

## **Revision of Examination Guidelines on Names of Historical Characters.**

Conventionally, it had been possible to register trademarks for people's names, except for people who are presently living. Thus, a large number of names of historical characters have been registered.

However, the names of such well-known or famous historical characters have a strong ability to attract customers. Therefore, there is a tendency for such names to be utilized as a local symbol, for developments of his/her district and to promote tourism of that region. As a result, it has been pointed out that such registrations would monopolize the benefit of the names of historical characters, and that there is a likelihood that fair order in business and trading would be disturbed.

For this reason, the Japanese Patent Office revised the examination guidelines. In examination procedures of applications for trademark registrations, the Japanese Patent Office takes the circumstances of the trademarks into account, and then generally examines the application. In the case where an object of the trademark application is determined to result in a monopoly of benefits by the Japanese Patent Office, the trademark would be rejected under Article 4(1)(vii) of the Trademark Law.

Historical characters as referred herein means deceased individuals, including foreign people, who had lived in the past. The names of historical characters include any name, abbreviated designation, another name, professional name, and the like, but are limited to well-known or famous names as identifying specific people.

Although it is not mentioned in the revised examination guidelines, considerations regarding how well-known or famous book titles and festival names are to be handled is also being commenced. It is likely that such titles and names will be treated in accordance with the guidelines equivalent to those of the names of historical characters in the future.

The circumstances to be considered in applications related to any historical characters are listed below.

### **1) Awareness and Prominence of the Name of the Historical Character**

(That is, circumstances regarding how great the fame, the reputation and the ability to attract customers drawn by the historical character are, are considered. In addition, circumstances regarding whether the applicant realizes the fame, reputation and ability to attract customers are considered.)

### **2) Recognition of the Historical Character by People or Local Residents**

(That is, circumstances regarding how people and local residents recognize the historical character.)

### **3) The Intended Use of the Name of the Historical Character**

(That is, circumstances regarding whether a public organization, such as a chamber of commerce, holds events relating to the historical character in his/her native place. In addition, circumstances regarding whether many enterprises use the character's name in order to promote the events held by the public organization.)

### **4) Relevance of the Conditions of Use of the Name of the Historical Character and the Designated**

**Goods/Services**

(That is, circumstances under which use of the trademark will influence the purposes of promoting tourism in the historical character's native place, such as cases in which the goods/services designated by the applicant are the same as or similar to those used by the public organization, or cases in which the goods/services used by the applicant are directed to any special product of his/her native place)

**5) History, Purpose and Reason of the Application.**

(Reason why the applicant decided to file an application for the trademark, the intended use of the trademark by the applicant, and circumstances regarding how well-known or famous the applicant's trademark is.)

**6) Relationship Between the Historical Character and the Applicant.**

(Circumstances regarding what relationship exists between the historical character and the applicant. In addition, circumstances regarding what relationship exists between parties that use the name of the historical character in his/her native place and the applicant. Also, circumstances regarding how much time has elapsed since the historical character passed away.)