

Chapter 7: Article 4(1)(viii) (Name of another person)

(viii) A trademark containing the portrait of another person, or the name, famous pseudonym, professional name or pen name of another person, or famous abbreviation thereof (except those the registration of which has been approved by the person concerned);

1. Regarding the expression "another person"

"Another person" means a person who actually exists other than the applicant him/herself and includes not only natural persons (including foreigners) and corporations but also associations without capacity.

2. Regarding "abbreviations"

(1) Trademarks created by removing the type of corporations such as a stock company or general incorporated associations from the "name" of a corporation fall under the category of "abbreviation." The name of an association without capacity does not include the type of corporation, etc. and thus will be handled according to "abbreviations."

(2) "Names" of foreigners fall under the category of "abbreviations" if they do not have middle names.

3. Regarding "famous" abbreviations, etc.

It is not necessarily required to determine whether or not the trademark in question falls under the "famous" pseudonym, professional name or pen name of another person, or "famous" abbreviation thereof based on solely the consumers of the designated goods or services of said trademark from the perspective of protecting moral rights of authors.

4. Regarding the expression "contains"

The judgment on whether or not the trademark in question is a trademark which "contains" the name, etc. of another person will be made based on the determination on whether the relevant part will be objectively recognized as the name, etc. of another person and will evoke or remind of the other person.

(Example) The trademark "TOSHIHIKO" does not evoke or remind of another person's famous abbreviation "IHI."

5. Regarding trademarks representing the applicant's own name

Trademarks that are representing the name, pseudonym, professional name or pen name of the applicant's own name or abbreviations thereof and fall under the "the name, famous pseudonym, professional name or pen name of another person, or famous abbreviation thereof" fall under this item for damaging the moral interest of the other person.

6. Regarding the expression "has been approved by the person concerned"

The registration of the trademark must have been "approved by the person concerned" at the time of decision to grant trademark registration.