

Trademark Right	Date	June 17, 2020	Court	Intellectual Property High Court, Second Division
	Case number	2019 (Gyo-Ke) 10164		
- A case in which the court held that a trademark consisting of the letter, "I", and a heart shape placed horizontally side by side, with the letters, "JAPAN", written underneath, does not have distinctiveness for indicating the source.				

Case type: Rescission of Trial Decision to Maintain

Result: Dismissed

References: Article 3, paragraph (1), item (vi) of the Trademark Act

Related rights, etc.: Trademark Application 2018-49161

Decision of JPO: Appeal against Examiner's Decision of Refusal No. 2018-16957 (Decision dated October 23, 2019)

Summary of the Judgment

1. Regarding Reason 1 for Rescission (Error in judgment concerning applicability of Article 3, paragraph (1), item (vi) of the Trademark Act)

(1) Configuration of the Applied Trademark

The Applied Trademark consists of the letter, "I", and a heart shape placed horizontally side by side (hereinafter referred to as "I + Heart Shape"), with the letters, "JAPAN", written underneath, and has the designated goods which belong to Classes 14, 16, 18, and 24. The parties are not in dispute over the fact that, from among the configuration of the Applied Trademark, the I + Heart Shape, as a whole, succinctly demonstrates the English expression of "I love ...", as well as the fact that an indication that is a combination of the I + Heart Shape, with some letters written on the side or underneath, is interpreted as indicating the feeling of love towards that which is indicated by said letters. As such, it is acknowledged that an indication that is a combination of the I + Heart Shape and a "geographical name" written on the side or underneath is interpreted as showing the feeling of love towards the place indicated by said geographical name (such as the name of a country or city).

(2) Applicability of Article 3, paragraph (1), item (vi) of the Trademark Act to the Applied Trademark

The Applied Trademark is easily understood to have the meaning of "I love Japan". Evidence shows that in Japan, an indication that is a combination of the I + Heart Shape and a "geographical name" written on the side or underneath is used as an indication to show the feeling of love towards the

place indicated by said geographical name that is combined with the I + Heart Shape, or as an indication for a souvenir from the place indicated by said geographical name for attracting the attention of customers. Also, it is acknowledged that an indication that is a combination of the I + Heart Shape and the letters, "JAPAN", written on the side or underneath is used, as an indication that shows the feeling of support for Japan or for that which belongs to Japan such as Japan's national team, by a business operator who is engaged in a clothing business or who handles stickers. As such, if the Applied Trademark is used for its designated goods, it is acknowledged that traders and consumers coming in contact with the Applied Trademark would merely recognize the same as an indication showing the feeling of love of Japan or the feeling of support toward that which belongs to Japan, or as an indication for a souvenir from Japan. In that case, it must be said that the Applied Trademark does not have distinctiveness for indicating the source.

Therefore, since the Applied Trademark is one which cannot be recognized by consumers as pertaining to any person's business, it falls under Article 3, paragraph (1), item (vi) of the Trademark Act.

2. Regarding Reason 2 for Rescission (whether or not the Decision of Refusal and the JPO Decision are against the principle of equality and constitute deviation from, or are abuse of discretionary power)

According to evidence, the following facts are acknowledged; namely, that [i] a trademark with designated goods in Class 25 (Clothing; Garters; Sock suspenders; Suspenders; Waistbands; Belts for clothing; Footwear [other than special footwear for sports]; Masquerade costumes; Clothes for sports [other than clothes for water sports]; Special footwear for sports) and having the same configuration as the Applied Trademark was registered as a trademark on March 27, 2015 with the plaintiff as the trademark holder, [ii] a trademark with designated goods in Class 30 (Confectionery; Bread and buns; Sandwiches; Steamed buns stuffed with minced meat [Chinese-manjuh]; Hamburgers; Pizzas; Hot dogs, etc.) and having the same configuration as the Applied Trademark was registered as a trademark on June 15, 2018 with the plaintiff as the trademark holder, and [iii] a trademark with designated goods in Class 35 (Advertising and publicity services; Promoting the goods and services of others through the issuance of trading stamps; Business management analysis or business consultancy, etc.) and having the configuration of the I + Heart Shape with the letters, "TOKYO", written underneath was registered as a trademark on July 5, 2019 with

a US corporation as the trademark holder.

However, while the Applied Trademark does not have distinctiveness for indicating the source, as already held by the court, applicability of Article 3, paragraph (1), item (vi) of the Trademark Act should be considered and determined on a case-by-case basis, so that it cannot be acknowledged, based on the fact that the trademarks of the above [i] to [iii] are registered, that the Applied Trademark has distinctiveness for indicating the source.

Therefore, there is no illegality with the JPO Decision which held that the Applied Trademark falls under Article 3, paragraph (1), item (vi) of the Trademark Act.

Judgment rendered on June 17, 2020

2019 (Gyo-Ke) 10164 A case of seeking rescission of the JPO decision

Date of conclusion of oral argument: March 4, 2020

Judgment

Plaintiff: Crews Company Co., Ltd.

Defendant: Commissioner of the JPO

Main text

1. Plaintiff's claim shall be dismissed.
2. Plaintiff shall bear the court costs.

Facts and reasons

No. 1 Claim

The decision rendered by the JPO on October 23, 2019 for the case of Appeal against Examiner's Decision of Refusal No. 2018-16957 shall be rescinded.

No. 2 Background

The present case is a lawsuit seeking rescission of a judgment which dismissed a request for appeal against the examiner's decision of refusal of an application for trademark registration. The issue is the applicability of Article 3, paragraph (1), item (vi) of the Trademark Act.

1. History of procedures at the JPO

On April 17, 2018, Plaintiff filed an application for registration of the trademark (hereinafter referred to as "Trademark") indicated in Attachment 1, "Description of the Applied Trademark" (hereinafter referred to as "Attachment 1") by designating goods which belong to Classes 14, 16, 18, and 24 (Trademark Application No. 2018-49161; Exhibit Ko 1). On July 4 of the same year, Plaintiff filed an amendment of proceedings (hereinafter referred to as "Amendment") (Exhibit Ko 2), so that the designated goods became as per Attachment 1.

On October 16, 2018, Plaintiff received a decision of refusal (Exhibit Ko 3; hereinafter referred to as "Decision of Refusal"), and on December 20 of the same

year, Plaintiff filed an appeal against the decision of refusal (hereinafter referred to as "Appeal") (Appeal against Examiner's Decision of Refusal No. 2018-16957; Exhibit Ko 4). On October 23, 2019, the JPO rendered a decision to the effect that "the request for the Appeal shall be dismissed" (hereinafter referred to as "JPO Decision", and a copy of the original was delivered to Plaintiff on November 5 of the same year.

2. Regarding the Applied Trademark

The Applied Trademark consists of the configuration of Attachment 1 with the designated goods of Attachment 1 which belong to Classes 14, 16, 18, and 24.

3. Gist of reasons for the JPO Decision

(1) The Applied Trademark consists of the alphabet letter, "I", and a heart shape placed horizontally side by side (hereinafter referred to as "I + Heart Shape"), with the alphabet letters, "JAPAN", written underneath.

(2) A. Meaning of the I + Heart Shape

As a whole, the I + Heart Shape is widely used as a succinct way to demonstrate the English expression of "I love ...".

B. Regarding an indication that is a combination of the I + Heart Shape and some letters on the side or underneath

(A) Indication consisting of the I + Heart Shape, with some letters on the side or underneath

An indication consisting of the I + Heart Shape, with some letters written on the side or underneath, is widely used as a product design showing the feeling of love towards that which is indicated by such letters. For example, such indication is widely used among those in the trade of clothing and the like by being placed directly on a product.

(B) Indication consisting of the I + Heart Shape and a "geographical name" written on the side or underneath

As shown above in (A), an indication consisting of the I + Heart Shape and a "geographical name" written on the side or underneath is widely used as a product design for showing the feeling of love towards the place indicated by said geographical name such as a country or city, in addition to being used as a product design of souvenirs from the country or city indicated by said geographical name, to attract the attention of customers. For example, such indication is widely used among those in the trade of clothing and the like by being placed directly on a product (Attachments 2 (1) to 2 (10), 2 (12) to 2 (28)).

(C) Indication consisting of the I + Heart Shape and the letters, "JAPAN (日

本)", on the side or underneath

An indication consisting of the I + Heart Shape and the letters, "JAPAN (日本)", written on the side or underneath is widely used as a product design for showing the feeling of love of Japan or the love towards something that belongs to Japan such as Japan's national team in sports, or as a product design of souvenirs from Japan for attracting the attention of customers. For example, such indication is widely used among those in the trade of clothing and the like by being placed directly on a product (Attachments 2 (1) to 2 (10), 2 (12) to 2 (19)).

C. Use of the I + Heart Shape

As described above in B, it is reasonable to say that an indication that is a combination of the I + Heart Shape and some letters written on the side or underneath is commonplace, and that it is a mode that is currently used by a large number of people.

(3) As described above in (2), an indication that is a combination of the I + Heart Shape and some letters written on the side or underneath is widely used, according to the circumstances of transaction involving said indication, as a product design for showing the feeling of love towards that which is indicated by such letters, and if such letters refer to a "geographical name", as a product design for showing the feeling of love towards the area or city indicated by said geographical name, or as a product design of souvenirs from said land for attracting the attention of customers, and furthermore, if the "geographical name" is "JAPAN (日本)", as a product design for showing the feeling of love of Japan or the love towards something that belongs to Japan such as Japan's national team in sports, or as a product design of souvenirs from Japan for attracting the attention of customers. For example, such indication is widely used among those in the trade of clothing and the like by being placed directly on a product.

In that case, since it is acknowledged that the Applied Trademark is widely used as a product design for showing the feeling of love of Japan or the love towards something that belongs to Japan such as Japan's national team in sports, or as a product design of souvenirs from Japan for attracting the attention of customers, and that the configuration per se is commonplace, it is reasonable to determine that the use of the Applied Trademark is desirable by any person.

From what is described above, even when the Applied Trademark is used for its designated goods, consumers coming in contact with the Applied Trademark merely recognize and interpret the Applied Trademark as having the meaning of something like "I love Japan" and as a product design for showing the feeling of

love of Japan or the love towards something that belongs to Japan such as Japan's national team in sports, or as a product design for souvenirs from Japan for attracting the attention of customers. As such, it must be said that the Applied Trademark cannot be recognized as a mark having distinctiveness for indicating the source.

Therefore, since it should be said that the Applied Trademark is a trademark by which consumers are not able to recognize the goods or services as those pertaining to a business of a particular person, the Applied Trademark falls under Article 3, paragraph (1), item (vi) of the Trademark Act.

(omitted)

No. 5 Judgment of this court

1. Regarding Reason 1 for Rescission (Error in judgment concerning applicability of Article 3, paragraph (1), item (vi) of the Trademark Act)

(1) Configuration of the Applied Trademark

A As indicated in Attachment 1, the Applied Trademark consists of the I + Heart Shape and the alphabet letters, "JAPAN", written underneath, with the designated goods as indicated in Attachment 1. From among the configuration of the Applied Trademark, the parties are not in dispute over the fact that the I + Heart Shape, as a whole, is a succinct way to demonstrate the English expression of "I love ...", and the fact that an indication that is a combination of the I + Heart Shape, with some letters written on the side or underneath, is interpreted as indicating the feeling of love towards that which is indicated by such letters.

In that case, it is acknowledged that an indication that is a combination of the I + Heart Shape and a "geographical name" written on the side or underneath is interpreted as showing the feeling of love towards the geographical name (such as the name of a country or city) indicated by said geographical name.

B(A) According to the evidence listed in Attachment 2 and the entire import of oral argument, it is acknowledged, as per Attachment 2, that prior to the JPO Decision, 30 indications using the I + Heart Shape could be found on Internet websites in Japan (Attachments 2 (1) to 2 (10), 2 (12) to 2 (19), and 2 (21) to 2 (32)).

In addition, according to evidence (Exhibit Otsu 42), it is acknowledged that, prior to the JPO Decision, the website of "Osumitsuki Shotengai"

showed an image consisting of "I" and "♥", with the letters, "TOYA", written underneath, on the surface of a "sticker" product (hereinafter referred to as "TOYA Indication"), along with words such as "Osumitsuki Shotengai is the official online shop of HORIDAY MARKET TOYA, a variety shop located in Toya Lake Onsen Promenade in the Shikotsu Toya Lake National Park", "I LOVE TOYA STICKER", and "Feel free to place this sticker on various places to call attention to your love of Toya!"

(B) From among the indications of the above (A), it is acknowledged that an indication that is a combination of the I + Heart Shape and a "geographical name" placed on the side or underneath (Attachments 2 (1) to 2 (10), 2 (12) to 2 (19), 2 (21) to 2 (29), 2 (31), and the TOYA Indication) is used as an indication to show the feeling of love towards the place indicated by said geographical name which is combined with the I + Heart Shape, or is used by a business operator, who operates a clothing business or who handles stickers, as an indication to attract the attention of customers by being placed on souvenirs from the place indicated by said geographical name.

In addition, it is acknowledged that an indication consisting of the I + Heart Shape and the alphabet letters, "JAPAN", written on the side or underneath (Attachments 2 (1) to 2 (10) and 2 (13) to 2 (19)) is used, as an indication to show the feeling of support for Japan or for that which belongs to Japan such as Japan's national team, by a business operator who operates a clothing business or who handles stickers.

(C) According to evidence (Exhibits Ko 10, 21, 22 and Exhibit Otsu 10) and the entire import of oral argument, the following facts are acknowledged.

- a. An indication that is a combination of the I + Heart Shape and the letters, "NY", written underneath has been used along with a slogan, "I love New York", in a sightseeing campaign in New York since the late 1970s. Mug cups, T-shirts, and other licensed products which bear the indication that is a combination of the I + Heart Shape and the letters, "NY", written underneath, are sold. The revenue from license agreements for these products is said to be 3 billion yen.
- b. A T-shirt which bears an indication that is a combination of the I + Heart Shape and the letters, "JAPAN", written underneath (Attachment 2 (7)) and a T-shirt which bears an indication that is a combination of

the I + Heart Shape and the letters, "TG", for Tochigi Prefecture, written underneath (Attachment 2 (31)), are products which were created with the awareness of the indication that is a combination of the I + Heart Shape and the letters, "NY", written underneath.

(D) From among the evidence submitted by the defendant, Exhibits Otsu 1, 22 to 28, 37 to 41, and 43 are all document evidence having been prepared after the rendering of the JPO Decision, and there is no sufficient evidence to acknowledge their existence before the JPO Decision was rendered. Accordingly, such evidence cannot be used in relation to the issue of findings. In addition, since it is not clear from documentary evidence when Exhibits Otsu 2 and 3 were prepared, and since it cannot be acknowledged that they indicate the circumstances prior to the rendering of the JPO Decision, they cannot be used in relation to the issue of findings.

(2) Applicability of Article 3, paragraph (1), item (vi) of the Trademark Act to the Applied Trademark

From what is described above in (1), the Applied Trademark is easily understood to have the meaning of "I love Japan". In Japan, an indication that is a combination of the I + Heart Shape and a "geographical name" written on the side or underneath is used as an indication to show the feeling of love towards the place indicated by said geographical name that is combined with the I + Heart Shape, or as an indication of souvenirs from the place indicated by said geographical name for attracting the attention of customers. Also, it is acknowledged that an indication that is a combination of the I + Heart Shape and the letters, "JAPAN", written on the side or underneath is used, as an indication that shows the feeling of support for Japan or for that which belongs to Japan such as Japan's national team, by a business operator who is engaged in a clothing business or who handles stickers. As such, if the Applied Trademark is used for its designated goods, it is acknowledged that traders and consumers coming in contact with the Applied Trademark would merely recognize the same as an indication showing the feeling of love of Japan or the feeling of support toward that which belongs to Japan, or as an indication for souvenirs from Japan. In that case, it must be said that the Applied Trademark does not have distinctiveness for indicating the source.

Therefore, since the Applied Trademark is one which cannot be recognized by consumers as pertaining to any person's business, it falls under Article 3, paragraph (1), item (vi) of the Trademark Act.

(3)A. On the other hand, Plaintiff asserts that the existence of an online shopping site does not mean that the product concerned is viewed by general consumers and is handled in transactions, and that an online shopping site where the product is no longer handled cannot be used as evidence of being "widely used".

According to evidence (Exhibits Ko 25, 26, 40, and 41) and the entire import of the oral argument, it is acknowledged that the number of articles handled by "Amazon.co.jp", an e-commerce site, in Japan is 200 million items (published value) as of 2015, with the sales calculated to be 1 trillion yen, and that the number of articles handed by Yahoo! Shopping is over 280 million items as of 2017, and that the number of articles handled by Rakuten Ichiba is over 270 million items as of December 2019, and that the market size of e-commerce sites for consumers in Japan reached approximately 18 trillion yen by 2018.

However, as described above in (1) B (C), given that the indication of "I + Heart Shape + NY", which takes the form of "I + Heart Shape + geographical name" like the Applied Trademark, has already been used for over 40 years, and that in Japan, there were 29 examples of use as those described above in (1) B (B), it is acknowledged, as described above in (2), that the Applied Trademark does not have distinctiveness for indicating the source, without having to consider the browsing results and sales performance on these sites.

Even if the websites of the above (1) B (A) include an online shopping site which no longer handles the product concerned, since it is interpreted that indications consisting of a combination of the I + Heart Shape with a "geographical name" written on the side or underneath are found on Internet websites, and since such indications are interpreted to be as described in the above (1) B (B), the fact that an online shopping site that no longer handles the product exists does not influence the decision which is made above in (2).

B. Plaintiff asserts that consumers coming in contact with the Applied Trademark would not recognize or interpret the Applied Trademark to be a design that indicates the feeling of love towards Japan's national team or as a design for souvenirs from Japan for attracting the attention of consumers.

However, the Applied Trademark is one that causes an onlooker to easily interpret the meaning of "I love Japan", and given that an indication which, like the Applied Trademark, consists of a combination of the I + Heart Shape and the letters, "JAPAN", written on the side or underneath, is used in an

online shopping site along with words like "support", "goods for support", "national team", "soccer", "W Cup", "Samurai Japan", "soccer, baseball", "2020 Olympics", and "Let's support Japan's national team" (Attachments 2 (1) to 2 (3), 2 (12), 2 (15) to 2 (17)), it is acknowledged that traders and consumers coming in contact with the Applied Trademark would interpret said indication to be showing the feeling of love towards Japan's national team and the like. Furthermore, given that, as is the case with the Applied Trademark, an indication that is a combination of the I + Heart Shape and a "geographical name" written on the side or underneath is used on online shopping sites for products along with words such as "Great for souvenirs from Japan", "A standard souvenir from Guam", "JTB's online shopping site for souvenirs", "Souvenirs from Matsushima", "Enoden's official souvenirs", and "Souvenirs from Tochigi" (Attachments 2 (6), 2 (21), 2 (23), 2 (26), 2 (27), and 2 (31)), it is acknowledged that traders and consumers coming in contact with the Applied Trademark would interpret said indication to be an indication for souvenirs from Japan for attracting the attention of customers.

Therefore, the Plaintiff's claim cannot be accepted.

C. Plaintiff asserts that the Applied Trademark uses a red heart shape and has a design in which the I + Heart Shape takes up more than half of the mark, and a glance at the unique design instantly communicates the feeling of love of Japan to onlookers, so that the Applied Trademark cannot be evaluated as a trademark from which consumers cannot recognize that it pertains to a business of a particular person.

However, the Applied Trademark does not have distinctiveness for indicating the source, as already held by the court, so that the Plaintiff's claim cannot be accepted.

D. Plaintiff asserts that the Applied Trademark has distinctiveness for indicating the source because there are trademarks which are of the same type as the Applied Trademark and which were granted registration.

According to evidence (Exhibits Ko 36, 37, and 39), the following facts are acknowledged; namely, that [i] a trademark with designated goods in Class 25 (Clothing; Garters; Sock suspenders; Suspenders; Waistbands; Belts for clothing; Footwear [other than special footwear for sports]; Masquerade costumes; Clothes for sports [other than clothes for water sports]; Special footwear for sports) and having the same configuration as the Applied Trademark was registered as a trademark on March 27, 2015 with the Plaintiff

as the trademark holder, [ii] a trademark with designated goods in Class 30 (Confectionery; Bread and buns; Sandwiches; Steamed buns stuffed with minced meat [Chinese-manjuh]; Hamburgers; Pizzas; Hot dogs, etc.) and having the same configuration as the Applied Trademark was registered as a trademark on June 15, 2018 with Plaintiff as the trademark holder, and [iii] a trademark with designated goods in Class 35 (Advertising and publicity services; Promoting the goods and services of others through the issuance of trading stamps; Business management analysis or business consultancy, etc.) and having the configuration of the I + Heart Shape with the letters, "TOKYO", written underneath was registered as a trademark on July 5, 2019 with a US corporation as the trademark holder.

However, while the Applied Trademark does not have distinctiveness for indicating the source, as already held by the court, applicability of Article 3, paragraph (1), item (vi) of the Trademark Act should be considered and determined on a case-by-case basis, so that it cannot be acknowledged, based on the fact that the trademarks of the above [i] to [iii] are registered, that the Applied Trademark has distinctiveness for indicating the source.

E. Plaintiff asserts that it has a record of having manufactured and sold a large number of products indicating the same design as the Applied Trademark, and that it plans to continue manufacturing the same in the future. A written statement by the Plaintiff's president (Exhibit Ko 27) indicates that since March 2015, Plaintiff has manufactured approximately 100,000 items of T-shirts, socks, tote bags, key holders, and other apparel goods, as well as confectioneries for souvenirs, all of which bear the same design as the Applied Trademark, and sold them mainly in physical stores, and that the Plaintiff will start the "I ♥ JAPAN Project" starting in 2018, and that the Plaintiff has been granted registration for trademarks which have the same design as the Applied Trademark, and that Plaintiff granted licenses for these trademarks to other companies, and that the licensees are manufacturing approximately 60,000 items of products that have the same design as the Applied Trademark, with a plan to expand the scale of manufacture to cover not less than 200,000 items.

However, it cannot be acknowledged that the Applied Trademark has distinctiveness for indicating the source, as already held by the court, and this decision shall not be influenced by the content of the written statement as described above.

- (4) Based on what is described above, Reason 1 for Rescission is not

reasonable.

2. Regarding Reason 2 for Rescission (deviation from or abuse of discretionary power)

Plaintiff asserts that the Decision of Refusal and the JPO Decision are against the principle of equality and constitute deviation from, or are abuse of the discretionary power.

However, it cannot be acknowledged that the Applied Trademark has distinctiveness for indicating the source, as already held by the court, and as for the point as to the trademarks of the same type as the Applied Trademark being granted registration, the court held as described above in 1 (3) D, so that there is no illegality with the JPO Decision according to which the Applied Trademark falls under Article 3, paragraph (1), item (vi) of the Trademark Act.

Therefore, Reason 2 for Rescission is unreasonable.

3. Conclusion

In conclusion, Plaintiff's claim is unreasonable, and Plaintiff's claim shall be dismissed, and the court renders a judgment as per the main text.

Intellectual Property High Court, Second Division

Presiding judge: MORI Yoshiyuki
Judge: MAKABE Mihoko
Judge: SANO Shin

Description of the Applied Trademark

Trademark configuration:



Classification of goods and services as well as designated goods and designated services:

[Class 14]

Key rings [trinkets or fobs]; Key chains; Key head covers for key rings; small, finely carved figures which are used as toggles for money purses, tobacco pouches, and the like [Netsuke]; Personal ornaments [other than "cuff links"]; Clocks and watches

[Class 16]

Paper and cardboard; Stationery and study materials; Printed matter; Paintings and calligraphic works; Photographs; Photograph stands; Pastes and other adhesives for stationery or household purposes; Addressing machines; Ink ribbons; Automatic stamp affixing machines; Electric staplers for offices; Envelope sealing machines for offices; Stamp obliterating machines; Drawing instruments; Typewriters; Checkwriters; Mimeographs; Relief duplicators; Paper shredders [for office use]; Franking machines [stamping machines]; Rotary duplicators; Containers of paper, for packaging; Bags [pouches] of plastics, for packaging; Banners of paper; Hygienic hand towels of paper; Towels of paper, Table napkins of paper; Hand towels of paper; Handkerchiefs of paper

[Class 18]

Bags and the like; Wallets; Pouches and the like; Vanity cases [not fitted]; Industrial packaging containers of leather; Clothing for domestic pets; Umbrellas and their parts; Walking sticks; Canes; Metal parts of canes and walking-sticks; Handles of canes and walking-sticks; Leather and fur [unworked or semi-worked]

[Class 24]

Personal articles of woven textile [not for wear] (including "towels [of textile], hand towels, bath towels, Japanese cotton towels [Tenugui], handkerchiefs, Japanese ceremonial wrapping cloth [Fukusa], and Japanese general wrapping cloth [Furoshiki]); Woven fabrics; Felt and non-woven textile fabrics; Mosquito nets; Bedsheets; Futon and quilts; Futon and quilts cases [linen]; Futon ticks [unstuffed futon]; Pillowcases [pillow slips]; Blankets; Table napkins of textile; Toilet seat covers of textile; Seat covers of textile; Wall hangings of textile; Curtains; Table cloths [not of paper]; Draperies [thick drop curtains]

Evidence disclosed on March 27, 2019 during hearing

- (1) On the website of "Wigland Yahoo Store", under the heading of "support silk hat (blue) I LOVE JAPAN soccer support noisemaker paint headgear", on the front of a "hat" product, there is an image consisting of the I + Heart Shape with the letters, "JAPAN", written in a large size underneath, along with the words, "[party goods / event / performance / support goods support silk hat (blue) I LOVE JAPAN] Enjoy supporting in a fashionable manner♪ I love Japan!!" (Exhibit Ko 28, Exhibit Otsu 4).
- (2) On the website of "Honey Butterfly", on the entire surface of a "bib" product, there is an image showing the I + Heart Shape, with the letters, "JAPAN", written underneath, along with the words, "Suitable for a present or a gift!", "[Bib for fun] [W Cup ★ Support Goods] baby bib pile I LOVE JAPAN / Nadeshiko / Samurai / soccer / bib / Yodarekake e-33" (Exhibit Otsu 5).
- (3) On the website of "Soccer Shop Gracias", under the heading of "Let's give our support to Japan's national team! 'I Love Japan' ankle socks", there is an image showing the I + Heart Shape, with the letters, "JAPAN", written in a large size underneath, on the top of the foot of the 'sock' product, along with the words, "Here is a pair of ankle socks which are intended to be support goods for Japan's national team for soccer, with 'I LOVE JAPAN' written in cute characters. This item is a fun way to strengthen our love of Japan and give our support. Let's give our support to Japan's national team with the whole family!!" (Exhibit Otsu 6).
- (4) On the website of "Amazon.co.jp", under the heading of "I LOVE JAPAN Waterproof Sticker I LOVE JAPAN Waterproof Sticker [1 piece]", on the entire surface of a "sticker" product, there is an image of the I + Heart Shape, with the letters, "JAPAN", written underneath, along with the words, "UNderSell" and "for all types of fans and maniacs, enthusiasts, and people with all kinds of fetishism, this is the [I LOVE ... series] sticker!! Let's introduce what you love to your family members, friends, and everyone else around you and loudly call attention to what you love!!" (Exhibit Otsu 7).
- (5) On the website of "Womma!", on the front of a "T-shirt" product, there is an image of the I + Heart Shape, with the letters, "JAPAN", written in a large size underneath, along with the words, "T-shirt I LOVE JAPAN" (Exhibit Otsu 8).
- (6) On the website of "Amazon.co.jp", on the front of a "hat" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written in a large size

- underneath, along with the words, "a cap with a three-dimensional embroidery of Japanese pattern work 'I LOVE JAPAN' black one size / Great for foreigners as souvenirs from Japan", "Duet World", and "The words, 'I LOVE JAPAN', which have now become a global slogan, turned into a wonderful shape of ... is it three-dimensional? " (Exhibit Otsu 9).
- (7) On the website of "T-SHIRTS TRINITY", on the front of a "T-shirt" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written in a large size underneath, along with the words, "I LOVE Design Specialty Shop, 'I LOVE SHOP'. We sell various types of pop and cute T-shirts with I LOVE letters", "I LOVE JAPAN Not 'I LOVE NY' but 'I LOVE JAPAN'. A T-shirt with a simple and cute logo. Furthermore, the 'I ♥' part is printed in a pop and cute I LOVE NY original font" (Exhibit Otsu 10).
- (8) On the website of "Amazon.co.jp", on the front of a "T-shirt" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written in a large size underneath, along with the words, "Teeburon I love Japan chalk style T-shirts for women" (Exhibit Otsu 11).
- (9) On the website of "Amazon.co.jp", on the front of a "hoodie" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written in a large size underneath, along with the words, "DFSI", "I Love Japan men's hoodie hooded top fashion sports comfortable thin pullover sweatshirt with pockets casual" (Exhibit Otsu 12).
- (10) On the website of "Amazon.co.jp", on the front of a "T-shirt" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written in a large size underneath, along with the words, "T-shirt I Love Japan black L size Ishikawa Bussan" (Exhibit Otsu 13).
- (11) On the website of "GENERAL STICKER Rakuten Store", on the entire surface of a "key holder" product, there is an image of "アイ ♥", with the letters, "JAPAN", written underneath, along with the words, "Here is the popular I LOVE series in the form of a key holder. I LOVE key holder / ALK-021 I Love Japan" (Exhibit Ko 11).
- (12) On the website of "Yahoo! Auction", on the entire surface of a "sticker" product, there is an image of the I + Heart Shape with the letters, "日本", written underneath, along with the words, "I LOVE JAPAN Sticker Samurai_Japan_ZEAL Japan" and "In addition to what is listed as our products, we can also create products using geographical names as well as other names and words of your choice such as 'I ♥ LA', 'I ♥ 所沢', 'I ♥ 麻友', 'I ♥ 自由'

- (Exhibit Otsu 14).
- (13) On the website of "Amazon.co.jp", on the entire surface of a "smartphone case" product, there is an image of the I + Heart Shape with the letters, "JAPAN", underneath, along with the words, "JLFDM" and "I Love Japan popular series iPhone case, mobile phone protection case / unisex" (Exhibit Otsu 15).
- (14) On the website of "Beam Smile", on the entire surface of a "patch" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written underneath, along with the words, "Popular I LOVE Japan patch, a set of two pieces. This standard design is very popular" and "Great for foreigners who love Japan and for events♪" (Exhibit Ko 12, Exhibit Otsu 16).
- (15) On the website of "Sticker-Kingdom, Specialized Store for Original Stickers, Nameplates, and Seals", on the entire surface of a "sticker" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written underneath, along with the words, "I LOVE JAPAN Sticker LOVE Japan Nippon Nihon Welcoming Visitors Olympic 2020" (Exhibit Ko 13, Exhibit Otsu 17).
- (16) On the website of "Rakuten.co.jp", on the front of a headband product, there is an image of the I + Heart Shape with the letters, "JAPAN", written in a large size on the side, along with the words, "Support Hachimaki I LOVE JAPAN keyword support goods Japan Nippon national team soccer baseball spectating B-2197 267766 02" and "Halloween Land" (Exhibit Otsu 18).
- (17) On the website of "GALLERY 2 Online Shop", under the heading of "support headband hairband", on the entire surface of a "hairband" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written on the side, along with the words, "Let's give our support to Japan's national team by looking fashionable with the I LOVE JAPAN headband!" (Exhibit Otsu 19).
- (18) On the website of "M-deco Rakuten Ichiba Store", on the entire surface of a "towel" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written on the side, along with the words, "Face towel selected by M-deco, in the size of 30 times 78 cm Attractive pop design☆ 38 types in all (omitted) I Love Japan" (Exhibit Otsu 20).
- (19) On the website of "Amazon.co.jp", on the posterior of an "underwear for men" product, there is an image of the I + Heart Shape with the letters, "JAPAN", written in a large size on the side, along with the words, "FDS boxer underwear men's I LOVE JAPAN" (Exhibit Otsu 21).
- (20) On the website of "Kabushiki Kaisha TCD", there is an image of the I +

Heart Shape with the letters, "NY", written underneath, along with the words, "It has been 40 years since the 'I ♥ NY' logo was created, and the logo is still used in NY's sightseeing campaigns even today. The registered trademark for the logo is currently held by New York State Division of Tourism, whose revenue from the licensing agreements for the sale of licensed products, including mug cups and T-shirts bearing the 'I ♥ NY' logo, is said to be 3 billion yen per year. Parodied items of 'I ♥ NY' products are manufactured all over the world, and the number is countless. (omitted) Although the design is simple, with the 'LOVE' being replaced by '♥', one of the reasons for its popularity is the design's ability to instantly communicate the message to anyone looking at it, so that the design can be called innovative" (Exhibit Ko 22).

- (21) On the website of "HONEYLAND", on a side surface of a "mug cup" product, there is an image of the I + Heart Shape with the letters, "GUAM", written in a large size underneath, along with the words, "Limited goods of I LOVE GUAM are available only at HONEYLAND!!", "I LOVE GUAM black mug cup souvenir standard [GUAM001]" and "Standard souvenirs from Guam are 'mug cups'. In particular, I LOVE GUAM mug cups are the most popular!!" (Exhibit Ko 33, Exhibit Otsu 29).
- (22) On the website of "usedoor", under the heading of "How to pre-order and purchase ['A' T-shirt] 'WE ♥ A HANABI SHOW supported by 7-Eleven Official Goods'", on the front of a "T-shirt" product, there is an image of the I + Heart Shape with the letters, "okinawa" or "music", written in large size underneath, along with the words, "Here is a T-shirt with the design of Okinawa, an important place for A-chan! (omitted) On the final day, let's all wear I LOVE T-shirts and get excited!" and "Here is a T-shirt with the design of A-chan's favorite music! (omitted) On the final day, let's all wear I LOVE T-shirts and get excited!" (Exhibit Ko 14, Exhibit Otsu 30).
- (23) On the website of "WORLD SHOPPING PLAZA", on the package of a "chocolate" product, there is an image of the I + Heart Shape with the letters, "韓國", written in a large size underneath, along with the words, "JTB's online shopping site for souvenirs" and "I LOVE KOREA Chocolate, a set of three boxes, a package with a memorable design, milk chocolate with an attention-grabbing, modern package" (Exhibit Ko 15, Exhibit Otsu 31).
- (24) On the website of "GENERAL STICKER Rakuten Store", on the entire surface of a "badge" product, there is an image of the I + Heart Shape with the letters, "SAITAMA", written underneath, along with the words, "I LOVE Local

Edition I Love Local Edition Can Badge ILC-011 I Love SAITAMA"
(Exhibit Ko 16, Exhibit Otsu 32).

- (25) On the website of "Amazon.co.jp", on the front of a "T-shirt" product, there is an image of the I + Heart Shape with the letters, "大阪", written in a large size underneath, along with the words, "Clubt", "I Love Osaka T-shirt", and "For you because of your deep love for Osaka" (Exhibit Otsu 33).
- (26) On the website of "Matsushima-omiyage.com", on the entire surface of a "sticker" product, there is an image of the I + Heart Shape with the letters, "宮城", written in a large size on the side, along with the words, "Product name: I LOVE Miyagi Sticker" (Exhibit Ko 34, Exhibit Otsu 34).
- (27) On the website of "Chigasaki Style", under the heading of "Enoden Official Souvenir [I Love Shonan]", on the package of a "confectionery" product, there is an image of the I + Heart Shape with the letters, "湘南", written on the side, along with the words, "[I Love Shonan] White Chocolate Lang de Chat is a souvenir of the 'Shonan' style, which conjures up images of Fujisan, Chigasaki, Enoshima, Kamakura, Shichirigahama, Eboshiiwa, Southern C, Southern Beach, Surfers, and the like" (Exhibit Ko 18, Exhibit Otsu 35).
- (28) On the website of "usedoor", under the heading of "How to pre-order and purchase ['A' T-shirts" 'WE ♥ A HANABI SHOW supported by 7-Eleven Official Goods"', on the entire surface of a "sticker" product, there is an image of the I + Heart Shape with the letters, "okinawa" or "music", written on the side, along with the words, "Stickers (a set of two pieces) Here is a set of two pieces of stickers with the design of A-chan's favorite music and the design of Okinawa, an important place for A-chan! Put it on your favorite item and turn it into I LOVE A-chan goods!" (Exhibit Otsu 36).
- (29) On the website of "TMIX", under the heading of "Let's design your original I Love T-shirt!", on the front of a "T-shirt" product, there is an image of the I + Heart Shape with the letters, "NY", "Soccer (with the letter, 'o', designed as a ball), or "Dad", written in a large size underneath, along with the words, "Simply by combining a heart with letters, you can create a fashionable and fun I Love T-shirt! You can write the name of someone you like in the space provided after 'I Love', or you can insert an image or a favorite word to create your own design!! Complete your own original T-shirt♪ You can wear it with your boy/girlfriend, or with your friend, or you and your team can create an original design for the team to strengthen the bond among teammates☆ At TM IX, you can create an original I Love T-shirt by easy steps" (Exhibit Ko 19).

- (30) On the website of "Original Print 432 Design Farm", under the heading of "I-LOVE HEISEI T-shirt 023C", on the front of a "T-shirt" product, there is an image of the I + Heart Shape with the letters, "平成", written in a large size underneath, along with the words, "This is a T-shirt with 'I LOVE 平成' printed in a large size on the chest!! The part of '平成' can be replaced with any two-character word! Enjoy using words such as your area of residence, name, school, and any other word of your choice."
- (31) On the website of "Womma!", under the heading of "Tochigi souvenir I LOVE TG TEE I LOVE TOCHIGI fun T-shirt birthday present women men female friend fun T-shirt present gift", on the front of a "T-shirt" product, there is an image of the I + Heart Shape with the letters, "TG", written in a large size underneath, along with the words, "Not 'I Love NY', but 'I Love Tochigi'!! This T-shirt is more than just a parody. This T-shirt is a very strong seller and shows the love of one's hometown. The most standard item of clothing which should be worn by someone who really loves Tochigi when walking in town" (Exhibit Ko 21).
- (32) On the website of "Sportsnetmatsuyama", under the heading, "New!! Original design Japan-made volleyball socks [Immediate Delivery] Volleyball socks made in Japan high socks MVS-2952 ladies volley socks", in the part from the ankle to the shin of a sock product, there is an image of the I + Heart Shape with the letters, "VB", written in a large size on the side, along with the words, "A simple and cute message design of 'I LOVE VB'" (Exhibit Ko 35).