, in a horizontal line with equal spaces in-between as "5252byO!Oi". Of course, given that in Japan, people are familiar with the English word "by", which is widely used and is generally employed in the usage of "by XYZ", as an English preposition that indicates that "the source of goods and service is XYZ", and also given that "by" is written in small letters, it can be said that the Trademark, as a whole, has a structure that captures the attention of onlookers in a way that suggests that the part "O!Oi" after "by" is an independent part. The part "5252" of the Trademark is only a listing of numbers and is not particularly distinctive. However, the part "O!Oi", which uses alphabetic letters but is not a word that is listed in a dictionary, etc., can generate the appellation of "oh-oi" or "oh-oh-ai", but uses an exclamation mark so that the sound is not uniformly defined, and the alternate use of circles and vertical lines gives a visually prominent impression, so that it can be said that the part is unique in that it can be understood either as a coined word or a figure. In addition, as described above, given that the usage of "by XYZ" is widely employed and that people are familiar with such use as an indicator that "the source of goods and service is XYZ", it should be said that the part "O!Oi" placed after "by" gives a strong and dominant impression as an indicator of source even from among the composition of the Trademark. In that case, while the part "O!Oi" is a part of the Trademark, it is acknowledged as having a function as an indicator of source for the entire trademark, so that it should be said that it is permissible to extract this part as an important part of the Trademark (hereinafter referred to as "Important Part") for comparison with another person's trademark to determine similarity between the trademarks.

The Defendant cites the above-mentioned Supreme Court Judgment rendered on September 8, 2008 by the Second Petty Bench to argue that it is not permissible to use only the Important Part, which is a part of the constituent parts of the Trademark that are written in the same font, in the same size, in a horizontal line with equal spaces in-between, for comparison with another person's trademark. However, as described above, the Important Part is widely used in Japan as an English preposition indicating that the words to follow refer to the source of the Goods, etc., and since the Important Part is placed after the word "by", which people are familiar with, it can be said that the Important Part is structured in such way that it independently attracts the attention of onlookers as an indicator of source for Goods, etc., and furthermore, it

has a unique shape that can be understood as a coined word or a figure, and it is acknowledged that it gives a strong and dominant impression as an indicator of source. On the other hand, the parts "5252" and "by", which are the remaining parts of the Trademark, have no distinctiveness, so that it can be said that it should be permissible to compare the Important Part alone with another person's trademark. The Defendant's argument cannot be accepted.

B. The Important Part consists of the alphabet letters and an exclamation mark "O!Oi" written in black, in Gothic script, in the same size, in a horizontal line with equal spaces in-between. The Important Part can generate the appellations "oh-oi" and "oh-oh-ai" in correspondence with the constituent letters. On the other hand, the placement of these alphabetic letters does not consist of words, etc. recorded in a dictionary, etc., and given that no special meaning can be found even from the appellations that can generate as described above, it can be said that the Important Part does not generate any special concept.

C. The designated goods of the Trademark are as indicated above under No. 2, 1 (1), and most are clothing and bags and other items of fashion and apparel, accessories for mobile phones, headphones, glasses, and other items worn by general consumers.

(3) Cited Trademark 3

A. From among the Cited Trademarks, the composition of the Cited Trademark 3 is as indicated under "Trademark composition" under 3 of Attachment 2, and consists of the letters "OIOI" written in red, in round Gothic script, in the same size, with equal spaces in-between. The Cited Trademark 3 generates the appellations of "oh-ai-oh-ai" and "oi-oi" in correspondence with the constituent letters, and according to the fact situation identified above in 1, it is acknowledged that, at the time when an application for registration was filed for the Trademark and as of the time of the decision for registration, Plaintiff's Mark was a famous trademark among traders and consumers of fashion and apparel, including general consumers, so that it is acknowledged that Cited Trademark 3, which has the same composition as Plaintiff's Mark except in color, generates the appellation of "marui" as well as the concept of a "logomark for Marui".

B. Designated goods of Cited Trademark 3 include clothing and bags, and other items of fashion and apparel as well as keyholders, glasses, and other items worn by general consumers.

(4) Similarity between the Trademark and Cited Trademark 3

While the Important Part does not generate any special concept, Cited

Trademark 3 generates the concept of a "logomark for Marui", so that it is difficult to say that the two trademarks are identical.

Next, while the Important Part generates the appellations of "oh-oi" and "oh-oh-ai", Cited Trademark 3 generates the appellations of "oh-ai-oh-ai", "oi-oi", and "marui". As such, it should be said that the two trademarks share many sounds in common although the inclusion of "!" in the Important Part causes difference in appellation in a strict sense, and it should be said that the two trademarks are reasonably similar.

As for the appearance of the two trademarks, the Important Part and Cited Trademark 3 consist of four letters or a symbol written in Gothic script, and the first and third letters are both "O". Different letters or symbols are used for the second and fourth places, namely "!" and "I" for the second place and "i" and "I" for the fourth place, but there is the similarity in form that the compositions of the two trademarks consists of a single vertical line, or a single vertical line and a dot placed on a continual line. In addition, the placement of the letters, including the spaces in-between letters, is closely similar in the two trademarks. In that case, it should be said that the two trademarks have difference in appearance under close observation, but under observation from a distance, at different times and in different places, the two trademarks are confusingly similar.

In addition to the above, the designated goods of the Trademark and the Cited Trademarks are items of fashion and apparel, or items worn by general consumers, so that relevant traders and consumers include general consumers. However, the Important Part does not generate any special concept, and the appellations generated from the Important Part and the Cited Trademark 3 are reasonably similar, although not identical, and it is difficult to say either trademark generates a single, definite appellation. As such, for traders and consumers, it seems unlikely that the appellation can be a determining factor as an indicator of source, and upon also considering that when general consumers try to identify the source of items of apparel or fashion or what they wear, they are believed to pay attention mostly to the appearance of the relevant products or logomarks, so that when the Trademark, which includes the Important Part that is reasonably similar to Cited Trademark 3 in appellation and confusingly similar to Cited Trademark 3 in appearance, and Cited Trademark 3 are used for the designated goods of the Trademark, even upon giving consideration to the fact that the entire composition of the Trademark is not identical to Cited Trademark 3, the possibility that traders or consumers would be mistaken as to the source of the trademarks cannot be denied, and thus it is acknowledged that the

Trademark has a risk of causing misunderstanding or confusion as to the source of the goods.

Accordingly, upon comprehensively considering the impression, recollection, association, etc. which traders and consumers receive from the Trademark, in light of the actual circumstances of transaction pertaining to the goods, it is acknowledged that the Trademark is similar to Cited Trademark 3.

(5) Summary

As described above, the Trademark is similar to Cited Trademark 3.

As described above in (2) C and (3) B, the designated goods of the Trademark are mostly clothing and bags and other items of fashion and apparel, as well as mobile phone accessories, headphones, glasses, and other items worn by general consumers. Meanwhile, the designated goods of Cited Trademark 3 include clothing and bags and other items of fashion and apparel, as well as keyholders and glasses and other items worn by general consumers, so that it can be said that the designated goods of the Trademark and the designated goods of Cited Trademark 3 are identical or similar.

Accordingly, it is acknowledged that the Trademark falls under Article 4, paragraph (1), item (xi) of the Trademark Act, and thus the JPO's Decision which ruled otherwise is incorrect, so that Reason 1 for Rescission is justified.

3. Conclusion

As described above, Reason 1 for Rescission, which is claimed by the Plaintiff, is justified, and the JPO's Decision shall be rescinded without the Court having to determine the other reasons for rescission.

Intellectual Property High Court, First Division

Presiding Judge: HONDA Tomonari

Judge: TOYAMA Atsushi

Judge: AMANO Kenji

(Attachment 1)

List of Mark



(Attachment 2)

List of Cited Trademarks

1. Trademark Registration No. 1318603 (Exhibit Ko 15; hereinafter referred to as "Cited Trademark 1")

Trademark composition:



Date of application for registration: November 14, 1973

Date of registration: January 10, 1978

Date of reclassification: June 25, 2008

Classification of goods and services, and designated goods or designated services (hereinafter simply referred to "Designated Goods, etc." in this Attachment): Goods indicated on the register of trademarks as belonging to Class 6, Class 14, Class 18, Class 21, Class 22, Class 25, and Class 26.

2. Trademark Registration No. 1374613 (Exhibit Ko 16; hereinafter referred to as "Cited Trademark 2")

Trademark composition:



Date of application for registration: November 14, 1973

Date of registration: February 27, 1979

Date of reclassification: April 30, 2009

Designated Goods, etc.: Goods indicated on the register of trademarks as belonging to Class 20, Class 24, and Class 25.

3. Trademark Registration No. 4640297 (Exhibit Ko 17; hereinafter referred to as "Cited Trademark 3")

Trademark composition:



Date of application for registration: March 4, 2002

Date of registration: January 24, 2003

Designated Goods, etc.: Goods indicated on the register of trademarks as belonging to Class 3, Class 5, Classes 7 to 12, Class 14 (Precious metals; Key rings or key chains; Dishes of precious metal; Nutcrackers of precious metal, Pepper pots, Sugar pots, Salt shakers, Egg cups, Napkin holders, Napkin rings, Trays and toothpick holders; Boxes of precious metal for needles; Candle extinguishers and candle holders of precious metal; Jewelry boxes of precious metal; Vases and flower bowls of precious metal; Commemorative cups; Commemorative plaques; Ornaments; Coin purses and wallets of precious metal; Precious stones and artificial precious stones; Compacts of precious metal; Shoe trimmings of precious metal; Watches; Tools of precious metal for smokers) to 16, Class 18 (Fittings of metal for bags; Metal frames for coin purses; Boxes of leather; Clothing for pets; Bags; Pouches; Vanity cases; Umbrellas; Sticks; Fittings of metal for sticks; Handles for sticks; Equipment for riding; Leather), Classes 20 to 22, Class 24, Classes 25 (Clothing; Garters; Sock suspenders; Braces for clothing; Bands; Belts; Shoes; Masquerade costumes; Clothes for sports; Special footwear for sports) to 42.

4. Trademark Registration No. 4864162 (Exhibit Ko 18; hereinafter referred to as "Cited Trademark 4")

Trademark composition:

OIOIJAM

Date of application for registration: August 2, 2004

Date of registration: May 13, 2005

Designated Goods, etc.: Goods indicated on the register of trademarks as belonging to Class 14, Class 16, Class 18, and Class 24

5. Trademark Registration No. 4869207 (Exhibit Ko 19; hereinafter referred to as "Cited Trademark 5")

Trademark composition:

OIOIJAM

Date of application for registration: August 2, 2004

Date of registration: June 3, 2005

Designated Goods, etc.: Goods indicated on the register of trademarks as belonging to Class 25

6. Trademark Registration No. 4887323 (Exhibit Ko 20; hereinafter referred to as "Cited Trademark 6")

Trademark composition:



Date of application for registration: August 2, 2004

Date of registration: August 12, 2005

Designated Goods, etc.: Goods indicated on the register of trademarks as belonging to Class 3

7. Trademark Registration No. 5156394 (Exhibit Ko 21; hereinafter referred to as "Cited Trademark 7")

Trademark composition:



Date of application for registration: June 22, 2007

Date of registration: August 1, 2008

Designated Goods, etc.: Services indicated on the register of trademarks as belonging to Class 35

8. Trademark Registration No. 5185473 (Exhibit Ko 22; hereinafter referred to as "Cited Trademark 8")

Trademark composition:



Date of application for registration: June 22, 2007

Date of registration: December 5, 2008

Designated Goods, etc.: Services indicated on the register of trademarks as belonging to Class 35

9. Trademark Registration No. 5185475 (Exhibit Ko 23; hereinafter referred to as "Cited Trademark 9")

Trademark composition:



Date of application for registration: June 22, 2007

Date of registration: December 5, 2008

Designated Goods, etc.: Services indicated on the register of trademarks as belonging to Class 35

10 Trademark Registration No. 5185476 (Exhibit Ko 12; hereinafter referred to as "Cited Trademark 10")

Trademark composition:



Date of application for registration: June 22, 2007

Date of registration: December 5, 2008

Designated Goods, etc.: Services indicated on the register of trademarks as belonging to Class 35

11 Trademark Registration No. 5427419 (Exhibit Ko 24; hereinafter referred to as "Cited Trademark 11")

Trademark composition:



Date of application for registration: February 18, 2011

Date of registration: July 22, 2011

Designated Goods, etc.: Goods or services indicated on the register of trademarks as belonging to Class 18, Class 25, and Class 35

12 Trademark Registration No. 5458511 (Exhibit Ko 25; hereinafter referred to as "Cited Trademark 12")

Trademark composition:



Date of application for registration: July 19, 2011

Date of registration: December 16, 2011

Designated Goods, etc.: Goods or services indicated on the register of trademarks as belonging to Class 18, Class 25, and Class 35