

Chapter 4: Article 3(1)(ii) (Trademarks customarily used)

(ii) A trademark customarily used in connection with the goods or services;

1. Trademark customarily used in connection with the goods or services

“A trademark customarily used in connection with the goods or services” is one which has become impossible to distinguish own goods or services and goods or services of others as a result of being customarily used among traders.

(Example 1) Trademarks consisting of characters, figures and other elements  
Trademark indicating “純正” (genuine) and “純正部品” (genuine parts) in respect of goods of “自動車の部品、付属品” (automotive parts, accessories)

Trademark indicating “正宗” [MASAMUNE] (Refined Japanese sake wine) in respect of goods of “清酒” (sake)

Trademark indicating “オランダ船の図形” ([ORANDASEN NO ZUKEI] (Figure of cake)) in respect of goods “カステラ” (castella)

Trademark indicating “かきやま” [KAKIYAMA] (rice crackers) in respect of goods “あられ” (cubic rice crackers)

Service indicating “観光ホテル” [KANKO HOTEL] (tourist hotel) in respect of services “宿泊施設の提供” (Provision of lodging accommodations)

(Example 2) Trademarks consisting of Color marks only

Trademark indicating “color combining red color and white color” in respect of services “execution of wedding ceremonies”

Trademark indicating “color combining black color and white color” in respect of services “execution of funeral ceremonies”

(Example 3) Sound marks

Trademark “Cries of a street seller who sells sweet potatoes baked on hot pebbles” in respect of goods “baked sweet potatoes”

Trademark “Sounds of a flute played by a street vendor who sells noodles on the streets at night (Chinese noodle supply) in respect of services “provision of Chinese noodles in food stand”