

Chapter 8: Article 4(1)(ix) (Prize awarded at an exhibition)

(ix) A trademark comprised of a mark identical with, or similar to, a prize awarded at an exhibition held by the national or a local government (hereinafter referred to as the "Government, etc.") or by those who are not the Government, etc. that conforms to the standards specified by the Commissioner of the Patent Office, or at an international exhibition held in a foreign country by the Government, etc. of the foreign country or those authorized thereby (except those used by the recipient of such a prize as part of his/her own trademark);

1. Regarding the term "exhibition"

"Exhibitions" would not be limited to those bearing the name of exhibitions and include events bearing other names such as trade fairs, competitive shows, collections, trade shows, fairs and messe.

2. Regarding the expression "conforms to the standards specified by the Commissioner of the Patent Office"

"Standards specified by the Commissioner of the Patent Office" are shown in Notification No. 6 of the JPO of 2012 (see below) and judgment is made based on whether or not the trademark in question conforms to such standards.

Notification No. 6 of JPO of 2012 (extract of the requirements)

- "(i) The events are held for the purpose of contributing to the development of industry wherein articles, etc. related to the industry are disclosed and displayed regardless of the name of the event such as "exhibition" or "trade fairs."
- (ii) The venue and time of the event, qualifications of exhibitors and visitors, number of exhibitors as well as the kind and quantity of the articles on exhibition are deemed appropriate in light of the purpose of that item.
- (iii) The events are exhibitions co-sponsored or aided by the government, etc. or are equivalent thereto."

(1) Regarding (i) above

Even if the events bear the name of exhibitions, etc., an exhibition and sale of various kinds of goods or exhibitions of paintings or work of arts, etc. held by department stores or retail stores, etc. as part of a mere merchandise sale is determined not to conform to the "standards specified by the Commissioner of the Patent Office" as prescribed in this item.

(2) Regarding (ii) above

For example, in the following cases prescribed in (a) through (c) below, it will be determined that the "standards specified by the Commissioner of the Patent Office" as prescribed in this item have not been conformed to.

(a) With respect to the "venue and time of the event," [i] cases where the capacity of the venue is extremely small, [ii] cases where the exhibition is held at a place difficult to access; or [iii] even if the exhibition is not held at a place difficult to access, it is held at a mountainous area and is held when the place becomes difficult to access.

(b) Cases where restrictions are imposed on the "qualifications of the exhibitors and visitors." However, this does not apply to cases where such restrictions are imposed for the purpose of the exhibition, size of the venue or any other justifiable grounds. For example, [i] cases where the articles on exhibition are "tobacco" or "alcoholic beverages" and restrictions are imposed on the age of the visitors in the case of exhibiting and offering said articles for public inspection or purchase; and [ii] cases where the venue has a respectable degree of capacity but certain limitations are imposed considering the safety and convenience of visitors.

Collecting exhibition fees or entrance fees from exhibitors or visitors does not constitute the act of restrictions.

(c) Cases where, with respect to the "number of exhibitors" and "type and volume of articles on exhibition," the event can by no means be recognized to have been held for publication or exhibition to the general public such as the case where the number of exhibitors is extremely small or limited.

3. Regarding the expression "a trademark is comprised of a mark identical with, or similar to"

The similarity of trademarks under this item is judged based on whether the trademark as applied is comprised in whole or in part of a mark confused with a prize awarded at an exhibition from the standpoint of maintaining the authority of the prize awarded at the exhibition and preventing any misleading as to the quality of goods or services.

4. Regarding the expression "the recipient of such a prize"

"The recipient of such a prize" includes the business successor of such recipient.

(Note) The contents of the notification stated are those as of the time when the Guidelines were prepared.