

Date	May 23, 2014	Court	Tokyo District Court, 40th Civil Division
Case number	2012 (Wa) 19272		
– A case in which the court dismissed all of the plaintiff's claims by holding that the defendants' act of owning and using the domain name may not be considered to have any purpose of acquiring a wrongful gain and that the allegedly famous and well-known indication of goods or business may not be considered to exist.			

According to the plaintiff, the plaintiff is engaged in the education and certification, etc. of mortgage planners who are qualified by the plaintiff to give proposals, etc., from a neutral and fair perspective, to persons concluding home mortgage loan agreements. The plaintiff alleged that the domain name "j-mpa.jp" (the "Domain Name") registered by Defendant 1 and used by Defendant 1 and Defendant 2 may be considered to be identical or similar to "JMPA" and "JAMP," which are the plaintiff's specific indication of goods or services, and that the defendants had owned and used the Domain Name in order to acquire a wrongful gain and thereby damaged the plaintiff's business interests. The plaintiff sought an injunction against the defendants' use of the Domain Name and demanded against Defendant 1 the commencement of the procedure to register the deletion of the Domain Name under Article 2, paragraph (1), item (xii) and Article 3, paragraphs (1) and (2) of the Unfair Competition Prevention Act. The plaintiff also alleged that "MP" and "モーゲージプランナー (Mortgage Planner)" may be considered to be the plaintiff's famous or well-known indications of goods or business and sought against Defendant 2, which holds an examination for a certification (the defendant's certification examination) that is similar to the certification of mortgage planner granted by the plaintiff by using the same indications and offers relevant classes, an injunction to stop the act of holding the defendant's certification examination and notifying the commencement of relevant classes under Article 3, paragraphs (1) and (2) of the Unfair Competition Prevention Act and also under Article 2, paragraphs (1), item (ii) of said Act as a primary claim, and under item (i) of said paragraph as a secondary claim.

The major issues of this court case are whether the defendants had the purpose of acquiring a wrongful gain or other purposes, whether the business interests of the plaintiff was or was likely to be infringed, and whether the claim for an injunction, etc. against the defendant's certification examination is acceptable.

In this judgment, the court found that the Domain Name had been registered by Defendant 1 since before the establishment of the plaintiff and subsequently lent to the plaintiff for a predetermined period of time and therefore that the defendants may not be

considered to have the purpose of acquiring a wrongful gain by owning or using the Domain Name. The court also found, among other things, that "MP" and "モーゲージプランナー (Mortgage Planner)" may not be considered to have become a famous or well-known indication of goods or business. In conclusion, the court dismissed all of the plaintiff's claims.