

Submission of Japan

-Grounds for refusal of all types of marks-

In regard to grounds for refusal of all types of marks (SCT/22/2), we would like to present some cases of Japan that demonstrate the application of the grounds.

- ***Paragraph 27 (Kind of goods or services)***

The following trademark (comprised of the words TOURMALINE SOAP in English and Japanese in an application designating “soap containing tourmaline”) was refused on the ground of descriptiveness. The appeal court concluded that ordinary consumers and traders would merely recognize that a component of the designated goods was tourmaline, as the court’s findings indicated that the positive effect of tourmaline had been promoted in advertisements for various other products.

TOURMALINE SOAP

トルマリンソープ

- ***Paragraph 28 (Quality of goods or services)***

The following trademark (comprised of the word JUMBO in Japanese in an application designating “meat, processed meat products, and seafood”) was refused on the ground of descriptiveness. The appeal court concluded that the word JUMBO in the trademark would be understood to show the size of the designated goods, as the court’s findings indicated that the word “jumbo” had not only been listed in ordinary dictionaries but had also been used to show the size of objects including food products.



- ***Paragraph 30 (Intended purpose of goods or services)***

The trademark (comprised of the word EXPERT in English in an application designating “sports equipment”) was refused on the ground of descriptiveness. The appeal court concluded that ordinary consumers and traders would merely recognize the trademark to be a reference to the quality and intended purpose of the designated goods. The court noted that the word “expert” was widely recognized to mean a skilled and trained person and used to indicate that certain sporting goods were for experts, especially ski equipment.

- ***Paragraph 31 (Value of goods or services)***

The following trademark (comprised of the combination of numbers and words “250 yen box lunch” in Japanese in an application designating a “box lunch”) was

refused on the ground of descriptiveness, as ordinary consumers and traders would merely recognize that the designated product was a box lunch priced at 250 Japanese yen.

250円弁当

- ***Paragraph 32 (Geographical origin of goods or services)***

The trademark (comprised of the word “GEORGIA” written in English at standard character in an application designating “tea, coffee”) was refused on the ground of descriptiveness. The appeal court concluded that ordinary consumers and traders would perceive and recognize the goods to have been made in Georgia of the United States. The court further noted that sufficient ground for refusing registration of a geographical term is that the general public recognizes the term to be a production region or a selling area, regardless of whether that is the actual case.