

15.02

Regarding the Decision of "Identicalness of Trademarks" for Three-Dimensional Trademarks, Motion Marks, Hologram Marks, Color Marks, Sound Marks and Position Marks Where an Application for Trademark Registration Accompanies a Priority Claim

The "identicalness of trademarks" in the case where a first foreign application, which serves as the basis for priority, or an application for trademark registration with a priority claim filed in Japan, has been filed for a three-dimensional trademark, motion mark, hologram mark, color mark, sound mark or position mark will be decided by finding whether the trademark identified by the items mentioned in 1. below which have been indicated in the priority certificate is identical with the trademark for which an application for trademark registration has been filed and which is identified by the items mentioned in 2. below that are described in the application.

Yet, the difference in the systems of countries will be taken into consideration.

1. Items, etc. indicated in the priority certificate (Example)

- Trademark
- A statement describing whether the trademark is a three-dimensional trademark, motion mark, hologram mark, color mark, sound mark, or position mark
- Explanation of the trademark
- Sound file attached to the priority certificate

2. Items, etc. described in the application

- Trademark stated in the application
- A statement describing whether the trademark is a three-dimensional mark, motion mark, hologram mark, color per se mark, sound mark or position mark
- Detailed explanation of the trademark
- The "materials provided by Order of the Ministry of Economy, Trade and Industry" as prescribed in Article 5(4) of the Trademark Act (sound file)
- The "required documents" prescribed in Article 5(1) of the Trademark Act (document explaining the three-dimensional mark stated in the application)¹

¹ Of this handling, the part concerning the "required documents" prescribed in Article 5(1) of the Trademark Act (document explaining the three-dimensional mark stated in the application)" is applied to applications filed on or before March 31, 2020 (see the Ministerial Order Partially Amending the Regulation for Enforcement of the Trademark Act [Order of the Ministry of Economy, Trade and Industry No. 8, February 14, 2020]).