

### Is Your Brand Ready to Tap Into Japan's Market?

As the **world's 5th largest economy**, Japan is a **high-purchasing-power market** and a **key player** in global business. Japanese consumers are **passionate about brands**, viewing ownership as a status symbol and a form of self-expression. In a culture that values authenticity, sincerity, cleanliness, and hospitality, protecting your brand's integrity is crucial to earning customers' trust and standing out in this competitive market. Understand the reasons for refusal and their solutions thoroughly, and aim for trademark registration in Japan!"

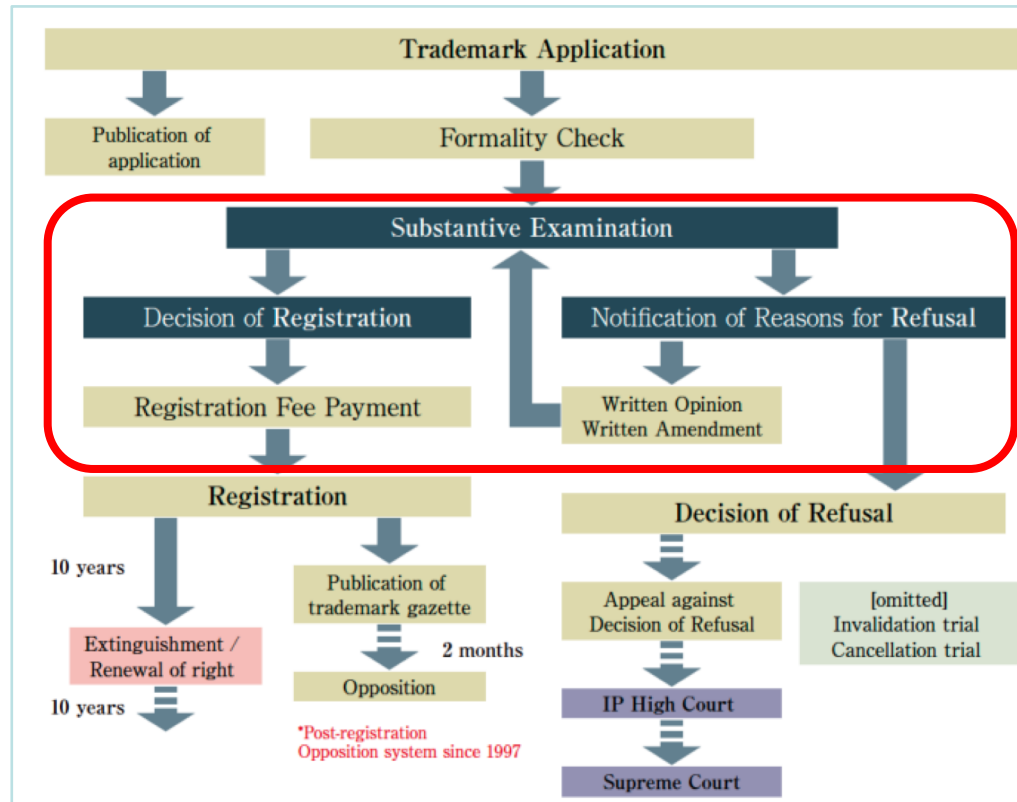
#### Overcoming Article 3(1)(iii)–(v)

**Solution: Article 3(2)**

**Acquired distinctiveness through use.**

If the applied trademark lacks distinctiveness, a notification of refusal will be issued. However, under Article 3(2), if you can prove that the trademark has **acquired distinctiveness through use**, registration may be granted. Even trademarks falling under Article 3(1)(iii)–(v) can be registered if consumers associate their use with a specific business.

#### Examination Flow



#### Overcoming Article 4(1)(xi)

**Solution: Consent System Article 4 (4)**

1. Obtain consent from the other party.
2. No risk of confusion with the other party's goods or services.

A trademark identical or similar to a prior trademark owned by another party cannot be registered, and a notice of refusal will be issued. Traditionally, this has been addressed through submitting an opinion statement, procedural amendments, assign-back agreements, or invalidation trials for improper use. The consent system serves as a **new solution** to address such issues.

#### Pocky case

**Grounds for refusal:** Represents the goods' shape or quality in a customary manner, falling under Article 3(1)(3) of the Trademark Act.

#### Reasons for the decision:

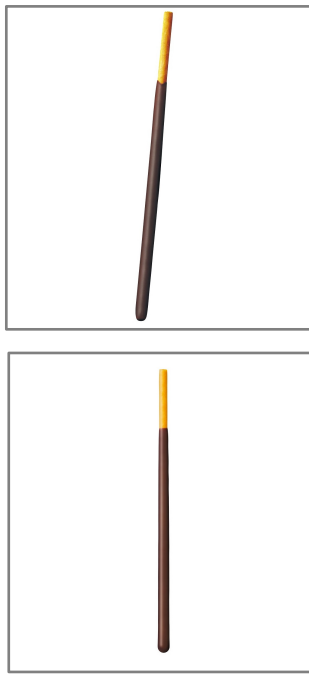
A survey of 1,036 Japanese showed that over 90% immediately recognized the applicant and their popular product from the applied trademark. The applicant submitted evidence of trademark use, market share, and advertising activities.

The designated goods were amended from "confectionery" to "chocolate confectionery".

#### Conclusion:

**The examiner acknowledged the 3D trademark's distinctiveness based on prolonged use under Article 3(2).**

"Pocky" (3D)

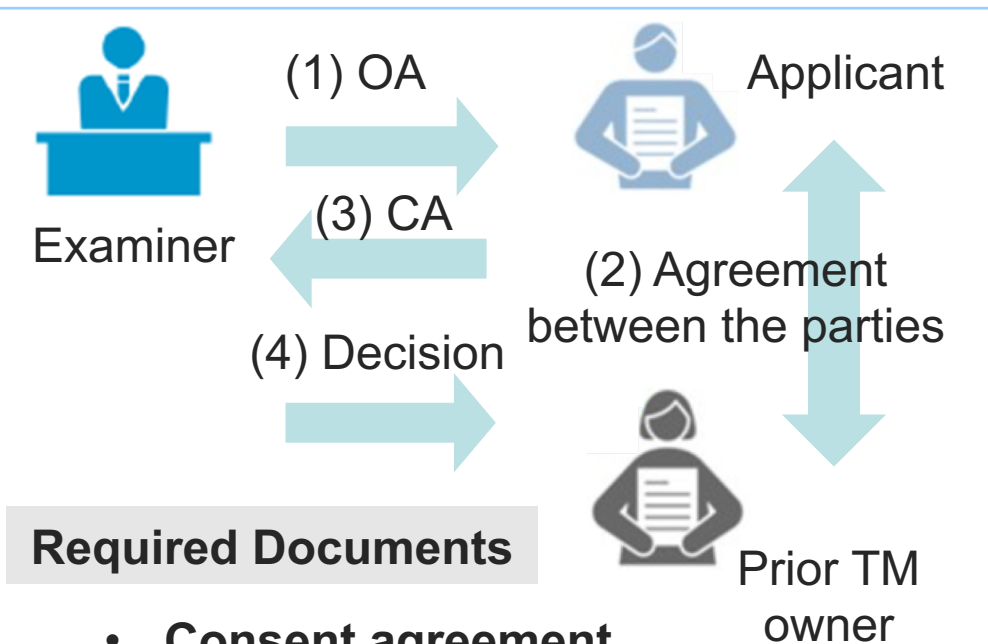


"Pocky"



- See more details by visiting pocky website.

#### Examination Procedures Using Consent Agreement (CA)



#### Required Documents

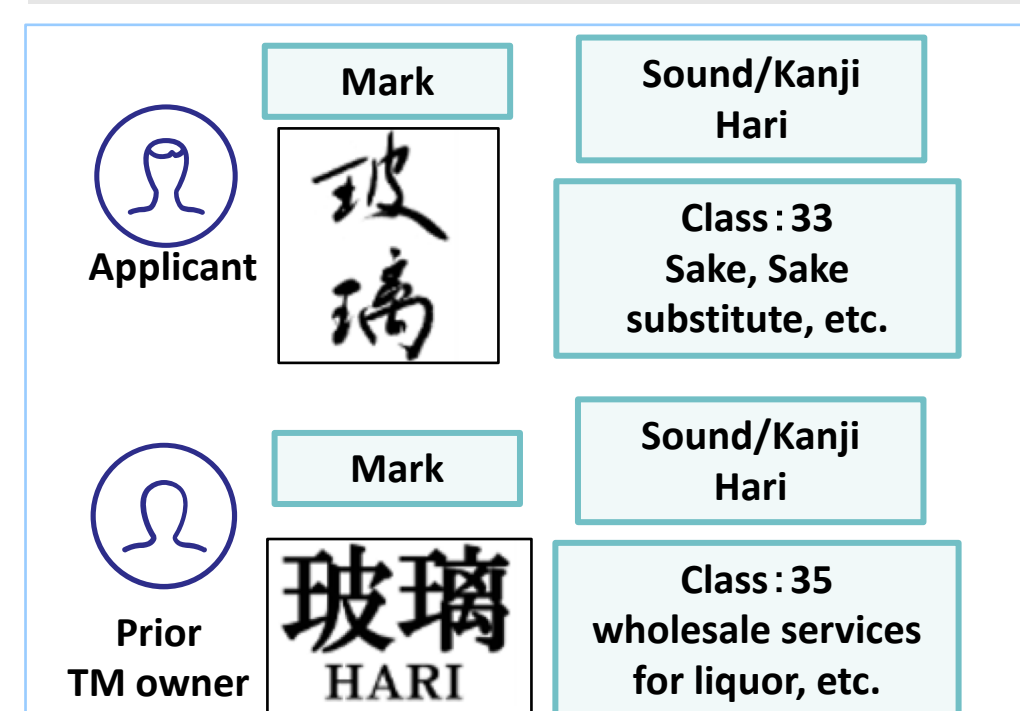
- Consent agreement
- Document(s) proving no **current and future likelihood of confusion**

#### Types of consent systems

In the complete type, similar trademarks can be registered with the owner's consent without further examination, while in the reserved type, consent is insufficient if there is a risk of confusion about the origin.



#### The first trademark registration in Japan using the "Consent System"



- See more details by visiting the METI website.



#### Godzilla case

**Grounds for refusal:** Represents the goods' shape or quality in a customary manner, falling under Article 3(1)(3) of the Trademark Act.

#### Reasons for the decision:

However, the Godzilla character, widely recognized since 1954 and further popularized by "Shin Godzilla," has become associated with the plaintiff's products leading consumers to recognize the applied trademark as an indicator of a specific source.

#### Conclusion:

**The court recognized the "Shin Godzilla" 3D trademark's distinctiveness under Article 3(2).**

"Shin Godzilla" (New Version)



"Godzilla" (First Version)



- See more details by visiting Court website.

