

“The Industrial Property Rights System in Japan”

Chapter 3. The Trademark System in Japan

Trademark System

In this chapter we'll introduce the Japanese Trademark System.

Article 1 of the Trademark Law stipulates that its purpose is as follows: “through the protection of trademarks, to ensure the maintenance of business confidence of persons who use trademarks, and thereby to contribute to the development of the industry and to protect the interests of consumers”.

The term "trademark" in the Law is defined as “any character or characters, figure or figures, sign or signs, or three-dimensional shape or shapes, or any combination thereof, or any combination thereof with colors, that is: used in connection with the goods of a person who produces, certifies or assigns the goods as a business; or used in connection with the services of a person who provides or certifies the services as a business”.

In the Trademark Law, the term "services" includes retail and wholesale services; namely, the provision of benefits for customers conducted in the course of retail and wholesale business.

Trademarks include:

“Character trademarks” that consist solely of characters;

“Figure trademarks” that consist of figures making a design of something realistic, or figures such as geometrical patterns;

“Symbol trademarks” that combine the designs of certain symbols and characters;

"Three-dimensional trademarks" that consist of three-dimensional shapes;

and “Composite trademarks” that are a combination of characters of different meanings, or trademarks that combine characters, figures, signs, and three-dimensional shapes.

There are also plans to protect things such as movement, holograms, colors, position and sound as new types of trademarks.

The distinctive feature of a trademark right is that it combines a mark with the products or services that use the mark. Along with the trademark for which registration is being sought, an application for trademark registration must designate the goods or services in connection with which the trademark is to be used.

The class of the goods and services must be stated in the application for trademark registration. There are 45 classes in alignment with the International Classification based on the Nice Agreement.

This classification facilitates the search and management of prior trademarks to be examined. And because the classification consists of combinations of marks of the trademark right, and the products and services that use those marks, the same mark can be registered for the same product as long as the service is different.

Here, you can see the various ways that trademarks are used. Carrying out these kinds of actions using a mark is called “use of a registered trademark”.