

Part 8: Article 3(1)(vi) (Trademarks Lacking Distinctiveness in Addition to Those Mentioned in Each of the Preceding Paragraphs)

in addition to those listed in each of the preceding items, a trademark by which consumers are not able to recognize the goods or services as those pertaining to a business of a particular person.

1. A mark consisting solely of a pattern (for example, continuously repeated pattern) falls under the provision of this paragraph.
2. A motto (such as a catch phrase) comes under the provision of this paragraph.
3. Letters, etc. used for indicating the quantity, etc. of goods or services in any ordinary commercial practice such as, for example, “Net” and “Gross,” falls under the provision of this paragraph, in principle.
4. Letters “平成” [Heisei] indicating the era of the present Emperor falls under the provision of this paragraph.
5. A trademark indicating the geographical name in Japan and overseas of the foundation place of a business operator and the address of a business place, the delivered place and the temporary storage place of designated goods, or the stop-off place when a designated service is provided (a harbor and an airport, etc.) or the like (hereinafter referred to as "the foundation place of an employer, etc.") or a trademark indicating the geographical name in Japan or overseas of a place generally recognized as the foundation place of a business operator, etc., even if it does not fall under the provision of Article 3(1)(iii), shall fall under the provision of this Item, in principle, on the basis that as the foundation place of a business operator, etc., it has been used generally in many cases or will be used for certain and generally in the future.
6. (1) The name of a shop used in a great number in respect with a specific service (excluding those fall under the provision of Article 3(1)(iv)) falls under the provision of this paragraph.

(Examples of trademarks falling under this provision)

Providing of foods and beverages mainly with alcoholic beverages served and providing of foods and beverages mainly with tea, coffee, etc. served

“愛” (love), “純” (pure), “ゆき” (snow), “蘭” (orchid), “オリーブ” (olive), and “フレンド” (friend)

(2) The name of a shop in (1) above having the name of business such as “snack” (restaurant), “coffee shop” combined therewith or removed therefrom falls under the provision of this paragraph.

7. Three-dimensional trademarks judged as nothing more than the shapes of shops or offices dealing with designated goods or designated services (excluding those which fall under Article 3(1)(iii)) fall under the provision of this paragraph, in principle.

8. In the case of retail services, trademarks which are recognized as indicating the origin, quality, raw materials, efficiency, intended purpose, quantity, shape (including shape of packages) or price or the method or time of production or use of the traded goods fall under the provision of this paragraph, in principle, excluding those that fall under Article 3(1)(iii).

9. Even for trademarks listed in Items 1 to 8 mentioned above, those which, as a result of usage, have been recognized by customers as goods or services according to the business of some people, shall not fall under the provision of this Item.