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judgedate

1997.07.17

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caseid

1992 (O) 1443

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reporter

Minshu Vol. 51, No. 6

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casetitle

Judgment concerning the copyrightability of a comic character

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casename

Case to seek an injunction against copyright infringement, etc.

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caseresult

Judgment of the First Petty Bench, partially quashed and decided by the Supreme Court, partially dismissed

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court_second

Tokyo High Court, Judgment of May 14, 1992

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summary_judge

1. A comic character that is described repeatedly in the comics with the same name, appearance, role and other features cannot be regarded as a copyrightable work.
2. Copyright for a secondary work arises only with regard to the creative parts that have been newly introduced in the secondary work and it does not arise with regard to other

parts in the secondary work that are common to and identical in substance with the original work.

3. In the case of a series of comic strips, if the term of copyright protection expires with regard to the strip in which a comic character appeared for the first time, copyright can no longer be claimed with regard to said character even before the term of copyright protection expires with regard to the subsequent strips.

4. In order to prove that a person has exercised the right of reproduction under Article 21 of the Copyright Act without interruption as required to fulfil the condition of acquisition by prescription, it is necessary that the situation in which the person appears to exercise the right to reproduce the work in whole or in part monopolistically and exclusively as the copyright holder would do, has continued to exist, and the person who alleges acquisitive prescription must bear the burden of proof of this fact.

5. In the case where the appellee files a claim for an injunction under Article 1, paragraph (1), item (i) of the Unfair Competition Prevention Act (Act No. 14 of 1934) prior to the amendment by Act No. 47 of 1993, and the appellant raises a defense against this claim under Article 6 of said Act on the grounds of its exercise of a trademark right, if a trial decision rendered by the Japan Patent Office (JPO) to invalidate the trademark registration regarding said trademark right becomes final and binding after the conclusion of oral argument in the fact-finding proceedings, the appellee may allege this fact during the final appeal proceedings, in light of the provisions of Article 420, paragraph (1), item (viii) of the Code of Civil Procedure.

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references

(Concerning 1) Article 2, paragraph (1), item (i) of the Copyright Act; (Concerning 2 and 3) Article 2, paragraph (1), item (xi) of the Copyright Act; (Concerning 3) Article 53, paragraph (1) and Article 56, paragraph (1) of the Copyright Act; (Concerning 4) Article 21 of the Copyright Act, Article 163 of the Civil Code, Part II, Chapter III, Section 1 of the Code of Civil Procedure (General Provisions); (Concerning 5) Article 1, paragraph (1), item (i) and Article 6 of the Former Unfair Competition Prevention Act (Act No. 14 of 1934), Article 46, paragraph (1), item (i) of the Trademark Act, Article 394 and Article 420, paragraph (1), item (viii) of the Code of Civil Procedure

Copyright Act

Article 2

(1) In this Act, the meaning of the terms set forth in each of the following items is as prescribed in that item:

(i) "work" means a production in which thoughts or sentiments are creatively expressed and which falls within the literary, academic, artistic or musical domain;

(xi) "derivative work" means a work created by translating, composing as a musical arrangement, reformulating, dramatizing, making into a cinematographic work, or otherwise adapting a pre-existing work;

Article 53

(1) The copyright to a work whose authorship is attributed to a corporation or other organization subsists for a period of fifty years after the work is made public (or for a period of fifty years after the creation of the work, if the work is not made public within fifty years of its creation).

Article 56

(1) The time at which a work is made public as referred to in Article 52, paragraph (1); Article 53, paragraph (1); or Article 54, paragraph (1) is the time at which each volume, issue, or installment is made public, for works that are made public successively in volumes, issues, or installments, or the time at which the last part of the work is made public, for works that are made public sequentially in parts.

Article 21

The author of a work has the exclusive right to reproduce the work.

Civil Code

Article 163

A person who exercises any property right other than the ownership peacefully and openly with an intention to do so on his/her own behalf shall acquire such right after the elapse of 20 years or 10 years consistent with the distinction provided in the preceding Article.

Former Unfair Competition Prevention Act (Act No. 14 of 1934)

Article 1

(1) If there is a person who commits an act that falls under any of the following items, a person whose business interests are likely to be infringed by such act may make a demand to suspend said act:

(i) the act of creating confusion with another person's goods by using an indication that is identical with or similar to said person's name, trade name, trademark, container or packaging for goods or any other indication of said person's goods that is well-known in the territory where this Act is in effect, or by selling, distributing or exporting goods for

which such indication is used.

Article 6

The provisions of Article 1, paragraph (1), items (i) and (ii), and paragraph (2), Article 1-2, paragraphs (1), (2), and (4), Article 4, paragraphs (1) to (3), Article 4-2, and Article 5, item (ii) do not apply to an act that is deemed to constitute enforcement of rights under the Patent Act, the Utility Model Act, the Design Act or the Trademark Act.

Trademark Act

Article 46

(1) Where a trademark registration falls under any of the following items, a request for a trial for invalidation of the trademark registration may be filed; iIn this case, where the trademark has been registered in connection with two or more designated goods or designated services, a request may be filed for each of the designated goods or designated services:

(i) where the trademark registration has been made in violation of Article 3, 4(1), 7-2(1), 8(1), 8(2), 8(5), 51(2) (including cases where it is applied mutatis mutandis pursuant to Article 52-2(2)), 53(2) of this Act or Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 77(3) of this Act;

Code of Civil Procedure

Article 394

A final appeal may be filed only by reason that a judgment contains a misconstruction of the Constitution or any other violation of the Constitution or that there is violation of laws or regulations that apparently affects a judgment.

Article 420

(1) In any of the following cases, an appeal may be entered by filing an action for retrial against a final judgment that has become final and binding; provided, however, that this does not apply where a party, when filing the final appeal, alleged such grounds or did not allege them while being aware of them:

(viii) where the judgment or other judicial decision on a civil or criminal case or administrative disposition, based on which the judgment pertaining to the appeal was made, has been modified by a subsequent judicial decision or administrative disposition.

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maintext

1. The judgment in prior instance is quashed and the judgment in first instance is revoked with regard to the part of the claims filed by Appellee B1 to seek an injunction

against the sale of neckties with the pattern indicated in Attachment 1 and demand the removal of said pattern from the neckties owned by the appellant of final appeal.

2. The claim filed by Appellee B1 with regard to the part mentioned in the preceding paragraph is dismissed.

3. The remaining part of the final appeal filed by the appellant of final appeal against Appellee B1 is dismissed.

4. The final appeals filed by the appellant of final appeal against other appellees of final appeal are dismissed.

5. The total court costs for proceedings between the appellant and Appellee B1 are divided into five parts, two of which shall be borne by Appellee B1 and the rest by the appellant of final appeal. The appellant of final appeal shall bear the cost of the final appeals mentioned in the preceding paragraph.

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reason

Concerning Reason I for final appeal argued by the appeal counsel

I. The outline of the facts legally determined by the court of prior instance is as follows.

1. A corporation based in the United States of America which has the same name as Appellee B1 and which is not a party to this case (hereinafter referred to as "Former B1"), in the United States of America, published comic strips, with one story for one strip, under the title of "Thimble Theatre," as a comic series in a newspaper or in books in sequence from January 17, 1929. These comic strips featured Popeye and other characters that Former B1 had its employees create in the course of their duties. The story of the first strip published in New York Evening Journal on said day (hereinafter referred to as the "First Strip") was as described in Attachment 2. Popeye is the main character of "Thimble Theatre," wearing a sailor hat and sailor uniform, with a pipe in his mouth and anchor tattoos on his arms, and he was described as a sailor who gains superhuman strength upon eating spinach.

2. The copyright for the series of comic strips mentioned above was acquired by Appellee B2 as a result of the merger of Former B1 into Appellee B2, and then transferred on December 31, 1943, from Appellee B2 to Appellee B1, which was established on the same day. From 1944 up until April 28, 1989, at the earliest, Appellee B1 has had its employees create, in the course of their duties, comic strips featuring Popeye and other characters as a continuation of the abovementioned series of comic strips, and published those comic strips as a comic series in a newspaper and in books in sequence (the series of comic strips featuring Popeye that Former B1 and Appellee B1 had their employees

create in the course of their duties are hereinafter referred to as the "Comic Strips"). On February 25, 1938, Former B1 registered its copyright for the First Strip among the Comic Strips, and on February 10, 1956, Appellee B1 registered the renewal of the copyright in its own name.

3. Since May 1982, the appellant of final appeal has been selling neckties with the pattern indicated in Attachment 1 (hereinafter referred to as "Pattern 1").

II. In this action, Appellee B1 filed claims based on its copyright against the appellant to seek an injunction against the appellant's sale of neckties with Pattern 1 and demand the removal of said pattern from the neckties owned by the appellant, alleging as follows. (1) Popeye, the main character of the Comic Strips, is described with the same appearance, personality and other features throughout the strips, and it constitutes a separate work from the Comic Strips as a character that is independent from the Comic Strips. Pattern 1 is a reproduction of the character of Popeye and infringes the copyright therefor. (2) Even if a comic character cannot be regarded as an independent work, copyright exists for each complete strip in the series among the Comic Strips. Pattern 1 infringes copyright for each of the Comic Strips as a reproduction of the drawings of Popeye that appeared in these strips.

Against these allegations, the appellant contends as follows. (1) The Comic Strips constitute a work for hire, and the term of copyright protection for the First Strip published on January 17, 1929, expired on May 21, 1990. (2) If a comic character can be an independent work, the character of Popeye disputed in this case also constitutes a work for hire. The term of copyright protection therefor should be deemed to have commenced at the time of the publication of the First Strip, when Popeye appeared for the first time in the Comic Strips, and hence said term of copyright protection expired on May 21, 1990. (3) Even if copyright exists for each strip among the Comic Strips and the term of copyright protection commences at the time of the publication of each strip, copyright for the comic strips that were published as a comic series in a newspaper or in books after the publication of the First Strip (hereinafter referred to as the "subsequent works") can be claimed only with regard to the creative parts additionally introduced in the subsequent strips. (4) In this case, the drawings showing the features of the main character, Popeye, had already appeared in the First Strip, and the drawings of Popeye appearing in the subsequent works are nothing more than reproductions of those in the First Strip. Since Pattern 1 does not involve any creative parts additionally introduced in the subsequent strips, an injunction against the appellant's use of Pattern 1 cannot be sought based on the copyright for the subsequent works.

2. The court of prior instance upheld Appellee B1's claim for an injunction regarding

Pattern 1 based on its copyright for the Comic Strips, holding as follows. (1) The character of Popeye cannot be regarded as a separate work that is independent from the Comic Strips. (2) However, Pattern 1 constitutes a reproduction of the drawings of Popeye, which is the main character of the Comic Strips. (3) Copyright exists for each strip among the Comic Strips and the term of copyright protection should be deemed to have commenced at the time of the publication of each strip. Therefore, while the term of copyright protection for the First Strip expired on May 21, 1990, the term of copyright protection has not yet expired for some of the subsequent works. (4) Even though the drawings showing the features of the main character, Popeye, had appeared in the First Strip, an injunction against the appellant's use of Pattern 1 can be sought based on the copyright for some of the subsequent works for which the term of copyright protection has not yet expired.

III. However, we cannot affirm the holdings of the court of prior instance mentioned in (4) above, on the following grounds.

1. Under the Copyright Act, the term "work" is defined as a "production in which thoughts or sentiments are creatively expressed" (Article 2, paragraph (1), item (i) of said Act). In the case of a series of comic strips, with one story for one strip, in which a character that has the same name, appearance, role and other features is described repeatedly, each comic strip in which such character appears constitutes a work, and the character per se cannot be regarded as a copyrightable work, independently from the actual comics. A comic character is an abstract concept representing the personality of a character as the sublimation of actual expressions in comics. It is not an actual expression per se, and it cannot itself be regarded as a production in which thoughts or sentiments are creatively expressed. Consequently, in the case of a series of comic strips, with one story for one strip, copyright infringement can take place for each complete strip, and hence, in order to establish copyright infringement, it is necessary to identify the specific comic strips wherein infringement can be found.

2. In the case of such a series of comic strips, the subsequent strips are usually created by using the same basic ideas and settings, as well as the main and other important characters with the same appearances, personalities, and other features, as those of the preceding strips, and introducing new episodes and new characters. In such case, the subsequent strips can be deemed to be adaptations of the preceding strips, and therefore can be considered to be secondary works created by using the preceding strips as the original works. It is appropriate to construe that copyright for a secondary work arises only with regard to the creative parts that have been newly introduced in the secondary work and does not arise with regard to other parts in the secondary work that

are common to and identical in substance with the original work. A secondary work is eligible for protection under the Copyright Act as a separate work that is independent from the original work only when it involves new creative elements (see Article 2, paragraph (1), item (xi) of said Act). Parts of a secondary work that are common to the original work do not involve any new creative elements and hence such parts of a secondary work do not deserve protection as a separate work.

3. Accordingly, while the term of copyright protection commences independently for each work, the character appearing in the subsequent strips should be subject to the term of copyright protection for the strip in which it appeared for the first time, as long as the character appearing in the subsequent strips is deemed to be identical with that appearing in the preceding strips. If the term of protection expires and copyright ceases to exist with regard to the first strip, it should be said that copyright can no longer be claimed with regard to said character even before the term of copyright protection for the subsequent strips expires.

4. Reproduction of a work means reproducing a work based on an existing work in a manner that the reproduced work can remind people of the content and form of the existing work (see 1975 (O) No. 324, judgment of the First Petty Bench of the Supreme Court of September 7, 1978, Minshu Vol. 32, No. 6, at 1145). In order to be regarded as a reproduction of a comic strip, a third party's work is not required to be identical in detail with the drawing of the character described in a specific scene in the comic strip, but it is sufficient if people can perceive that the third party's work describes the character in the comic strip by seeing its features.

5. This reasoning can be applied in this case as follows. According to the facts found by the court of prior instance as mentioned above, in the third to fifth frames in the First Strip, the main character, Popeye, was described as a sailor wearing a sailor hat and sailor uniform, with a pipe in his mouth and anchor tattoos on his arms. Pattern 1 consists of an illustration of a sailor wearing a sailor hat and sailor uniform, with a pipe in his mouth, standing and flexing his muscle of the right arm, in combination with the terms "POPEYE" and "ポパイ" placed above and below the illustration. In light of these facts, it is possible to perceive that the illustration shown in Pattern 1 is a drawing of Popeye, the main character in the First Strip, and hence it constitutes a reproduction of said drawing of Popeye and infringes the copyright for the First Strip.

Japan has been liable to protect works of nationals of the United States of America under the Berne Convention as of March 1, 1989, and thereafter, or under the Universal Copyright Convention before that day, and therefore these works deserve the same protection as works of Japanese nationals (see Article 6, item (iii) of the Copyright Act).

The Comic Strips are a work for hire that is eligible for copyright protection for 50 years after the publication. If the term of copyright protection for the First Strip, which was published on January 17, 1929, is calculated while assuming that said period commences on January 1, 1930 (the year following the year of publication) and adding a period of copyright protection of 3,794 days awarded for nationals of the United States of America under Article 4, paragraph (1) of the Act on Special Provisions concerning Copyrights of Allied Powers and Nationals Thereof, it already expired on May 21, 1990, and the copyright for the First Strip ceased to exist accordingly.

According to the facts found by the court of prior instance as mentioned above, Pattern 1 possesses all the features of the drawings of Popeye expressed in the First Strip but does not have any other creative expressions beyond that, and it cannot be deemed to be infringing copyright for the subsequent strips even if the term of copyright protection has not yet expired for some of them. Hence, Appellee B1 is no longer entitled to claim an injunction against the appellant's use of Pattern 1.

IV. Based on the grounds that are contrary to the above, the court of prior instance determined that an injunction against the appellant's use of Pattern 1 can be sought based on the copyright for some of the subsequent comic strips for which the term of copyright protection has not yet expired, and upheld Appellee B1's claims based on its copyright to seek an injunction against the sale of the neckties with Pattern 1 and demand the removal of said pattern from the neckties owned by the appellant. Such determination is illegal due to the errors in the interpretation and application of laws and regulations and such illegality apparently affects the conclusion of the judgment in prior instance. The appeal counsel's arguments are well-grounded, and without needing to make determination on other reasons for final appeal, the judgment in prior instance should inevitably be quashed with regard to the part of Appellee B1's claim to seek an injunction against the sale of neckties with Pattern 1 and demand the removal of said pattern from the neckties owned by the appellant. The judgment in first instance should be revoked with regard to said part and Appellee B1's claim regarding said part should be dismissed.

Concerning Reason II for final appeal

I. In this case, Appellee B1 claims compensation for damage based on its copyright for the Comic Strips, in order to recover damage that it has sustained due to the appellant's sale of neckties with Pattern 1 during the period from May 31, 1982, to May 31, 1984. Against this claim, the appellant argues as follows, raising a defense that it has acquired the right to reproduce Pattern 1 by prescription. (1) D filed an application for trademark registration on June 26, 1958, with regard to the trademark consisting of the

same components as Pattern 1, and had the trademark right registered on June 12, 1959 (Registration No. 536992; (this trademark right and this registered trademark are hereinafter referred to as the "Trademark Right" and the "Trademark"). On March 4, 1971, D transferred the Trademark Right to Company E (a stock company) and completed the registration of transfer. Then, on July 30, 1984, Company E transferred the Trademark Right to the appellant and completed the registration of transfer. (2) Since June 26, 1958, D and Company E had continuously exercised the right to reproduce Pattern 1 coupled with the Trademark Right, and thus Company E acquired the right to reproduce Pattern 1 by prescription as of June 26, 1978, upon the expiration of the 20-year period required for acquisition by prescription. (3) The appellant acquired said right of reproduction coupled with the Trademark Right from Company E.

II. The court of prior instance rejected the appellant's defense of acquisitive prescription, holding that: (1) the right of reproduction under Article 21 of the Copyright Act is included in the scope of property rights other than ownership as referred to in Article 163 of the Civil Code; (2) however, D did not obtain Appellee B1's permission for creating Pattern 1 by reproducing the drawing of Popeye, the main character of the Comic Strips, when filing the application for trademark registration regarding the Trademark on June 26, 1958, and thus D is deemed to have lacked the intention to reproduce Pattern 1 "on his/her own behalf" as referred to in Article 163 of the Civil Code.

III. Although we cannot affirm the determination of the court of prior instance mentioned in (2) above, we also cannot accept the appellant's defense of acquisitive prescription on the following grounds, and in conclusion, we should say that the illegality of the part of the judgment in prior instance explained above does not affect the conclusion of the judgment.

1. Since the right of reproduction prescribed in Article 21 of the Copyright Act is included in the scope of "property rights other than ownership" as referred to in Article 163 of the Civil Code, it can be construed that a person who has exercised, without interruption, the right to reproduce a work in whole or in part peacefully and openly with an intention to do so on his/her own behalf may acquire the right of reproduction by prescription. However, in light of the fact that the substance of the right of reproduction lies in enforcing exclusive control over reproductions of a copyrighted work, it is appropriate to construe that in order to prove that a person has exercised the right of reproduction without interruption as required to fulfil the condition of acquisition by prescription, it is necessary that the situation in which the person exclusively possesses the right to reproduce the work in whole or in part, or in other words, the situation in

which the person appears to exercise the right of reproduction monopolistically and exclusively as the copyright holder would do, has continued to exist, and that the person who alleges acquisitive prescription must bear the burden of proof of this fact.

2. On the other hand, whether a person has an intention to exercise a property right "on his/her own behalf" as referred to in Article 163 of the Civil Code can be determined objectively from appearance based on the fact that constitutes the cause of the exercise of the property right. If the quasi-possessor exercises the property right based on the title which by nature does not imply the title holder's intention to do so on his/her own behalf, the quasi-possessor's exercise of the property right should be deemed not to be derived from such intention. In the present case, the fact that D created Pattern 1 without obtaining Appellee B1's permission, which is pointed out in the judgment in prior instance, cannot be deemed to show that D exercised the property right based on the title which by nature does not imply the title holder's intention to do so on his/her own behalf (conversely, if D had reproduced Pattern 1 after obtaining permission from Appellee B1, such fact would rather show that D lacked the intention to reproduce Pattern 1 on his/her own behalf). Therefore, the court of prior instance made errors in the interpolation and application of laws and regulations in that it rejected the appellant's defense of acquisitive prescription on the grounds that D reproduced Pattern 1 without an intention to do so on his/her own behalf.

3. However, according to the findings by the court of prior instance, during the period of prescription that the appellant alleges to have expired (20 years from June 26, 1958), Appellee B1 had published the Comic Strips as a comic series in a newspaper or in books in sequence in the United States of America, and also during this period, Appellee B2, which had acquired from Appellee B1 the exclusive right to use the copyright for the Comic Strips, concluded licensing agreements for the Comic Strips with many companies in Japan, and various goods such as confectionary, stationery, clothing, and other items to which drawings of Popeye were attached under these agreements were available widely in the market. Moreover, as mentioned above, the drawing of Popeye described in Pattern 1 does not have any special characteristics in terms of his posture, etc. and it does not have any characteristics by which it can be distinguished from any other drawings of Popeye. In view of this, neither D nor Company E can be deemed to have monopolistically or exclusively exercised the right to reproduce the drawing of Popeye shown in Pattern 1, let alone any drawings of Popeye, the main character of the Comic Strips, and hence there are no grounds to support the appellant's defense of acquisitive prescription.

IV. In that case, since Pattern 1 constitutes a reproduction of the drawings of Popeye in

the First Strip and infringes the copyright therefor as explained earlier, the appellant should be held to be liable to compensate for the damage that Appellee B1 sustained from infringement of its copyright, due to the appellant's sale of neckties with Pattern 1 during the period from May 31, 1982, before the expiration of the period of copyright protection, until May 31, 1984. On these grounds, the determination of the court of prior instance can be affirmed for its conclusion, and in the end, the appeal counsel's arguments come down to be groundless. We cannot accept their arguments.

Concerning reason III-1 for final appeal

During the proceedings before the court of prior instance, Appellee B2 and Appellee B3 (a limited liability company) filed claims against the appellant under Article 1, paragraph (1), item (i) of the Former Unfair Competition Prevention Act (prior to the overall amendment by Act No. 47 of 1993), to seek an injunction against the sale of mufflers with the pattern indicated in (v) of List of Articles I attached to the judgment in first instance (hereinafter referred to as "Pattern 2") and neckties with Pattern 1 or Pattern 2 and demand the removal of these patterns from the mufflers and neckties. Against these claims, the appellant raises a defense that its use of these patterns constitutes the exercise of the Trademark Right and therefore it is not subject to the appellees' claim for an injunction pursuant to the provisions of Article 6 of said Act.

However, during the proceedings before this court, the appellees allege that the trial decision by the Japan Patent Office (JPO) to invalidate the registration of the trademark regarding the Trademark Right became final and binding. In view of the evidence submitted by the appellees, namely, the transcript of the JPO decision on Trial No. 1983-19123 and the certificate of records in the trademark register, it is found that: on January 24, 1995, the JPO rendered a trial decision to invalidate the trademark registration regarding the Trademark Right under Article 46, paragraph (1), item (i) of the Trademark Act, on the grounds that the trademark was registered in violation of Article 4, paragraph (1), item (vii) of said Act; said JPO decision became final and binding on April 3, 1995; and the trademark registration was cancelled on June 27, 1995. These facts can be accepted as the grounds for a retrial prescribed in Article 420, paragraph (1), item (viii) of the Code of Civil Procedure, and this court should take into consideration the appellees' allegations mentioned above. Based on these allegations, the Trademark Right is deemed to have never existed, and therefore it is clear that the appellant's defense mentioned above is inappropriate due to lack of a premise to stand on.

Consequently, the appeal counsel's argument challenging the illegal determination by the court of prior instance with regard to the appellant's defense cannot be accepted,

without needing to examine the details of the argument.

Concerning other reasons for final appeal

The findings and determination by the court of prior instance with regard to the points argued by the appeal counsel can be affirmed as justifiable in light of the evidence cited in the judgment in prior instance and the case records, and the finding and determination process does not involve such illegality as argued by them. The appeal counsel's arguments do nothing more than attack the finding of fact, which comes under the exclusive jurisdiction of the court of prior instance, and allege illegality in the judgment in prior instance based on their own dogmatic view or criticize the judgment in prior instance based on the matters they had not alleged in the prior instance. None of their arguments can be accepted.

According to the above, with regard to the part of the claims filed by Appellee B1 against the appellant to seek an injunction against the sale of neckties with Pattern 1 and demand the removal of said pattern from the neckties owned by the appellant, we quash the judgment in prior instance, revoke the judgment in first instance, and dismiss said part of Appellee B1's claims, while dismissing the remaining part of the final appeal filed by the appellant against Appellee B1 and the appellant's final appeals against other appellees.

Therefore, according to Articles 408, 396, 386, 384, 96, 95, 89, and 92 of the Code of Civil Procedure, we render the judgment in the form of the main text by the unanimous consent of the Justices.

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presiding

Justice FUJII Masao

Justice ONO Motoo

Justice TAKAHASHI Hisako

Justice ENDO Mitsuo

Justice IJIMA Kazutomo

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note_other

(Attachments 1 and 2 omitted)

(This translation is provisional and subject to revision.)