

Trial decision

Invalidation No. 2015-890035

Isle of Man

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The case of trial for invalidation of trademark registration for Trademark Registration No. 5517482 between the parties above has resulted in the following trial decision.

Conclusion

Trademark Registration No. 5517482 is invalidated.

The costs in connection with the trial shall be borne by the demandee.

Reason

No. 1 The Trademark

The trademark with Trademark Registration No. 5517482 (hereinafter referred to as "the Trademark") is configured as indicated in Attachment, the application for its registration was filed on March 27, 2012, the trademark was approved for registration on July 31, 2012, and registered on August 24, 2012 with "Clocks and watches; unwrought and semi-wrought precious stones and their imitations; key rings; personal ornaments." of Class No. 14 as its designated goods.

No. 2 Cited Trademark

Three registered trademark cited by the demandant are as follows. The trademark rights are still valid as of now.

1 Cited Trademark 1

Trademark Registration No. 4978655 consists of the standard characters of "フランク ミュラー (FURANKU MULLER)" written in katakana, the application for its registration was filed on March 25, 2005, and the trademark was registered on August 11, 2006 with "Precious metals (including alloys of precious metals); jewelry; personal ornaments (including cuff links); semi-wrought precious stones and their imitations; unwrought precious stones; gems; clocks and watches (including chronometric instruments)." of Class No. 14 as its designated goods.

2 Cited Trademark 2

Trademark Registration No. 2701710 consists of "FRANCK MULLER" written in Alphabetic characters, the application for its registration was filed on March 5, 1992, and the trademark was registered on December 22, 1994 with goods described in trademark registry and belonging to Class No. 23 as its designated goods, and the designated goods was reclassified and registered on February 2, 2005 as "Spectacles; parts and accessories for spectacles." of Class No. 9 and "Clocks and watches; parts and accessories of clocks and watches." of Class No. 14.

3 Cited Trademark 3

International Trademark Registration No. 777029 consists of "FRANCK MULLER REVOLUTION" written in Alphabetic characters, the international application (subsequent designation) for its registration was filed on March 13, 2012, and the trademark was registered on May 2, 2013 with "Precious metals, unwrought or semi-wrought; personal ornaments of precious metal; key rings [trinket or fobs]; services [tableware] of precious metal; kitchen utensils of precious metal; jewelry,

precious stones, timepieces, and chronometric instruments." of Class No. 14 as its designated goods.

No. 3 The demandant's allegation

1 Object of demand

The demandant requested a trial decision that the trademark's registration shall be invalid, and the costs in connection with the trial shall be borne by the demandee, describes the reason as follows and submitted Evidence A No. 1 to A No. 214 (including their branch numbers) as the means of proof.

2 Reasons for demand

(1) Applicability to Article 4(1)(xi) of the Trademark Act

A The Trademark

Trademark Registration No. 5517482 (hereinafter referred to as "the Trademark"), pertaining to the demand for trial of the case, consists of "フランク (FURANKU)" written in handwritten katakana and "三浦 (MIURA)" (the point at the upper right of "浦" is eliminated, the same shall apply hereinafter.) written in Chinese characters and in horizontal writing, as described in Attachment. Relating to the Trademark, even if there is no point at the upper right of "浦", it is general for ordinary people that this character gives rise to the pronunciation of "ウラ (URA)," and "三浦 (MIURA)" is general as a geographical name or name in Japan, so that the Trademark gives rise to the pronunciation of "フランク ミウラ (FURANKUMIURA)." With respect to these meanings, the constituent components of the two trademarks are name and give rise to the meaning of name of Franck, particularly.

B Cited Trademark

Cited Trademark 1 consists of the standard characters of "フランク ミュラー (FURANKU MULLER)" written in katakana, Cited Trademark 2 consists of "FRANCK MULLER" written in Alphabetic characters, and Cited Trademark 3 consists of "FRANCK MULLER REVOLUTION" written in Alphabetic characters.

Relating to Cited Trademark 1 and Cited Trademark 2, these constituent characters give rise to the pronunciation of "フランク ミュラー (FURANKUMYURA)" and with respect to these meanings, the constituent components of the two trademarks are name and give rise to the meaning of name of Franck, particularly.

Relating to Cited Trademark 3, "REVOLUTION" of the latter part can indicate the version of goods, Cited Trademark 3 has long pronunciation as the whole, "FRANCK MULLER" of the first portion of the composite trademark is remarkable and is a distinctive part of Cited Trademark 3, so that the first portion is separated and the

pronunciation of "フランクミュラー (FURANKUMYURA)" is generated. Further, from the first portion of Cited Trademark 3, the name of Franck is evoked.

C Similarities between the Trademark and the Cited Trademarks

(A) Pronunciation

Comparing "フランクミウラ (FURANKUMIURA)" generated from the Trademark with "フランクミュラー (FURANKUMYURA)" generated from the Cited Trademark, the differences between the two pronunciations are only a middle vowel "MIU" and "MYU" in the fifth sound, and a long pronunciation and short pronunciation in the end. Thus, on the basis of attention normally possessed by consumers, pronunciations of the Trademark and the Cited Trademarks are quite similar to each other and cause confusion.

(B) Appearance

Comparing the Trademark with Cited Trademark 1, since "フランク (FURANKU)" written in katakana of the first portion of the two trademarks are almost identical and there is an only difference of "三浦 (MIURA)" and "ミュラー (MULLER)," with respect to the appearance, the two trademarks are not "trademarks not likely to be falsely recognized in the source of goods since the trademarks are significantly different and there is an actual state of transaction."

Comparing the Trademark with Cited Trademark 2 and Cited Trademark 3, since Cited Trademark 2 consists of "FRANCK MULLER" written in Alphabetic characters and the characteristic portion of Cited Trademark 3 is "FRANCK MULLER" written in Alphabetic characters, even if Cited Trademark 2 and Cited Trademark 3 are different from the Trademark of "フランク三浦 (FURANKUMIURA)" hand written, these trademarks are not "trademarks not likely to be falsely recognized in the source of goods since the trademarks are significantly different and there is an actual state of transaction," as described above in (1)B.

(C) Meaning

With respect to these meanings, the constituent components of the two trademarks are name and give rise to the meaning of name of Franck. Even if "三浦 (MIURA)" in the Trademark is a common family name in Japanese, the Trademark having the feeling of "三浦 (MIURA)" and including "FRANCK" of name not generally in Japan as a name, is associated with a prominent watch or Franck Muller being an engineer thereof.

(D) Similarities of the designated goods

Comparing the Trademark with Cited Trademark 1, "clocks and watches unwrought and semi-wrought precious stones and their imitations; personal ornaments"

as designated goods of the Trademark are obviously similar to those of Cited Trademark 1. "Key rings" are goods wearing similar to personal ornaments and are traded in places identical to places trading general personal ornaments such as selling accessories, and thus the designated goods of the two trademarks are similar to each other.

Next, comparing the Trademark with Cited Trademark 2, "watches" as the designated goods of the Trademark are obviously identical or similar to those of Cited Trademark 2.

Further comparing the Trademark with Cited Trademark 3, "clocks and watches" "unwrought and semi-wrought precious stones and their imitations" "key rings" and "personal ornaments" as the designated goods of the Trademark are obviously identical or similar to those of Cited Trademark 3.

D Summary

Comprehensively considering impression, memory, association, and the like to traders with appearance, meaning, pronunciation, and the like of trademarks, the Trademark and the Cited Trademarks resemble each other. Particularly, since the demandant's goods are only sold in official stores, the demandant's goods and the demandee's goods are not sold in a line. Thus, consumers do not compare the Trademark with Cited Trademark 1 and differences between the two trademarks, so that the sources of the two trademarks are confused since the pronunciations and meanings of the two trademarks resemble each other.

The designated goods between the Trademark and the Cited Trademarks are identical or similar to each other.

Therefore, the Trademark falls under Article 4(1)(xi) of the Trademark Act.

(2) Applicability to Article 4(1)(x) of the Trademark Act

A Publicity of the used trademark by the demandant

A trademark consisting of "フランク ミュラー (FURANKU MULLER)" (including "フランク・ミュラー (FURANKU MULLER)" comprising "•" (middle point) between the first portion and the latter portion, the same shall apply hereinafter) and a trademark consisting of "FRANCK MULLER" being the origin of "フランク ミュラー (FURANKU MULLER)" are the demandant's representative trademarks, and these trademarks are widely recognized among consumers as those indicating watches and jewelry or services thereof relating to the business of the demandant. The trademark of "フランク ミュラー (FURANKU MULLER)" is indicated in advertisement and introduction of the demandant's goods in Japan (hereinafter, "the used trademark by the demandant" indicates these trademarks of "フランク ミュラー (FURANKU MULLER)" and "FRANCK MULLER"). (Evidence A No. 38 to A No.

198).

Franck Muller, who is an engineer, started manufacturing watches in Geneva, Switzerland, established the brand, "FRANCK MULLER," in 1991, and has manufactured and sold tonneau (approximately elliptic) watches with complicated functions in which characteristic figures are indicated in the dial. The brand has been known as a luxury manufacturer of watches with high performance and quality since the starting-up; at this time, 45,000 watches a year are manufactured at 6 factories in the world, there are 48 specialist shops and more than 600 sales offices in more than 100 countries, and the brand has established an indisputable position all over the world (Evidence A No. 36 and A No. 37).

FRANCK MULLER expanded into Japan from 1992 (Evidence A No. 39-2), the brand was featured on "jewelry and luxury watches" in extra issue of "KATEIGAHO" (Evidence A No. 41) in 1990, and FRANCK MULLER expanded directly managed shops. In 1998, FRANCK MULLER concluded a contract about an import agent for watches with World Commerce Corporation in Japan, and jewelry "FRANCK MULLER" has been sold since 2002 (Evidence A No. 42).

In Japan, the demandant has used the used trademark by the demandant, "フランク ミュラー (FURANKU MULLER)" written in Japanese, for advertisements and introductions of goods (Evidence A No. 38 to A No. 198). The cost for advertisements of FRANCK MULLER in Japan was an average of 80 million yen/year from 1998 to 2000, an average of 180 million yen/year from 2001 to 2002, and an average of 400 million yen/year from 2003 to 2011. In 2012, the cost for sales promotion in Japan was more than 600 million yen (Evidence A No. 208). Further, the sales of watches of FRANCK MULLER have increased in Japan since 1998, 1000 million yen in 1998, 1500 million yen in 2000, about 2800 million yen in 2001, about 4900 million yen in 2002, and the sales have been more than 6000 million yen/year on average since 2003 (Evidence A No. 208). The number of shops in Japan is about 45, and the number of advertisements in magazines is about 145/year (Evidence A No. 43). The watches FRANCK MULLER were introduced as the No. 1 watch among prominent people in magazines (Evidence A No. 44, A No. 45 and A No. 197), introduced with other famous brands (Louis Vuitton, Chaumet, Dodge, Hermes, Coach, Omega, Chanel, Tiffany, and the like) in general newspapers (Evidence A No. 46 to A No. 52), and introduced as one of 10 great brands of watches in a specialist paper for watches (Evidence A No. 53). In various magazines, the demandant's goods made up a special edition, the functionality and status were introduced in magazines for men (Evidence A No. 54 to A No. 57), the demandant's goods with high design as jewelry were introduced in magazines for

women (Evidence A No. 58 to A No. 60 and the like). Further, World Presentation of Haute Horlogerie (WPHH) presided by the demandant was introduced in fashion magazines (Evidence A No. 61, A No. 62, and the like), and FRANCK MULLER has been known as the top brand (Evidence A No. 63, A No. 64, and the like). Especially, in 2011, as the 20th anniversary of the founding of the demandant's brand, parties for VIPs and press were held about 4 times in Japan (Evidence A No. 198), and it is obvious that FRANCK MULLER was widely recognized among consumers at the time of application for the registration of the Trademark (March 27, 2012), as a mark indicating watches and jewelry or services thereof relating to the business of the demandant.

Further, at that time, the demandant sold rings with gems and ornaments such as necklaces which imitate design of the representative watches (Evidence A No. 66 and A No. 67), provides standby screens for cellphones (Evidence A No. 56), and manufactures covers for iPhones (Evidence A No. 68 and the like) which imitate the design of the demandant's goods. Thus, the field of expanding is not limited to watches and jewelry.

B Similarities between the Trademark and the used trademark by the demandant

The Trademark gives rise to the pronunciation of "フランクミウラ (FURANKUMIURA)," and evokes the meaning of the name of Franck, as described above in 2(1)A.

Relating to the used trademark by the demandant, the constituent characters gives rise to the pronunciation of "フランクミュラー (FURANKUMYURA)," and evokes the meaning of the name of Franck, similar to the Cited Trademarks described above in 2(1)B.

Thus, with respect to the pronunciations, the Trademark and the used trademark by the demandant cause confusion, similar to the Cited Trademarks described above in 2(1)C.

Further, with respect to the meanings, the two trademarks evoke the meaning of the name of Franck, even if "三浦 (MIURA)" in the Trademark is a common family name in Japanese, the Trademark having the feeling of "三浦 (MIURA)" and including "FRANCK" of name, is associated with a prominent watch or Franck Muller being an engineer thereof.

With respect to the appearances, comparing the Trademark handwritten with "フランク ミュラー (FURANKU MYURA)" written in Japanese of the used trademark by the demandant, the first portion of the two trademarks, "フランク (FURANKU)" are identical to each other, although there is a difference between "ミュラー (MULLER)" and "三浦 (MIURA)," the difference does not deny similarities of the two

trademarks.

Further, comparing the appearance of the Trademark with that of "FRANCK MULLER" written in Alphabetic characters of the used trademark by the demandant, although there is a difference between Alphabetic characters, and katakana and abbreviated Chinese characters, the two trademarks are not "trademarks not likely to be falsely recognized in the source of goods since the trademarks are significantly different and there is an actual state of transaction."

Therefore, relating to the Trademark and the used trademark by the demandant, although there is a difference in appearances, the difference is not significant, and the pronunciations cause confusion, and comprehensively considering impression, memory, association, and the like to traders with appearance, meaning, pronunciation, and the like of trademarks, the two trademarks are similar to each other.

C Similarities of goods

The leading goods of the demandant's goods are watches. The watches have characteristic design and there are some goods studded with gems (Evidence A No. 35), so that the watches are used similar to jewelry.

Whereas, the designated goods of the Trademark are "clocks and watches; unwrought and semi-wrought precious stones and their imitations; key rings; personal ornaments" "unwrought and semi-wrought precious stones and their imitations; personal ornaments" and jewelry are similar to each other. "Key rings" are goods wearing similar to personal ornaments and are traded in places identical to places trading general personal ornaments such as selling accessories, and thus key rings are similar to jewelry.

Therefore, all the designated goods of the Trademark are identical or similar to goods with the used trademark by the demandant, and thus the Trademark falls under Article 4(1)(x) of the Trademark Act.

D Summary

As described above, the Trademark is similar to the used trademark by the demandant which is widely recognized among consumers as those indicating watches and jewelry or services thereof relating to the business of the demandant, and the designated goods are identical or similar to that with the used trademark by the demandant, and thus the Trademark falls under Article 4(1)(x) of the Trademark Act.

(3) Applicability to Article 4(1)(xv) of the Trademark Act

With respect to similarities between the Trademark and the used trademark by the demandant, as described above in (2)B, comprehensively considering the pronunciation, appearance, and meaning, it is obvious that the two trademarks are

similar to each other.

Further, as described above in (2)A, the used trademark by the demandant is widely recognized among consumers as those indicating watches and jewelry or services thereof relating to the business of the demandant.

"フランク ミュラー (FURANKU MULLER)" or "FRANCK MULLER" of the used trademark by the demandant is derived from the name of a watch engineer, even if Franck is recognized as a name of a foreigner, this name is not familiar in Japan and has high distinctiveness.

In addition, as described above in (2)A, the used trademark by the demandant was widely recognized among consumers at the application for registration of the Trademark, as the trademark indicating watches and jewelry or services thereof relating to the business of the demandant, it is obvious that the Trademark is prominent, and a source designator of the used trademark by the demandant is extremely high.

Further, with respect to the designated goods of the Trademark and the demandant's goods, as described above in (2)C, leading goods of the demandant's goods are watches; however, the watches are used as almost jewelry. In fact, the demandant's goods are sold in shops and specialized trading spaces, such as salons of watches and jewelry, places trading watches and jewelry in department stores (Evidence A No. 36), and the watches are traded in places identical to places trading jewelry. When inserting the watches in magazines, the article target consumers identical to those of jewelry.

Whereas, the designated goods of the Trademark are "clocks and watches; unwrought and semi-wrought precious stones and their imitations; key rings; personal ornaments" and are related to jewelry of the demandant's goods.

As described above, at the time of the application for registration of the Trademark, the used trademark by the demandant had already well-known and prominent in Japan, goods with the Trademark are likely to be falsely recognized as goods indicating goods relating to the business of the demandant and cause consumers to be confused about the source of goods, and thus the Trademark falls under Article 4(1)(xv) of the Trademark Act.

(4) Applicability to Article 4(1)(xix) of the Trademark Act

A Similarities between the Trademark and the used trademark by the demandant

With respect to similarities between the Trademark and the used trademark by the demandant, as described above in (2)B, comprehensively considering the pronunciation, appearance, and meaning, it is obvious that the two trademarks are similar to each other.

B Unfair purposes

The demandee sells watches with the Trademark, resembling the demandant's goods, on the Internet and in shops (Evidence A No. 201 to A No. 203) (hereinafter referred to as "the demandee's goods"). Specifically, in October, 2013, the demandee started up a page in Facebook which is a social site for exchanging via Internet (Evidence A No. 204). Further, on a page managed by the demandee in ameblo which is an exchanging site via Internet, it is described that 1000 of the demandee's goods are sold on October 29, 2012 (Evidence A No. 205).

Thus, the demandee started selling the demandee's goods immediately after the registration of the Trademark, on August 24, 2012, and it is obvious that the demandee intended to sell such imitations from March 27, 2012, at the time of application for the registration of the Trademark.

As described by the demandee that the demandee's goods are "parodic watches" (Evidence A No. 200), the demandee's goods intentionally imitate the characteristic of "FRANCK MULLER," the lineup of the demandee's goods are mainly goods which have tonneau (approximately elliptic) and approximately rectangle shape body with deformed Arabic numerals in the dial which are the demandant's representative goods, and a part which the Trademark is indicated is also almost identical to that in the demandant's goods. Further, design and color of the dial of the demandee's goods are almost identical to those of the demandant's goods. Nevertheless, quality of the demandee's goods is very poor, the Trademark handwritten evokes poor quality, and the indication "完全非防水 (KANZENHIBOUSUI; not completely waterproof)" in the demandee's goods is can only be a joke. The demandee introduces the demandee's goods as "parodic watches manufactured by a genius watch engineer フランク三浦 (FURANKUMIURA)," as making fun of Mr. Franck Muller evaluated as "a young and genius watch engineer in Geneva." Thus, it is obvious that the demandee's goods imitate the demandant's goods (Evidence A No. 209 and A No. 212).

On the website (Evidence A No. 213), the demandee advertises that "フランク三浦 (FURANKUMIURA) is the top-class brand for watches, established by a mysterious genius watch engineer フランク三浦 (FURANKUMIURA)," as a person to carry out the project, and describes that "フランク三浦 (FURANKUMIURA) is popular with 'bold idea and design ignoring common sense,' and 'incredible offensive design,' and also it is not related to a certain famous watch brand." This description imitates the introduction described in the story of the establishment of "FRANCK MULLER" in "story" on the demandant's website (Evidence A No. 37). As described above, all selling points of the demandee's goods utilize customer attraction embodied

by the prominence of the Cited Trademarks, the demandee's intention to free-ride the customer attraction can be seen. Next, considering how common consumers think about the demandee's goods, it is found that the demandee utilizes the characteristic of the demandant's goods and the prominence of the Cited Trademarks for selling the demandee's goods; for example, the demandee described on the website that "We recommend the demandee's goods for people who think that the demandee's goods imitate FRANCK MULLER" and "The price of the demandee's goods is mainly about 4,000 yen, and 'フランク三浦 (FURANKUMIURA)' is indicated in the center of a dial which is similar to FRANCK MULLER." (Evidence A No. 214).

These demandee's actions are free-riding a reputation established by the demandant being the top brand representing the watch industry, and lowering the brand value.

In actually, on a website of YAHOO!JAPAN news, the demandee's goods were introduced, with the title of "What is 'フランク三浦 (FURANKUMIURA),' parodic watches which are popular with prominent people of various fields?" that "Even if you are not interested in watches, you have seen the characteristic design somewhere before," and it is described a general impression that the demandee's goods imitate FRANCK MULLER (Evidence A No. 206), and on a Web page, it is described that "the demandee's goods imitating FRANCK MULLER are gradually popular" and goods resembling the demandant's goods are evaluated as "stylish watches only at the first time" (Evidence A No. 207).

Therefore, it is obvious that the demandee's goods resemble the trademark used by demandant and the characteristic design, and when the demandee uses the Trademark, the demandee can free-ride and injure trust, reputation, and customer attraction embodied by the used trademark by the demandant, so that it is recognized that the demandee uses the Trademark similar to the well-known trademark used by demandant, with unfair purposes.

D Summary

As described above, the used trademark by the demandant is widely recognized in Japan and all over the world, and the Trademark extremely resembles the used trademark by the demandant. Further, it is obvious that the demandee sells deteriorated and inexpensive goods similar in appearance to the demandant's goods, and has unfair purposes to free-ride and injure trust, reputation, and customer attraction embodied by the prominent used trademark by the demandant.

Therefore, the Trademark falls under Article 4(1)(xix) of the Trademark Act.

3 Summary

As described above, the Trademark falls under Article 4(1)(x), Article 4(1)(xi), Article 4(1)(xv), and Article 4(1)(xix) of the Trademark Act.

No. 4 The demandee's allegation

1 Object of reply

The demandee replied requesting a trial decision to the effect that the demand for trial of the case is groundless and the costs in connection with the trial shall be borne by the demandant, and made statements whose summary was as follows, and submitted Evidence B No. 1 to B No. 10 as means of evidence.

2 Summary of reason of reply

(1) Applicability to Article 4(1)(xi) of the Trademark Act

A Appearance

As described in Attachment, the Trademark consists of 4 characters of "フランク (FURANKU)" handwritten in katakana and 2 characters of "三浦 (MIURA)" written in Chinese characters, and there is no point at the upper right of "浦". The Trademark gives the impression of "incorrect Japanese" for observers, from the Chinese character and handwritten characters which are characteristic of the appearance. On the other hand, Cited Trademark 1 consists of 8 characters of "フランク ミュラー (FURANKU MULLER)" written in katakana. It is obvious that the latter portions of the two trademarks consist of different characters, and the appearances of the two trademarks are significantly different.

Cited Trademark 2 consists of 12 characters of "FRANCK MULLER" written in Alphabetic characters. It is obvious that the Trademark and Cited Trademark 2 consist of different characters from each other, and the appearances of the two trademarks are significantly different.

Cited Trademark 3 consists of 22 characters of "FRANCK MULLER REVOLUTION" written in Alphabetic characters. It is obvious that the Trademark and Cited Trademark 3 consist of different characters from each other, and the appearances of the two trademarks are significantly different.

B Pronunciation

The pronunciation of the Trademark is "フランク ミウラ (FURANKUMIURA)," and the pronunciations of Cited Trademark 1 and Cited Trademark 2 are "フランク ミュラー (FURANKUMYURA)."

In the Trademark, the first portion consists of "フランク (FURANKU)" written in katakana and the latter portion consists of "三浦 (MIURA)" written in Chinese characters, and it is obvious that the pronunciation is separated into the first portion of "

フランク (FURANKU)" and the latter portion of "三浦 (MIURA)." On the other hand, relating to the pronunciations of Cited Trademark 1 and Cited Trademark 2, the constituent characters of the two trademarks consist of only katakana or only Latin alphabetic characters, respectively, so that the two pronunciations are "フランクミュラー (FURANKUMYURA)" without separating. In this point, the pronunciations between the Trademark and the Cited Trademarks are significantly different.

Relating to this, in the Trademark, there are two accented points on "ラ (RA)" in "フランク (FURANKU)" and "ミ (MI)" in "三浦 (MIURA)"; on the other hand, in Cited Trademark 1 and Cited Trademark 2, there is no accented point in "フランク (FURANKU)," and an accented point on "ミュ (MYU)." In this point, the pronunciations between the Trademark and the Cited Trademarks are significantly different.

Further, "ミウラ (MIURA)" has 3 syllables, on the other hand, "ミュラー (MYURA)" has 2 syllables, and the numbers of syllables of the latter portion are obviously different. As recognized by the demandant, the pronunciations in the end are different, long pronunciation or short pronunciation.

Therefore, when consumers compare the pronunciations of the two trademarks, consumers obviously recognize the difference, and the pronunciations of the two trademarks are not identical or similar to each other.

Although it is recognized that Cited Trademark 3 can separate "FRANCK MULLER" and "REVOLUTION," the pronunciation of "FRANCK MULLER" in Cited Trademark 3 is similar to that of "FRANCK MULLER" in Cited Trademark 2, and the pronunciations of the Trademark and Cited Trademark 3 are not identical or similar to each other.

C Meaning

The Cited Trademarks are recognized as a name of a foreigner, and generally evokes the meaning of name of "FRANCK MULLER." For consumers deeply versed in imported luxury watches, the Cited Trademarks can evoke Mr. Franck Muller who is a prominent watch engineer in Switzerland or the brand related to Mr. Franck Muller.

On the other hand, although there is no point at the upper right of "浦" written in the Chinese Character of the Trademark, the Trademark can be understood as "フランク三浦 (FURANKUMIURA)" as the whole.

As described by the demandant, "フランク三浦 (FURANKUMIURA)" can be understood as a name; however, it evokes the meaning of, significantly different from the Cited Trademarks, people who have a family name of "三浦 (MIURA)" and have another name, such as a stage name or ring name, of "フランク三浦

(FURANKUMIURA)," are halves or quarters relating to Japanese, or are foreigners who have a family name of "三浦 (MIURA)."

Comparing the meanings of the two trademarks, as described above, the Trademark evokes the meaning of, significantly different from the Cited Trademarks, people who have a family name of "三浦 (MIURA)" and have another name, such as a stage name or ring name, of "フランク三浦 (FURANKUMIURA)," are halves or quarters relating to Japanese, or are foreigners who have a family name of "三浦 (MIURA)"; on the other hand, the Cited Trademarks evoke the meaning of a general foreign name of "FRANCK MULLER" (does not evoke halves or quarters relating to Japanese) or the meaning of Mr. Franck Muller or the brand related to Mr. Franck Muller, and the meanings are obviously different.

Even if there are consumers who think that the Trademark evokes Mr. Franck Muller, who is a prominent watch engineer in Switzerland, or the brand related to Mr. Franck Muller, it is thought that the consumers knowing Mr. Franck Muller recognize worldwide evaluation of him, luxury and precision of him and the brand of watch. Such consumers do not think that Mr. Franck Muller or the brand of watch selects the name of "フランク三浦 (FURANKUMIURA)," which is a name like halves and quarters relating to Japanese, or a westernized name or ring name, or stage name, and uses a mark such as the Trademark having poor handwriting and a mistake. Even if there are consumers who think that the Trademark is associated with Mr. Franck Muller or the watch brand related to Mr. Franck Muller, such consumers can perceive that the Trademark is derived from Franck Muller but is completely different from the Cited Trademarks, and it is hardly thought that the Trademark evokes the meaning of Mr. Franck Muller himself or the watch brand related to Mr. Franck Muller itself. At the same time, it is obvious that the consumers who think that the Trademark is associated with Mr. Franck Muller or the watch brand related to Mr. Franck Muller, can understand that the Trademark is completely different from Mr. Franck Muller or the watch brand related to Mr. Franck Muller.

Therefore, the meanings of the Trademark and the Cited Trademarks are significantly different.

D Summary

As described above, the Trademark and the Cited Trademarks are different in appearance, meaning, and pronunciation (particularly, the appearances and meanings are significantly different), and there is no likelihood to cause a risk of false recognition and confusion about the source, for consumers.

(2) Applicability to Article 4(1)(x) of the Trademark Act

A Publicity of the used trademark by the demandant

The demandee recognizes that the designated goods with the Trademark and the demandant's goods with the used trademark by the demandant are widely recognized among consumers as those indicating watches of the brand FRANCK MULLER.

B Similarities between the Trademark and the used trademark by the demandant

The used trademark by the demandant is almost identical to Cited Trademark 1 and Cited Trademark 2 (only different in font). With the reasons similar to those of (1) above, the Trademark is not similar to the used trademark by the demandant.

C Similarities of goods

The demandee recognizes that watches of the brand FRANCK MULLER are imported luxury goods similar to jewelry.

The demandant alleges that "'key rings' are goods wearing similar to personal ornaments and are traded in places identical to places trading general personal ornaments such as selling accessories, and thus key rings are similar to jewelry."

However, even considering each evidence submitted by the demandant, there is no fact that the used trademark by the demandant is widely recognized among consumers, relating to goods other than watches and jewelry.

Further, there is no fact that watches and jewelry, sold in salons of watches and jewelry in department stores, and key rings "are traded in identical places," and the demandant's allegation has no ground.

Thus, "key rings" of the designated goods of the Trademark is not similar to the demandant's goods.

D Summary

As described above, the Trademark is not similar to the used trademark by the demandant, and thus the Trademark does not fall under Article 4(1)(x) of the Trademark Act.

Further, the designated goods of the Trademark and the demandant's goods are not completely similar to each other, and thus the Trademark does not fall under Article 4(1)(x) of the Trademark Act.

(3) Applicability to Article 4(1)(xv) of the Trademark Act

A Confusion about sources between the Trademark and the used trademark by the demandant

As described above in (2)B, the Trademark and the used trademark by the demandant are significantly different in appearance, meaning, and pronunciation, the demandant's allegation that confusion about the source has been caused since the two trademarks are similar to each other, is not established.

Relating to Article 4(1)(xv) of the Trademark Act, the requirement is to cause specific confusion about the source, the fact that the Trademark is similar to the Cited Trademarks is not direct ground for confusion about the source, and the demandant's allegation is simple supposition, not "specific confusion" of the fact-in-issue of Article 4(1)(xv) of the Trademark Act.

The Trademark is not similar to the used trademark by the demandant as described above; however, if the demandant alleges that confusion about the source has been caused, the demandee explains that the confusion about the source is not likely to be caused, with the following reasons.

As described in Evidence A No. 200 to A No. 204, the Trademark of "フランク三浦 (FURANKUMIURA)" is indicated in the center of the dial of the demandee's goods, and it is obvious that the demandee's goods are parodies and are completely different from the demandant's goods, not imitations or pirated watches (goods which cause consumers to falsely recognize the demandant's goods).

In the demandee's goods, not only indicating the Trademark on the dial, but also indicating "大型初号機 (OGATAHATSUGOKI; first big machine) (改) (KAI) " "一流店限定 (ICHIRYUTENGENTEI; limited to first-class shop)" and "完全非防水 (KANZENHIBOUSUI; not completely waterproof)" written in Chinese characters on the rear surface of the case (Evidence B No. 1 and A No. 206), shows that the demandee's goods are parodic watches and are used not to cause confusion with the demandant's goods about the source.

Further, the demandee's goods are sold at a price 1/100 to 1/1000 that of the demandant's goods (e.g., Evidence A No. 65 and A No. 200), the manufacturing cost is much less than that of the demandant's goods, and the texture of the watch is inferior to that of the demandant's goods.

On the other hand, as described above in 3(2)A, the demandant recognizes that performance, quality, price, traded place, and trading strategy of the watches of the demandant's goods are much better than those of the demandee's goods, and actual circumstances of the two goods are significantly different.

There are the above actual circumstances that performance, quality, price, traded place, and trading strategy of the watches of the demandant's goods are much better than those of the demandee's goods, the Trademark is not similar to the Cited Trademarks, and consumers widely recognize that the demandee's goods are significantly different from the demandant's goods. That is, the demandee created an individual and valuable brand from the point of humor or gag.

As proof, prominent people who satisfy the demandant's goods with millions of

yen for a watch, such as talents, athletes, and economists, buy and love the demandee's goods, while understanding that the demandee's goods are different from the demandant's goods (Evidence B No. 2). In a written petition submitted by the demandee (Evidence B No. 3), prominent people describe that "we do not mistake the watches of フランク三浦 (FURANKUMIURA) for those of FRANCK MULLER, but understand the difference between the goods and enjoy the humor. The demandee's goods provide a different level of enjoyment from that of the demandant's goods while フランク三浦 (FURANKUMIURA) is enviously watching FRANCK MULLER's luxury watches."

Thus, even considering actual circumstances of the demandee's goods and the recognition of actual consumers for the Trademark, the Trademark is not confused with the used trademark by the demandant about the source, and there is no possibility thereof.

In Evidence B No. 6, collection data for a PR person in World Commerce Corporation (Evidence A No. 42) being an agent for FRANCK MULLER are described. About the demandee's goods, the PR person described that "we do not deny the demandee's idea. FRANCK MULLER was created from the fantastic idea of overturning idea of the industry. However, the two courses of action are different.", and it is obvious that the Trademark is not likely to cause confusion about the source.

B Publicity of the Trademark

As described above in A, although consumers recognize that the Trademark is significantly different from the used trademark by the demandant, humor of the Trademark is evaluated, and the Trademark itself is widely recognized among consumers.

The demandee's goods are popular among a lot of people, including prominent people (Evidence B No. 2 and B No. 3), are introduced in many magazines and on the Internet (Evidence B No. 4 to B No. 10), and the Trademark is well-known as that indicating the demandee.

The demandee's goods are embodied with individual value different from that of the demandant's goods, the Trademark does not cause confusion with the business of demandant, consumers of the demandee's goods sufficiently recognize the fact, and pay attention to the individual value.

C Summary

As described above, the Trademark is not similar to the used trademark by the demandant, the demandee's goods and the demandant's goods are different in actual circumstances and consumer's recognition, the Trademark itself acquires individual

publicity, and thus it is not likely to be recognized that goods with the Trademark cause confusion with the business of the demandant.

Therefore, the Trademark does not fall under Article 4(1)(xv) of the Trademark Act.

(4) Applicability to Article 4(1)(xix) of the Trademark Act

A Similarities between the Trademark and the used trademark by the demandant

The Trademark and the used trademark by the demandant are significantly different in appearance, meaning, and pronunciation, as described above in (2)B, and thus the two trademarks are not similar to each other.

B Unfair purposes

As described above in A, the Trademark is not similar to the used trademark by the demandant, the demandee's goods and the demandant's goods are different in actual circumstances and consumer's recognition, the Trademark itself acquires individual publicity, and thus it is not likely to be recognized that goods with the Trademark cause confusion with the business of the demandant.

Thus, it is obvious that the Trademark cannot injure trust, reputation, and customer attraction embodied by the used trademark by the demandant.

It is not thought that consumers think trust and reputation embodied by the Cited Trademarks are low with the Trademark (injuring trust and reputation), and do not buy the demandant's goods with the Trademark (injuring customer attraction). Namely, even if the quality of the demandee's goods is lower than that of the demandant's goods, consumers do not think that the quality and reputation of the demandant's goods are lowered and that the fact lowers the quality and reputation of the demandant's goods.

Goods with the Trademark are parodic watches, these parodic watches are generally used as a joke, there is no overlap with use and situation of the demandant's goods. Thus, it is not thought that the number of demandant's goods sold has lowered due to the demandee's goods.

Further, the demandant alleges that the demandee's goods imitate the demandant's goods.

However, goods with the Trademark are not imitations. It is generally intended that imitations imitate shapes, embodiment, and texture of the demandant's goods as much as possible. However performance, quality, price, traded place, and trading strategy such as instruction with humor of the demandee's goods are intended, adopted, and designed so as to be separate from the demandant's goods. The demandee's goods are one of goods having individual value, and a lot of people, including prominent people, recognize the value of the demandee's goods. The demandant's allegation that

the demandee's goods are "imitations," while ignoring the individual value, damages the demandee's honor.

The demandant alleges that using the Trademark has purposes to "free-ride trust, reputation, and customer attraction embodied by the Cited Trademarks." However, as described above in (3)B, the Trademark has individual value different from that of the demandant's goods, and the Trademark does not free-ride trust, reputation, and customer attraction embodied by the Cited Trademarks.

It is understood that "free-ride" of "unfair purposes" in Article 4(1)(xix) of the Trademark Act indicates that trust, reputation, and customer attraction embodied by the Cited Trademarks are diverted as if free-riders are leading companies or related to the business of the Cited Trademarks.

Like parodies, unfair purposes do not include trademarks being the origin of parodies (if "unfair purposes" include the trademarks, since parodies are generally originated from prominent marks, parodies are not established in Japan). Using trademarks not similar to trademarks being the origin and not permitting parodies considering not to cause confusion with the trademarks being the origin of the source, is too far as interpretation of the Trademark Act. Supposing the demandant's allegation, "purposes of parodies" are equal to "unfair purposes." These excess regulations (or excess protection of well-known trademarks) are not appropriate.

C Summary

As described above, the Trademark and the used trademark by the demandant are different in appearance, meaning, and pronunciation, and there are no requirements applying to Article 4(1)(xix) of the Trademark Act. Further, there is no "unfair purposes," relating to use of the Trademark.

Therefore, the Trademark does not fall under Article 4(1)(xix) of the Trademark Act.

(5) Summary

As described above, the Trademark does not fall under Article 4(1)(x), Article 4(1)(xi), Article 4(1)(xv), and Article 4(1)(xix) of the Trademark Act.

No. 5 Judgment by the body

1 Publicity to the used trademark by the demandant

(1) According to respective items of Evidence A submitted by the demandant, the following facts were acknowledged.

A The demandant started manufacturing and selling watches and the like in 1992 (Evidence A No. 35, A No. 39-2, A No. 5, A No. 54, and the like); at present, 45,000

watches a year are manufactured at 6 factories in the world, there are 48 specialist shops, and more than 600 sales offices in more than 100 countries (Evidence A No. 37).

B The demandant expanded into Japan in 1998 (Evidence A No. 39-2), and from 2010 to 2012, advertisements about "watches" with the used trademark by the demandant were inserted in many magazines (Evidence A No. 43 to A No. 196).

C In 2011, as the 20th anniversary of the founding of the demandant's brand, parties for press were held about 4 times in Japan (Evidence A No. 198).

(2) Summary

As described above, the demandant has used, advertised, and sold "watches" with the used trademark by the demandant all over the world, including Japan, since 1992, and it is recognized that the used trademark by the demandant was widely recognized among consumers in Japan at the time of application and upon the decision for registration of the Trademark, as that indicating the goods relating to the business of the demandant.

With respect to the fact, there is no dispute between the parties.

2 Actual circumstances of demandee's goods

(1) According to respective items of Evidence A and respective items of Evidence B, with respect to use of the Trademark by the demandee, the following actual circumstances were acknowledged.

A The demandee sells a number of watches with the Trademark (the demandee's goods) on the Internet and in shops (Evidence A No. 200 to A No. 203).

B Comparing the demandant's goods with the demandee's goods by the demandant (Evidence A No. 209 to A No. 212), relating to some of goods, the two goods are common in a characteristic of a watch case whose outer shape is a rectangle or a rectangle in which the long sides are rounded, are identical in display and color of figures in the dials, and the whole designs resemble each other. The difference between the two goods is that "FRANCK MULLER" is indicated in the upper center of the dial of the demandant's goods, on the other hand, "フランク三浦 (FURANKUMIURA)" is indicated in the demandee's goods. Further, names indicated in the lower center of the dial are different. Further, in the rear surfaces of watches, characters of "FRANCK MULLER" and "GENEVE" are indicated in the demandant's goods, on the other hand, "フランク三浦 (FURANKUMIURA)" and "完全非防水 (KANZENHIBOUSUI; not completely waterproof)" are indicated in the demandee's goods.

C On the demandee's website, it is described that "Watches produced by 'フランク三浦 (FURANKUMIURA)' are recommended to people with good taste who understand

jokes and are fashionable, and are parodic watches seeking 'design, humor and low price' (Evidence A No. 200). Further, in a copy of the website of Evidence A No. 207, it is described that "Do you know the watch brand 'フランク三浦 (FURANKUMIURA)' which is becoming popular and is 'imitation of Franck Muller?', 'ふらんくみうら (FURANKUMIURA)', 'フランクミュラー (FURANKU MULLER)'..., yes, those are imitations! Please take a look as a joke.", and pictures of the demandee's goods are indicated.

D In the written petition submitted by the demandee (Evidence B No. 3), it is described that "the watches 'フランク三浦 (FURANKUMIURA)' are parodies of luxury watches manufactured by FRANCK MULLER, but the watches 'フランク三浦 (FURANKUMIURA)' are significantly different from the luxury watches in price, quality, and the like." A lot of autographed names and the occupations are described in the written petition.

E On page 57 of magazine "WEEKLY PLAYBOY" issued on June 16, 2014 (Evidence B No. 4), title of "Research of masterpiece of parodic watches, フランク三浦 (FURANKUMIURA)" is indicated, and it is described that "those are an original brand which are slightly similar to the design of FRANCK MULLER, the brand of luxury watches in Switzerland." Further, on page 183 of magazine "WEEKLY ASAHI" issued on July 5, 2013 (Evidence B No. 6), title of "popularity of 'フランク三浦 (FURANKUMIURA), discouraging FRANCK MULLER'" is indicated, and it is described that "Do you know the watch, 'フランク三浦 (FURANKUMIURA)'? ... Those are parodies of luxury watches "FRANCK MULLER" in Switzerland."

(2) Summary

As described above, the demandee sells goods resembling the demandant's goods on the Internet and in shops, and when introducing and advertising the demandee's goods on sale or in magazines, the demandee recognizes that the demandant's good and the Cited Trademarks, and the used trademark by the demandant are prominent luxury watches and a luxury watch brand, while citing as an example, and it is recognized that the demandee's goods are parodic goods.

3 Applicability to Article 4(1)(xi) of the Trademark Act

(1) The Trademark

As described in Attachment, the Trademark consists of the characters "フランク三浦 (FURANKUMIURA)" (the point at the upper right of "浦" is eliminated.), and the whole relevant constituent characters give rise to the pronunciation of "フランクミウラ (FURANKUMIURA)."

With respect to the meaning, considering the actual circumstances of the

demandee's goods described above in 2, the demandee intends that, when consumers' see the demandee's goods with the Trademark at a glance, it evokes the demandant's goods with the Cited Trademarks, and the used trademark by the demandant, it is obvious that the confusion is the characteristic of the demandee's goods, and the Trademark can evoke FRANCK MULLER as the prominent brand.

(2) Cited Trademark

Cited Trademark 1 consists of the standard characters of "フランク ミュラー (FURANKU MULLER)," Cited Trademark 2 consists of the characters "FRANCK MULLER." Relating to the two trademarks, the whole relevant constituent characters give rise to the pronunciation of "フランクミュラー (FURANKU MYURA)," and the characters of "フランク ミュラー (FURANKU MULLER)" and "FRANCK MULLER" are prominent trademarks as those indicating the goods relating to the business of the demandant, and the two trademarks evoke the meaning of "FRANCK MULLER" as the prominent brand.

Cited Trademark 3 consists of "FRANCK MULLER REVOLUTION" written in Alphabetic characters. In Cited Trademark 3, there is "FRANCK MULLER" written in Alphabetic characters, which is the prominent trademark as those indicating goods relating to the business of the demandant, the whole relevant constituent characters give rise to the pronunciation of "フランクミュラーレボリューション (FURANKU MYURA REBORUYUSHON)" and also "フランクミュラー (FURANKU MYURA)" from the characters of prominent "FRANCK MULLER," and evoke meaning of "FRANCK MULLER" as the prominent brand.

(3) Similarities between the Trademark and Cited Trademark

A Appearance

As described in Attachment, the Trademark consists of katakana and Chinese characters; on the other hand, Cited Trademarks consists of only katakana or only Alphabetic characters as described above in (2), and when observing the whole, the Trademark and the Cited Trademarks can be distinguished with respect to the appearances.

B Pronunciation

Comparing the pronunciation of "フランクミウラ (FURANKUMIURA)" given from the Trademark with the pronunciation of "フランクミュラー (FURANKUMYURA)" given from the Cited Trademarks, the two pronunciations are common in five sounds of "フ (FU)", "ラ (RA)", "ン (N)", "ク (KU)" and "ラ (RA)", and are different in that the fifth sound and the sixth sound of the pronunciation of the Trademark are "ミ (MI)" and "ウ (U)," respectively; on the other hand the fifth sound

of the Cited Trademarks is "ミユ (MYU)," and are different in the presence and absence of long pronunciation in the end.

With respect to the different sounds of "ミウ (MIU)" and "ミユ (MYU)," these sound are common in "ミ (MI)," and "ウ (U)" and contracted pronunciation "ユ (YU)" are common in the vowel, and thus "ミウ (MIU)" is similar to "ミユ (MYU)." Further, long pronunciation in the end of the pronunciation of the Cited Trademarks is not strongly pronounced. Thus, when continuously pronouncing the two pronunciations, those are similar to each other in the whole tone and feeling, and it is reasonable to determine the trademarks are similar to each other.

C Meaning

Since the Trademark can evoke the meaning of "FRANCK MULLER" as the prominent brand, the Trademark is similar to the Cited Trademarks, which evoke meaning of "FRANCK MULLER" as the prominent brand, with respect to the meanings.

D Designated goods

"clocks and watches; unwrought and semi-wrought precious stones and their imitations; personal ornaments" as the designated goods of the Trademark are common in the designated goods of Cited Trademark 1. "watches" as the designated goods of the Trademark are common in the designated goods of Cited Trademark 2. Further, comparing the designated goods between the Trademark and Cited Trademark 3, "watches" and "timepieces and chronometric instruments," "unwrought and semi-wrought precious stones" and "jewelry; precious stones" "key rings" and "key rings" "personal ornaments" and "personal ornaments of precious metal" are identical or similar to each other, respectively.

(4) Summary

As described above, the appearances between the Trademark and the Cited Trademarks are different; however, the pronunciations, meanings, and designated goods therebetween are similar to each other, and thus it is reasonable to say the two trademarks are similar to each other.

Therefore, the Trademark falls under Article 4(1)(xi) of the Trademark Act.

4 Applicability to Article 4(1)(x) of the Trademark Act

As described above in 1, it is recognized that the used trademark by the demandant with "watches" as goods is a prominent trademark.

Further, since the used trademarks by the demandant consist of the characters "フランク ミュラー (FURANKU MULLER)" or "FRANCK MULLER" similar to Cited Trademark 1 and Cited Trademark 2 respectively, as described above in 3(4), the

Trademark and the used trademark by the demandant are similar to each other and the designated goods of the Trademark includes "watches."

Therefore, the Trademark falls under Article 4(1)(x) of the Trademark Act.

5 Applicability to Article 4(1)(xv) of the Trademark Act

As described above in 1, the used trademark by the demandant is used with "watches" relating to the business of the demandant and was prominent at the time of application and upon the decision for registration of the Trademark.

Next, as described above in 4, the Trademark and the used trademark by the demandant are similar to each other.

Further, the designated goods of the Trademark include "watches" relating to the business of the demandant. "unwrought and semi-wrought precious stones and their imitations; key rings; and personal ornaments" and "watches" are goods whose design, brand, and decoration are regarded as important, and are similar goods being common in the traded place and consumers.

Thus, if the Trademark is used with the designated goods, the Trademark is a trademark likely to cause confusion with goods relating to the business of another person.

Therefore, if the Trademark does not fall under Article 4(1)(x) and Article 4(1)(xi) of the Trademark Act, the Trademark falls under Article 4(1)(xv) of the Trademark Act.

The demandee alleges that the demandee's goods are parodic watches, consumers do not buy the demandee's goods by being confused about the source of watches of the demandant's goods, and consumers widely recognize that the demandee's goods and the demandant's goods are significantly different from each other.

However, the purpose of Article 4(1)(xv) of the Trademark Act is to prevent free-ride to well-known or prominent indication and dilution of the indication, to protect a trademark distinguishing function vis-a-vis other marks, to ensure the maintenance of business confidence of persons who use trademarks, and to protect interests of consumers. As described above in 2, when the demandee introduces and advertises the demandee's goods with the Trademark, the demandee recognizes that the demandant's goods with the Cited Trademarks, and the used trademark by the demandant are prominent luxury watches and the brand of luxury watches, and while citing as an example, the demandee's goods are parodic goods. This indicates that the demandee intends that the demandee's goods evoke the demandant's goods with the Cited Trademarks, and the used trademark by the demandant for consumers coming in contacting with the demandee's goods. Thus, it is obvious that the demandee free-rides

use on the business relating the prominent the used trademark by the demandant.

Therefore, the demandee's allegation described above cannot be accepted.

6 Applicability to Article 4(1)(xix) of the Trademark Act

It is recognized that as described above in 1 and 2, the demandee registered the Trademark with watches and the like as its designated goods, while recognizing that the trademark by demandant is widely recognized among consumers as those indicating the goods (watches) handled by the demandant, and the demandee's goods are parodies of the demandant's goods, and the demandee manufactures and sells goods with the Trademark which imitate "watches" being the demandant's goods. Thus, it is recognized that the demandee uses the Trademark for the purpose of gaining unfair profits, the purpose of causing damage to another person, or any other unfair purposes.

Therefore, if the Trademark does not fall under Article 4(1)(x), Article 4(1)(xi), and Article 4(1)(xv) of the Trademark Act, the Trademark falls under Article 4(1)(xix) of the Trademark Act.

7 Conclusion

As described above, since the Trademark violates the provisions of Article 4(1)(x), Article 4(1)(xi), Article 4(1)(xv), and Article 4(1)(xix) of the Trademark Act, its registration should be invalidated under the provisions of Article 46(1) of the Trademark Act.

Therefore, the trial decision shall be made as described in the conclusion.

September 8, 2015

Chief administrative judge: TANAKA, Koichi

Administrative judge: HAYAKAWA, Fumihiro

Administrative judge: MAEYAMA, Ruriko

Attachment The Trademark

フランク三浦