

SHIMIZU & DAIGO

PATENT & TRADEMARK ATTORNEYS

PHONE: 81-3-3243-1245

Terasaki Bldg. No.2, 4th Floor
12-15, Nihonbashi-Muromachi 1-chome
Chuo-ku, TOKYO 103-0022
JAPAN

TELEFAX: 81-3-3246-2049

E-Mail: ip-law@shimizu-daigo.com

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1. JPO decided to approve the trademarks consisting solely by sound as the first case

The Japan Patent Office (JPO) announced that it approved the registration of three trademarks consisting solely by sound (only by melody, harmony etc. and without including any character element) on September 26, 2017.

The following is the details of three trademark applications

1. Application No. 2015-029809

Goods & Services: pharmaceutical preparations for treating gastrointestinal disorders (Class 5)

Applicant: Taiko Pharmaceutical

2. Application No. 2015-029981

Goods & Services: microprocessors etc. (Class 9)

Applicant: Intel Corporation

3. International Registration No. 1177675

Goods & Services: Automobiles and parts thereof. (Class 12)

Applicant: Bayerische Motoren Werke Aktiengesellschaft

*If you would like to play the above sound marks, please access below and click MP3 file button.

http://www.jpo.go.jp/seido/s_shouhyou/otoshouhyou-hatsutouroku.htm

☆The number of applications and registrations for non-traditional trademarks
(September 19, 2017)

	Total	Sound	Motion	Position	Hologram	Color
Application	1,594	566	126	376	17	509
Registration	303	172	83	35	11	2

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2. IP High Court upheld the trial decision to cancel the trademark registration for shoes

Japanese IP High Court decided on September 14, 2017 affirming the cancellation decision of JPO based on non-use.

The plaintiff owns the following International Registration.
IR No. 836836 (protection in Japan was granted on July 21, 2006)



The plaintiff filed the following evidence of use when the defendant filed the cancellation petition based on non-use.



At the cancellation trial, JPO stated that the above trademark was a device mark with dotted lines and not a position mark as alleged by the plaintiff. IP High Court agreed with JPO noting that the said trademark had to be interpreted as a device mark when no protection for position marks was introduced at the time of notification of IR No. 836836. In other words, it stated that use of X portion was not the use of the said trademark registration and it should use two-dimensional device mark consisting of X portion and dotted lines.

We see many old registrations with dotted lines which look like position marks. This decision clarified that these registrations were not registered as position marks.

If you have any question, please feel free to contact us.