

Date	July 25, 2018	Court	Intellectual Property High Court, Fourth Division
Case number	2018 (Gyo-Ke) 10005		
<p>- A case in which the JPO rendered the decision to revoke the trial decision ("Original Decision") in a case concerning whether or not a trademark held by the plaintiff, consisting of elements such as the figure of a lighting apparatus ("Trademark"), falls under Article 4, paragraph (1), item (xix) of the Trademark Act. In the Original Decision, it was determined that, since a trademark consisting of the three-dimensional form of a lampshade sold by the defendant cannot be acknowledged as falling under a "trademark that is well known among consumers" in Japan as that indicating goods pertaining to the defendant's business, the plaintiff's trademark does not fall under said provision.</p>			

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

Number of related right, etc.: Trademark No. 5685459

Summary of the Judgment

The defendant filed a demand for invalidation trial for a trademark (Trademark No. 5685459; hereinafter referred to as "Trademark"), which is held by the plaintiff and which consists of elements such as the figure of a lighting apparatus, and the JPO rendered a trial decision to the effect that the Trademark shall be invalidated because it falls under Article 4, paragraph (1), item (xix) of the Trademark Act. The present case is a suit for revocation of the above trial decision.

In the judgment rendered in the present case, the Court rescinded the trial decision which acknowledged the applicability of Article 4, paragraph (1), item (xix) of the Trademark Act to the Trademark by determining as follows, without determining other claims: (i) In light of the selling conditions of the Defendant's Product, advertisement conditions of the Defendant's Product, and how the Defendant's Product was shown in magazines and other publications, and even by taking into consideration the fact that the Defendant's Product was continuously sold for approximately 29 years, it cannot be said that the trademark (hereinafter referred to as "Cited Trademark") consisting of the three-dimensional form of a lampshade, "PH Snowball," which is sold by the defendant (hereinafter referred to as "Defendant's Product"), became well known all over Japan among traders of lighting apparatuses and interior decorations as well as general consumers who are interested in lighting apparatuses and interior decorations, and thus it cannot be said that the Cited Trademark was well-known and famous at the time of the filing of the application for registration of the Trademark, and furthermore, it cannot be acknowledged that the Cited Trademark attained the distinction function or

distinctiveness; (ii) as such, it cannot be acknowledged that the Cited Trademark falls under the "trademark that is well known among consumers" in Japan as that indicating goods pertaining to the defendant's business.

Judgment rendered on July 25, 2018

2018 (Gyo-Ke) 10005 Case of seeking rescission of JPO decision

Date of conclusion of oral argument: June 27, 2018

Judgment

Plaintiff: Kabushiki Kaisha R&M JaPan
Defendant: Louis Poulsen A/S

Main text

1. The trial decision rendered by the JPO on December 1, 2017 for the Case of Invalidation Trial No. 2017-890004 shall be rescinded.
2. The plaintiff shall bear the court costs.
3. The addition period for filing a final appeal and a petition for acceptance of final appeal against this judgment shall be 30 days.

Facts and reasons

No. 1 Claims

Same as Paragraph 1 of the main text

No. 2 Outline of the case

1. Development of procedures at the JPO

- (1) The plaintiff is the trademark holder of the following trademark (Trademark No. 5685459; hereinafter referred to as "Trademark") (Exhibits Ko 1 and 2).

Trademark: As per Attachment 1

Application date: January 30, 2014

Date of decision for registration: June 4, 2014

Date of registration of establishment: July 11, 2014

Designated services:

Class 35 "Retail services or wholesale services for woven fabrics and beddings; retail services or wholesale services for bags and pouches; retail services or wholesale services for personal articles; retail services or wholesale services for furniture; retail services or wholesale services for light bulbs and lighting apparatuses; retail services or wholesale services for clocks, watches, and spectacles [eyeglasses and goggles]; retail services or wholesale services for interior window blinds; retail services or wholesale services for bamboo blinds; retail services or wholesale services for bead curtains for decoration; retail

services or wholesale services for sunshades; retail services or wholesale services for fabric chair covers; retail services or wholesale services for fabric wall hangings; retail services or wholesale services for curtains; retail services or wholesale services for table cloths; retail services or wholesale services for floor coverings; retail services or wholesale services for wall hangings (not of fabric)"

- (2) On December 31, 2016, the defendant filed a demand for invalidation trial for the Trademark.

The JPO examined the above demand as the Case of Invalidation Trial No. 2017-890004, and on December 1, 2017, rendered a trial decision to the effect that the "registration of the Trademark No. 5685459 shall be invalidated" (hereinafter referred to as "Trial Decision"), and a copy of the Trial Decision was delivered to the plaintiff on the 12th of the same month.

- (3) On January 6, 2018, the plaintiff filed the present suit for revocation of the Trial Decision.

2. Gist of reasons for Trial Decision

The reasons for the Trial Decision are as indicated in the attached Written Trial Decision (copy).

The gist of the reasons is as follows. The Trademark was well known among consumers in Japan, prior to the filing of the application for registration of the Trademark or at the time of the decision for registration, as that indicating goods pertaining to a business of another person (the defendant), and furthermore, the Trademark is similar to the three-dimensional form of the lampshade shown in Attachment 2 (hereinafter referred to as "Cited Trademark"; Exhibit Ko 6), and is being used by the plaintiff for unfair purposes. Accordingly, the Trademark falls under Article 4, paragraph (1), item (xix) of the Trademark Act, and the registration of the Trademark is in violation of the same provision, and thus the Trademark should be invalidated pursuant to the provisions of Article 46, paragraph (1) of the same Act without determining other reasons for invalidation (Article 4, paragraph (1), items (vii), (x), and (xv)) as claimed by the demandant (defendant)."

3. Grounds for revocation

Judgment error of applicability of Article 4, paragraph (1), item (xix) of the Trademark Act.

(omitted)

No. 4 Judgment of this court

1. Notoriety of the Cited Trademark

(1) Findings

When the facts and evidence described in the above No. 2-1 (Exhibits Ko 3 to 7, 9, 10, 19 to 83, 87 to 95, 117 to 120, 122, Exhibits Otsu 5, 11, 12) as well as the entire import of the oral argument are taken into consideration, the following facts are acknowledged.

A Defendant

The defendant is a Danish corporation having been established in 1874 and engages in the manufacture and sale and the like of electric appliances and lighting apparatuses.

Since 1967, the defendant has established wholly-owned overseas subsidiaries in Germany, France, Sweden, USA, Norway, Netherlands, Australia, Finland, Switzerland, and England. In Japan, a company called "Louis Poulsen Japan Kabushiki Kaisha" (former trade name: Targetti Poulsen Japan Kabushiki Kaisha; hereinafter referred to as "Defendant's Japanese Corporation"), which engages in the manufacture, import, export, and wholesale of lighting apparatuses, was established in 1990.

B Selling situations of Defendant's Product

(A) Ever since the defendant began selling the lampshade ("Defendant's Product"), which was designed in 1958 by Poul Henningsen, a Danish designer, and which is known as "PH Snowball," in 1983, the defendant has sold, globally through overseas subsidiaries and the like, the Defendant's Product as well as other lampshade products ("PH Series") designed by Henningsen.

In Japan, 株式会社 YAMAGIWA (Kabushiki Kaisha YAMAGIWA: YAMAGIWA Corporation) [(former trade name: 株式会社ヤマギワ (Kabushiki Kaisha Yamagiwa: Yamagiwa Corporation); hereinafter referred to as "Yamagiwa") has acted as the defendant's distributor since 1986, and the Defendant's Japanese Corporation has engaged in the import and sale and the like of Defendant's Product, as the defendant's overseas subsidiary since 1993.

The total number of the Defendant's Product sold in Japan during the period from 2000 until 2016 is 5,759, and the total amount of sales is approximately 68,000,000 yen (Exhibit Ko 118).

(B) The defendant's client list (Exhibit Ko 119) indicates approximately 5,000 companies (persons) (including overlaps of same companies) all over the country, including architectural design offices, general contractors, lighting design companies, interior design/interior finishing work companies, housing renovation companies, furniture/interior decorating shops, and press. Accordingly, the Defendant's Product is available nationwide from Hokkaido to Kyushu.

C Advertising

(A) Since 1986, Yamagiwa or the Defendant's Japanese Corporation has regularly made a catalogue of products showing the Defendant's Product along with its photograph(s) (Exhibits Ko 19 to 26, 31, 33 to 43, 87 to 95), and distributed the same to the clients and the like indicated on the defendant's client list.

In the catalogue of products made by Yamagiwa, the Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with descriptions such as the following: "Louis Poulsen/PH series/Louis Poulsen of Denmark began its lighting business in the mid-1920s. Ever since, the company has pursued its concept of "designing the balance between the environment, and people and light." The PH series designed by Poul Henningsen, who was both a shrewd designer and architect, is a representative work of the company. The carefully designed blades and shades make it impossible to see the light source from any angle, and only the soft glow of indirect light is emitted into the space. The unique form that has its own presence is designed for the sole purpose of creating good-quality light, even earning it the name, "Objet de Lumiere" ("1998-99" edition (Exhibit Ko 90), "2002-2003" edition (Exhibit Ko 91), "2004-2005" edition (Exhibit Ko 92)). In the catalogue of products made by the Defendant's Japanese Corporation, the Defendant's Product is introduced over one page along with photograph(s), and there are descriptions such as the following: "PH Snowball Designed by: Poul Henningsen This design, in which louvers are arranged in several layers, was announced in 1958" ("1992" edition (Exhibit Ko 24), "1996" edition (Exhibit Ko 26)), "PH Snowball The design of eight-layered lampshade which appeared in 1924 was redesigned and announced in 1958. It was released in 1983" ("2001" edition (Exhibit Ko

31), "2007" edition (Exhibit Ko 35)).

(B) Showing of the Defendant's Product in magazines and other publications

Between 2000 and around 2014, the Defendant's Product was introduced in a number of publications, including books on furniture, magazines/catalogues on lighting, interior decoration magazines, fashion magazines, etc. (Exhibits Ko 44 to 83).

These publications contain descriptions of the Defendant's Product, such as the following.

- a. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "Treasures of Lighting --- Selections from three Northern European cities", "POUL HENNINGSEN Poul Henningsen Snowball This piece was displayed at 'Glass, Light, and Color Exhibition' in 1958 and was commercialized in 1985." ("pen 2000.2"/Exhibit Ko 44)
- b. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "Evening Twilight which P. Henningsen loved," "'Snowball' --- Just like the name of this work, beautiful shades create the image of a snowball, softly and intoxicatingly illuminating the space. ("pen 2001 4/1"/Exhibit Ko 45)
- c. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "PH lamp, having been designed by Poul Henningsen, is a representative product of Louis Poulsen ... PH Snowball." ("Memo *Otoko-no-heya* (Male Room) 2001.10"/Exhibit Ko 46)
- d. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "Warm and soft light of Northern Europe," "Poul Henningsen's PH Snowball. The overlapping shades produce light and shadow in a calculated manner," "By coloring some shades in a glossy finish and others in a matte finish, the unique style of the resulting light and

shadow is an art in itself --- Snowball" (*Atarashii-sumai-no-sekkei* (New Design for Housing) 2002.1"/Exhibit Ko 48)

- e. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "Snowball --- The finest piece of all masterpieces of Poul Henningsen. The soft glow and gradations produced by shades and reflectors are exceptionally beautiful." (*Hokuo-stairu* (Northern European Style) 2002 Summer"/Exhibit Ko 49)
- f. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "P. Henningsen's masterpiece in which the carefully calculated and designed shades produce soft and indirect light ... PH Snowball" (*Yunyu-jutaku Bessatsu Sumai-no-sekkei* (Import Houses Supplement Edition Design for Housing) 118"/Exhibit Ko 50)
- g. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "One of the PH series, which are timeless masterpieces of Poul Henningsen. The lighting effect created by the eight shades, some of which are in a glossy finish and others in a matte finish, is beautiful ... Product name: PH Snowball" (*Yunyu-jutaku* (Import Houses) Best Selection 5"/Exhibit Ko 53)
- h. The Defendant's Product is shown over one page with photograph(s), along with the descriptions, "Soft light that breathes of tradition and a modern style," "Poul Henningsen's PH series are designed so that the light does not hit the eye directly, and has a well-crafted structure in which reflection and diffusion are adjusted, making the space look beautiful. Products such as 'PH Snowball' and 'PH Artichoke,' in which the bulb, or the light source, cannot be seen from any angle, are symbolic of said well-crafted structure." (*Kagu-korekusion* (Furniture Collection) vol. 17 Spring 2006"/Exhibit Ko 58)
- i. The Defendant's Product is shown over one page with photograph(s), along with the descriptions, "*Hikari-no-bi-wo-kiwameta-atarashii-jutaku-shomei* (New Residential Lighting With Extremely Beautiful

Light) Poul Henningsen 'Snowball,'" "While the most well-known lighting apparatuses having the name of 'PH lamps' are mostly pendant-type apparatuses, works such as 'PH5' and 'Snowball,' which can be called representative works, are in fact made mostly out of aluminum." ("Ecoms 22 2007.9"/Exhibit Ko 60)

j. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "The 'PH Snowball' has a unique lighting effect obtained by coloring both sides of the shades, some in a glossy finish and others in a matte finish. The beautiful effect of this lighting can withstand the long passage of time --- Pendant light (PH snowball)." ("SEMPRE NEWS vol. 4 2009"/Exhibit Ko 63)

k. The Defendant's Product and other products of the "PH" series are shown with photographs from which the forms (three-dimensional forms) of these products can be recognized, along with the descriptions, "The 'PH Snowball,' which came into being approximately fifty years ago, is one of the masterpieces equipped with the functional beauty that is representative of the Northern European lighting design." ("Precious 2009.3"/Exhibit Ko 64)

D Background to the present suit

(A) The plaintiff engages in the sale of interior decorating products by reproducing the original designs of products, for which the design rights have expired, as accurately as possible and calling the resulting products "reproduced items" (hereinafter referred to as "Plaintiff's Product") and selling such items on a website it operates (Exhibit Ko 3).

(B) On February 20, 2013, the defendant sent an e-mail (Exhibit Ko 7/Exhibit Otsu 11 (Translation)) to the plaintiff stating, among other things, that the plaintiff's sale of lighting apparatuses on the plaintiff's website infringes on the trademark rights and design rights of products such as PH5, PH Artichoke, and PH50 of Poul Henningsen (PH), thereby constituting unfair competition, and requesting for suspension of the sale as well as for compensation for damage. The Plaintiff's Product was indicated as one of the products, for which suspension of sale and the like were requested, on the list of products attached to the above e-mail.

(C) On March 6 of the same year, the plaintiff sent an e-mail (Exhibit Ko

120/Exhibit Otsu 12 (Translation)) to the defendant stating, among other things, that according to the plaintiff's search into design rights and trademark rights of the defendant in Japan, there is no fact of infringement by the plaintiff of any design right or trademark right of the defendant, and that, if the plaintiff is in fact infringing on the defendant's intellectual property right, the defendant should provide a legal basis for such claim.

On the same date, the defendant replied with an e-mail (Exhibit Ko 120/Exhibit Otsu 12 (Translation)), by attaching thereto images of registration certificates for the defendant's registered trademarks ("Louis Poulsen" and "ARTICHOKE") in Japan, stating, among other things, that the plaintiff must delete from its website, no later than by the 8th of the same month, all lighting apparatuses which are posted on the website and which infringe on the defendant's trademark right and design right, and that lighting apparatuses are subject to protection as "applied art works" for 70 years after the designer's death.

- (D) On November 11, 2013, the attorney defending the defendant sent a warning letter (Exhibit Ko 5) to the plaintiff stating, among other things, that the design of PH5 is a well-known and famous mark for goods and the like in Japan as that indicating goods pertaining to the defendant's business of manufacture and sale, that the products which the plaintiff sells under the name "PH5 Pendant lamp Old Model" and under the name "PH50 Pendant lamp" are very much like the design of PH5, that the plaintiff's act of sale as described above falls under the unfair competition stipulated in Article 2, paragraph (1), item (i) of the Unfair Competition Prevention Act, and thus requesting for discontinuation of the sale and for deletion of the pages of the aforementioned products from the plaintiff's website.
 - (E) On January 30, 2014, the plaintiff filed the application for registration of the Trademark, and received the decision of registration on June 4 of the same year. Then on July 11 of the same year, registration of the Trademark was established.
 - (F) On December 31, 2016, the defendant filed a demand for invalidation trial for the Trademark.
 - (G) On January 6, 2018, the plaintiff filed the present suit against the Trial Decision, which was rendered by the JPO on December 1, 2017 to the effect of invalidating the Trademark.
- (2) Whether or not Cited Trademark has notoriety

A As shown in Attachment 2, the Cited Trademark has the three-dimensional form of a lampshade with an eight-layer structure having a small convex part in the upper section, and consisting of the form of eight overlapping shades. This form of eight overlapping shades is unique, and is acknowledged as a characteristic form. Also, it is acknowledged that the Cited Trademark has the three-dimensional form of a lampshade (Defendant's Product) which is designed by Henningsen and is called "PH Snowball," and which is a unique design that could not be seen in other lampshade products at the time when the sale of the Defendant's Product began in Japan in 1986. Naturally, the three-dimensional form of the Defendant's Product was adopted for the purpose of exerting the function as a lampshade more effectively and improving the aesthetics (Exhibits Ko 90 to 92), and furthermore, it cannot be said that the form greatly exceeds the scope usually adopted as the form of a lampshade, and thus it cannot be acknowledged that the three-dimensional form of the Defendant's Product in itself has the function of indicating the product source and distinguishing the product from other products (distinction function), or distinctiveness.

Under the above circumstances, whether or not the Cited Trademark has, as a result of being used for the Defendant's Product, attained the distinction function or distinctiveness and become "well known among consumers" in Japan as that indicating goods pertaining to the defendant's business at the time of the filing of the application for registration of the Trademark shall be determined.

B In light of the fact that the Defendant's Product is a lampshade product, it can be acknowledged that the consumers of the Defendant's Product are traders of lighting apparatuses and interior decorations as well as general consumers who are interested in lighting apparatuses and interior decorations.

Now, when we look at the selling situations of the Defendant's Product, the fact that the Defendant's Product began to be sold in Japan in 1986, the fact that the number of the Defendant's Product sold over the period of 17 years from 2000 until 2016 was a total of 5,759, and the fact that the total amount of sales was approximately 680,000,000 yen are as described in above (1)B(A). If this is the case, the average number per year of the Defendant's Product sold over the above period of 17 years would be approximately 339, and the amount of sales per product would be approximately 118,076 yen.

While details of the overall selling situations, such as the number of

lampshade products that are within the price range of the Defendant's Product, is unclear, it cannot be said that the sales performance of the Defendant's Product, which is that the average number of the Defendant's Product sold per year is approximately 339, is a lot, by any means. Also, when we look at the trend in the number of the Defendant's Product sold over the years (Exhibit Ko 118), there does not seem to be any circumstances such that the number of the Defendant's Product sold made a temporary leap in a short span of time.

C (A) According to the advertisement conditions of the Defendant's Product, Yamagiwa or the Defendant's Japanese Corporation has regularly distributed a catalogue of products showing the Defendant's Product to the customers indicated on the defendant's client list (Exhibit Ko 119); namely, about 5,000 companies (persons) (including overlaps of same companies) all over the country, such as architectural design offices, general contractors, lighting design companies, interior design/interior finishing work companies, housing renovation companies, furniture/interior decorating shops, and press, as described in (1)B(B) and C(A).

However, according to how the Defendant's Product is handled in the catalogue of products, the catalogue made by Yamagiwa shows the Defendant's Product and other products of the "PH" series over one page, along with photographs from which the forms (three-dimensional forms) of these products can be recognized, but the photograph of the Defendant's Product is about the same size as those of other products, and the Defendant's Product does not particularly stand out. Also, while the photographs of the Defendant's Product are, in some cases, shown along with product descriptions (Exhibits Ko 90 to 92), the descriptions concern all the products of PH series which are designed by Henningsen, and it cannot be said that the descriptions place a particular focus on the Defendant's Product by making an impression of the three-dimensional form.

Next, while the catalogue of products made by the Defendant's Japanese Corporation includes the introduction of the Defendant's Product over one page along with photograph(s) (Exhibits Ko 24, 26, 31, 35), descriptions of the Defendant's Product concern mostly the functions of the Defendant's Product, and it cannot be said that they make an impression of the three-dimensional form.

Furthermore, some details are not clear, such as the overall number of the catalogue for products having been issued, and to which consumers, other than

the customers indicated on the client list, the catalogue was distributed.

(B) According to how the Defendant's Product is shown in publications such as magazines, as described in above (1)C(B), the Defendant's Product was introduced in publications such as books on furniture, magazines/catalogues on lighting, interior decoration magazines, and fashion magazines during the period from 2000 until around 2014, but many of the publications show the Defendant's Product with other products, and the photograph of the Defendant's Product is about the same size as those of other products, and the Defendant's Product does not particularly stand out. Also, while there are also magazines containing descriptions of the Defendant's Product, in addition to the showing of the Defendant's Product over one page along with photograph(s) (Exhibits Ko 58, 60), some details are not clear, such as the number of such magazines issued and who constitutes the main demographic for the Defendant's Product.

D In light of the findings of the above B and C, even if the fact that the Defendant's Product began to be sold in 1983 and the fact that it continued to be sold in Japan for approximately 29 years since 1986 until 2014, which is when the application for registration of the Trademark was filed, are taken into consideration, it cannot be said that the Defendant's Product came to be well known all over Japan among traders of lighting apparatuses and interior decorations as well as general consumers who are interested in lighting apparatuses and interior decorations, by way of means such as sale and other transactions of the Defendant's Product, distribution of the catalogue of products, and showing of the Defendant's Product in magazines and other publications.

If this is the case, it cannot be said that the Cited Trademark became well known and famous, at the time of the filing of the application for registration of the Trademark, as a result of the use of the Defendant's Product during the period from 1986 until the date of the application for registration of the Trademark (January 30, 2014), and since it cannot be acknowledged that the Cited Trademark attained the distinction function or distinctiveness, the Cited Trademark cannot be acknowledged as falling under a "trademark that is well known among consumers" in Japan as that indicating goods pertaining to the defendant's business.

E (A) Concerning this point, the defendant claims that it can be said that the fact, in itself, of the plaintiff selecting the Defendant's Product as the subject of a reproduced item indicates that the Defendant's Product, as well as the Cited

Trademark having the three-dimensional form of the Defendant's Product, were well known among consumers.

However, the fact that the plaintiff, who engages in the sale of interior decoration products, selected the Defendant's Product as the subject of a reproduced item does not objectively confirm the claim that, at least the Defendant's Product and its three-dimensional form were well known among consumers, who are general consumers interested in lighting apparatuses and interior decorations. Accordingly, the defendant's above claims cannot be accepted.

(B) The Written Statement (Exhibit Ko 121) prepared by the Danish ambassador to Japan includes contents such as that the "PH Snowball" has been used in Japan and the rest of the world for more than thirty years, and that the product is recognized by consumers as the defendant's product.

However, it is not clear what is meant by "recognized," and furthermore, there is no description of specific facts which objectively confirm the state of being "recognized," and thus said statement by the Danish ambassador cannot be accepted.

(3) Summary

From what is described above, it cannot be acknowledged that the Cited Trademark falls under a "trademark that is well known among consumers" in Japan as that indicating that the goods pertain to a business of another person (the defendant), and thus there is no need to determine other claims. Accordingly, it cannot be acknowledged that the Trademark falls under Article 4, paragraph (1), item (xix) of the Trademark Act.

2. Conclusion

As described above, the Trial Decision to the effect that the Trademark falls under Article 4, paragraph (1), item (xix) of the Trademark Act is erroneous, and the grounds for rescission, as claimed by the plaintiff, are justified.

Accordingly, the court approves the plaintiff's claims and renders the judgment as per the main text.

Intellectual Property High Court, Fourth Division

Presiding Judge:	OTAKA Ichiro
Judge:	FURUKAWA Kenichi
Judge:	SEKINE Sumiko

(Attachment 1)



(Attachment 2)

