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| Trademark Right | Date | January 22, 2025 | Court | Intellectual Property High Court, Third Division |
| | Case number | 2024 (Gyo-Ke) 10072 | | |
| - A case in which the court rescinded the decision made by the JPO to rescind the registration of the relevant trademark based on Article 50, paragraph (2) of the Trademark Act, by holding that the fact that a non-exclusive trademark licensee has used a trademark that is found to be identical from a common sense perspective with the registered trademark is proved with the evidence submitted by the plaintiff in litigation. | | | | |

Case type: Rescission of Trial Decision of Rescission

Result: Granted

References: Article 50, paragraphs (1) and (2) of the Trademark Act

Related rights, etc.: Trademark Registration No. 6065381

Decision of the JPO: Recission Trial No. 2023-300062

Summary of the Judgment

1. The Defendant filed a request for a trial for rescission of trademark registration regarding the trademark for which the Plaintiff had obtained registration (referred to below as the "Trademark") based on Article 50, paragraph (1) of the Trademark Act. The Japan Patent Office (JPO) ruled that even by bringing together all the evidence submitted by the Plaintiff, it is not proved that any of the holder of trademark right, the exclusive trademark licensee, or the non-exclusive trademark licensee has conducted any act of use prescribed in the items of Article 2, paragraph (3) of the Trademark Act regarding the Trademark or a trademark that is found to be identical from a common sense perspective with the Trademark in Japan in relation to any of the designated goods related to the request, within three years before the announcement of registration of the request for the trial, nor is it shown that there is a just cause for the non-use of the Trademark. Based on this ruling, the JPO rendered a decision to rescind the registration of the Trademark (referred to below as the "JPO Decision"). This is the case in which the Plaintiff seeks the rescission of the JPO Decision.

2. In this judgment, the court rescinded the JPO Decision, holding that the Plaintiff is found to have proved, with the evidence that it submitted in this litigation, the fact that a holder of a non-exclusive license for the Trademark has used a trademark that is found to be identical from a common sense perspective with the Trademark in Japan in relation

to any of the designated goods related to the request, within three years before the announcement of registration of the request for the trial.