

“The Industrial Property Rights System in Japan”

Chapter 3. The Trademark System in Japan

Trademark Applications That Do Not Satisfy Requirements

Now, let’s look at some “unregistrable trademarks”.

First, trademarks likely to cause confusion in connection with the goods or services pertaining to another person’s business because they are indistinguishable will not be registered.

Common names of goods or services

For example, a common name or term such as “PC” cannot be registered as a trademark for a personal computer.

Trademarks customarily used

Trademarks that could originally be distinguished from someone else's goods or services, but that are now customarily used in the same trade, cannot be accepted.

Indication of quality, place of origin, etc.

“Deluxe”, for example, is merely an indication of quality, so it cannot be approved as the name of a car model.

In principle, the place of origin cannot be accepted as a trademark, either. However, in order to support the enhancement of industrial competition and regional revitalization, any association such as a business cooperative is entitled to obtain a “regional collective trademark registration”, provided that the trademark combines the name of the region and the name of the goods or services, and that the trademark is well known in the region.

Trademarks including a common surname or name

Trademarks consisting solely of a mark indicating a common surname or the name of a legal entity, or a very simple and common mark, cannot be accepted.

Trademarks by which consumers are unable to recognize the goods or services as those pertaining to the business of a particular person will not be approved, either.

If it can be proved that a trademark that has basically been determined as difficult to distinguish has become well-known as the result of its use, it may be registered as being distinguishable.

Any trademark that is identical with, or similar to, the Japanese national flag, Imperial chrysanthemum crest, a decoration, a medal, a foreign national flag, a mark indicating an international organization, a famous mark indicating the State or a local public entity, or a trademark that works against the public interest, such as an indication which could be confused with the trademark of a public organization, will not be registered.

Any trademark that is confusingly similar to another person's registered trademark, or to trademarks that are famous or widely known, will not be registered, either.

In order to exclude applications that aim to obtain unfair profit, and to avoid unnecessary problems after the granting of rights, examinations in Japan are carried out regarding similarity with widely known overseas trademarks.

Although meat grilled on a skewer called "satay" is widely known in Southeast Asia, for example, it is not so well-known in Japan. If an application for the name "Satay" is made in Japan in the same class concerning food or food services, it will not be registered because it is a familiar term in other countries.