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**Similarity of Goods/Services in
Japan – Recent Developments**

Yoko Sakuma

International Activities Committee

Basics

- Similarity judgment based on “similar group code”

<Example>



28A02



28A02

Western liquors (CI 33)=Beer (CI 32)

Western liquors (CI 33)≠Japanese liquors
(CI 33)



28A01

Advantages of Similar Group Code

- Predictability
 - easy to define one's trademark right
 - easy to conduct TM searches

<Example>

Want to register a TM for “Western liquors”?

→ Search similar group code “28A02”

Disadvantages of Similar Group Code

- Inflexible
- Sometimes not following actual trade

<Example 1>

“Educational and instruction services relating to arts, crafts, sports or general knowledge” in CI 41 includes...

Flower arrangement instruction, karate instruction, language instruction, education at university or colleges, vehicle-driving instruction ...



41A02

Disadvantages of Similar Group Code

<Example 2>



41A02

Educational and instruction services relating to arts, crafts, sports or general knowledge (CI 41)

≠Arranging, conducting and organization of seminars (CI 41)



41A03

Recent Developments

- Decisions against “similar group code practice” are still not very many, but increasing ...

Case Studies

- against similar group code

- “KAMIGEN” Case (Hei14 (2002) gyo-ke 555)

So-called “nutritional supplements” (34F15)

= “vitamin preparations; nutritional additives for medical purposes, medicinal tonics and substitutes therefor” (01B01)

Case Studies

- against similar group code

- “KAMIGEN” Case (Hei14 (2002) gyo-ke 555)

<Court Decision>

- Contents and usage of goods are similar
- Sold in similar premises, in a similar manner
- Major pharmaceutical companies are expanding their business in the field of supplements

Case Studies

- against similar group code

- Appeal trial 2003-24278

Gloves for medical purposes (17A04)

≠Gloves and mittens [clothing] (17A04)

Case Studies

- against similar group code

- Appeal trial 2003-24278

<Board of Appeal Decision>

Both kinds of gloves are used to cover hands; however,

- materials, function, and usage are different

- consumers, traders, manufacturers, and distribution channels are different

Case Studies

- against similar group code

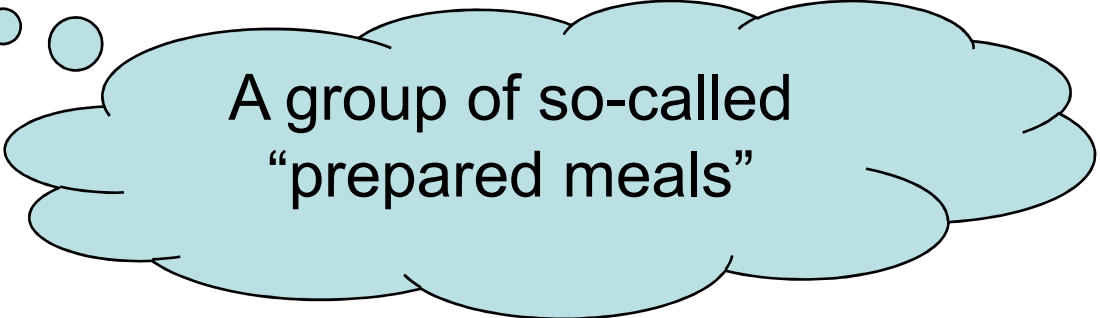
- Invalidation trial 2004-35071

Pies (30A01)

A light blue thought bubble with a black outline, containing the text "A group of 'confectionery'".

A group of
"confectionery"

= Meat pies (32F06)

A light blue thought bubble with a black outline, containing the text "A group of so-called 'prepared meals'".

A group of so-called
"prepared meals"

Case Studies

- against similar group code

- Invalidation trial 2004-35071

<Board of Appeal Decision>

- ingredients and recipe are very close
- sold at a same store
- consumers are the same

Case Studies

- following similar group code

- Opposition 2005-90326

Pastes and other adhesives for stationery or household purposes (01A02)

≠Stationery and study materials (25B01)

Case Studies

- following similar group code

- Opposition 2005-90326

<Board of Appeal Decision>

Though sometimes both goods may be sold at a same store, usually it is not confused that the same business entity manufactures or sells these goods.

Case Studies

- following similar group code

- Appeal Trial 2004-7439 and others

Automobiles and their parts and fittings
(12A05)

= Fire engines, cigar lighters for
automobiles (12A05)

In the Future

- Similar group code system would probably be maintained, but
- It needs to be updated.

Thank you!

Yoko Sakuma
International Activity Committee