

4 Desirable Examination System for the Registration of Trademarks for Retailing as Service Marks and the Introduction of the Consent System

A research study committee was formed to discuss the "introduction of the consent system," "registration of trademarks for retailing as service marks," and "necessity to make a specific review of the current examination guidelines" in relation to the former two issues in Japan. As for the introduction of the consent system, a conclusion was reached as follows: (1) a quasi-complete type consent system should be introduced by operation; (2) consent should be allowable only regarding Section 4(1)(xi) of the Trademark Law; (3) it is necessary to review the Examination Guidelines for Similar Goods and Services and reinforce the application of the provision of the principal sentence of Section 3(1). As for the registration of trademarks for retailing as service marks, a conclusion was reached as follows: (1) the Trademark Law should be revised so as to provide that retail services shall be treated as services under the Trademark Law; (2) retail services should be defined as offering consumers the convenience of purchasing goods, such as provision and display of an assortment of goods, excluding sale of goods; (3) starting protection only in respect of "general retail services" should be considered; (4) along with the enforcement of the ninth edition of the Nice Classification, the registration of trademarks for retailing as service marks should be put into force in respect of applications filed on January 1, 2007 and thereafter.

I Background for the Discussion of the Introduction of the Consent System and the Registration of Trademarks for Retailing as Service Marks

Creating brand values has become an important task in corporate activities. The Trademark System Subcommittee of the Intellectual Property Policy Committee of the Industrial Structure Council is discussing a desirable form of the trademark system as a whole that is aimed to protect trademarks as a means to present brand values symbolically. In this discussion, careful consideration is required for studying the "treatment of trademarks for retailing as service marks" and "introduction of the consent system in the examination of trademarks that are to cause similarity and likelihood of confusion," which are closely related to the current examination process.

A research study committee was formed to discuss the registration of trademarks for retailing as service marks, the introduction of the consent system, and the necessity to make a specific review of the current examination process.

II Discussion on the Introduction of the Consent System

1 Issues to Be Discussed Regarding the Introduction of the Consent System:

What should a desirable consent system in Japan be?

[1] Introduced by law

(a) What right should consent be based on?

(b) Where a trademark is registered with the consent of the owner of the earlier registered trademark, is it registered despite its similarity to the earlier registered trademark or is it registered as being not similar to the earlier registered trademark?

(c) Is consent allowable regarding relative grounds for refusal other than those provided in Section 4(1)(xi)?

(d) Is a trademark identical to the earlier registered trademark registrable?

(e) Is it required to record in the register that consent has been given?

(f) What is the relationship between the consent and the examiner's decision?

(g) Is any person other than the trademark owner who has given consent also prevented from filing an opposition or demanding a trial for invalidation on the basis of the trademark cited in the notification of grounds for refusal?

(h) Is the trademark owner who has given consent or third party who has given consent allowed to file an opposition or demand a trial for invalidation on the basis of other trademarks of his own?

(i) Supposing that the consent system is introduced only under Section 4(1)(xi), if a trademark is registered with the consent of the owner of the earlier registered trademark, will it be allowable to file an opposition or demand a trial for invalidation by citing that earlier registered trademark based on other grounds for refusal?

(j) Where X owns a registered trademark A and Y owns another registered trademark A' with X's

consent, what will the consequences be if X or Y uses a trademark similar to their own registered trademark?

(k) Where X owns a registered trademark A and Y owns another registered trademark A' with X's consent, if X files an application for registration of a trademark A" that is similar to both A and A', will the application for registration of A" be refused for the reason of A'?

(l) Where X owns a registered trademark A and Y owns another registered trademark A' with X's consent, if Z intends to register a trademark A" for which the application is refused for the reason that A" is similar to both A and A', will Z need to obtain consent from X and Y?

(m) Where X owns a registered trademark A and Y owns another registered trademark A' with X's consent, will X need to state that X shall not exercise his exclusive right to prevent Y from using his registered trademark and vice versa?

(n) Is it possible to give consent at anytime?

(o) Is it possible to withdraw consent while the application is pending or after the registration is made?

(p) What measures can be taken to cope with the issue of "compensation"?

(q) Should we consider specific measures to prevent an adverse effect of the concurrent registration of similar trademarks due to the introduction of the consent system?

(r) Upon the introduction of the consent system, will it be necessary to give consideration to industries that are negative about the introduction of the system?

(s) Isn't it quite possible to introduce a substantially complete type consent system by operation?

[2] Introduction by operation

(a) When registering a trademark with the consent of the owner of the earlier registered trademark, is it appropriate to construe the trademark as not being similar to the earlier registered trademark?

(b) Is it possible to respect the consent of the owner of the cited trademark to the greatest extent in the examination process?

[3] Others

(a) How should a written consent be treated?

(b) What if a written request is submitted to defer the examination for the reason that consent negotiation is underway?

(c) Should we take measures to review the Examination Guidelines for Similar Goods and Services and cope with registered trademarks not in use by refusing applications designating all classes?

(d) How should we treat the request for easing the requirements for making amendment to

change the gist of the trademark for which registration is sought?

(e) What measures should be taken against trademark brokers?

2 Opinions on Discussion Items

(1) Opinions of the Trademark Committee of the Japan Patent Attorneys Association (JPAA)

[1] Introduced by law

(a) Consent should be based on the exclusive right of the proprietor of the earlier registered trademark.

(b) In accordance with the provision of Section 4(1)(xi), the trademark to be registered with the consent of the owner of the earlier registered trademark should be construed to be "similar to the earlier registered trademark but not liable to cause confusion with it." Consequently, legal revision will be necessary.

(c) Consent should be allowable regarding trademarks that fall under any relative grounds for refusal.

(d) A trademark that is identical to the earlier registered trademark and is used in respect of the goods or services covered by the earlier registered trademark shall not be registered because it is liable to cause confusion.

(e) The existence of consent should be disclosed in gazettes and recorded in the register.

(f) Even if a trademark is registered with the consent of the owner of the earlier registered trademark, the examiner should, in order to clarify the necessity of consent, determine similarity between them and carry out the examination based on such determination.

(g)-(i) Filing an opposition and demanding a trial for invalidation is allowable.

(j) X may exercise his exclusive right on Y and vice versa.

(k) The application for registration of trademark A" will be refused for the reason of registered trademark A'.

(l) The application for registration of trademark A" will be refused unless consent is obtained from both X and Y.

(m) There is no such necessity.

(n) Consent should be allowable anytime.

(o) Consent cannot be withdrawn after the decision of registration is made.

(p) Whether or not compensation may be demanded should be determined according to the business practices.

(q) We should consider applying the provisions of Section 24-4 and Section 52-2.

(r) There is no such necessity.

(s) It is impossible to introduce a complete type consent system by operation.

[2] Introduction by operation

- (a) The trademark should be registered as being not similar to the earlier registered trademark.
- (b) Though it is possible to require such respect under the Examination Guidelines, the issue is whether or not such operation will be completely performed.

[3] Others

- (a) Consent should be given in writing with the signature and seal of the authorized person.
- (b) The examination may be deferred only for a limited period. It should be provided that consent will be valid if it is obtained by the time of registration.
- (c) Efforts should be made to review the Examination Guidelines for Similar Goods and Services and consider how to describe the designated goods or services, separately from the issue of the consent system.
- (d) The requirements should be reviewed.
- (e) This issue depends on morality and appropriate operation of the trademark system.

(2) Opinions of the Trademark Committee of the Japan Intellectual Property Association (JIPA)

[1] Introduced by law

- (a) Consent should be based on the trademark right arising from the earlier application.
- (b) The purpose of the consent system is to register a trademark that is not liable to cause confusion with the earlier registered trademark in terms of origin and therefore deemed not to be similar to it, while taking into consideration opinions of the parties who are most informed of the actual conditions of transactions.
- (c) Consent should be allowable only regarding Section 4(1)(xi).
- (d) If two trademarks are deemed to be identical to each other from common sense, the later trademark should not be registered even with the consent of the owner of the earlier registered trademark.
- (e)(f) The existence of consent should be disclosed and clearly stated.
- (g) Filing an opposition and demanding a trial for invalidation is not allowable. Some members say that persons other than the trademark owner who has given consent should not be prevented from filing an opposition or demanding a trial for invalidation.
- (h) Filing an opposition and demanding a trial for invalidation is allowable.
- (i) Filing an opposition and demanding a trial for invalidation is not allowable. Some members say that persons other than the trademark owner who has given consent should not be prevented from filing an opposition or demanding a trial for

invalidation.

- (j) X may exercise his exclusive right on Y and vice versa.
- (k) The application for registration of trademark A" will be refused for the reason of registered trademark A' unless consent is obtained from Y.
- (l) The application for registration of trademark A" will be refused unless consent is obtained from both X and Y.
- (m) There is no such necessity.
- (n) Consent should be allowable anytime.
- (o) Consent can be withdrawn while the application is pending.
- (p) It is not necessary to provide that no compensation shall be demanded.
- (q) We should consider measures that correspond to the provisions of Section 24-4 and Section 52-2.
- (r) There is no such necessity because those who are negative about the consent system will not have to give consent.
- (s) There is no need to adhere to the introduction by law as far as we can establish a consent system that is in accordance with the purport of the trademark law and is effective.

[2] Introduction by operation

- (a) The committee is in agreement with the opinion that trademarks should be registered if they are not liable to cause confusion because of consent.
- (b) It is necessary at least to require such respect under the Examination Guidelines.

[3] Others

- (a) The committee desires for a written consent to be made in a simple format that contains minimum information.
- (b) The examination should be deferred only for a reasonable period.
- (c) The Examination Guidelines for Similar Goods and Services should be reviewed periodically. Measures should also be taken to cope with registered trademarks not in use by refusing applications designating all classes, but careful consideration is necessary.
- (d) The committee requires careful consideration in this respect.
- (e) There appears to be no necessity to take special measures against trademark brokers upon the introduction of the consent system.

(3) Opinions on the major items presented at the research study committee

[1] Introduced by law

- (b)
 - Concerning the opinion that the trademark to be registered with the consent of the owner of the earlier registered trademark

should be construed to be "similar to the earlier registered trademark but not liable to cause confusion with it."

Under the current law, such construction cannot be accepted. In this respect, legal revision is inevitably necessary.

- Concerning the opinion that the trademark to be registered with the consent of the owner of the earlier registered trademark should be construed to be "not similar to the earlier registered trademark."

It would be theoretically possible to construe that there is no similarity if a trademark is formally similar to the earlier registered trademark but is not liable to cause confusion with it. According to such construction, no problem would arise from registering a trademark that is not similar to the earlier registered trademark.

(d) A trademark that is identical to the earlier registered trademark and is used in respect of the goods or services covered by the earlier registered trademark shall not be registered even if consent is obtained.

(o) Consent cannot be withdrawn after the trademark is registered and the right is established.

3 Overseas Consent Systems

(1) Consent system is not available: Australia, etc.

(2) (i) Reservation type consent system is adopted: Norway, etc. (by law); United States, etc. (by operation)

(ii) Complete type consent system is adopted: United Kingdom, etc.

(3) Examination is conducted only in respect of absolute grounds for refusal: OHIM, etc.

4 Introduction of the Consent System in Japan

(1) Basic points of the introduction of the consent system

(i) Purpose of the introduction of the consent system

The consent system should be introduced as a means to complement the examination conducted by the examiner ex officio, so as to ensure that similarity between trademarks will be determined as more appropriate according to the actual conditions of transactions.

(ii) Contents of the consent system

① In the following cases, the trademark is obviously likely to cause confusion and therefore shall not be registered even if consent is obtained.

(a) Where the trademark is identical (or deemed

to be identical from common sense) to the cited trademark and is used in respect of the goods or services covered by the cited trademark.

(b) Where the cited registered trademark is well known or famous.

② Consent shall be allowable only regarding Section 4(1)(xi).

(2) Model cases of the consent system

(i) To what extent will the examiner be bound by the consent?

A practical resolution to this issue would be to adopt a quasi-complete type consent system, which is in-between a pure complete type consent system and a pure reservation type consent system. Under this compromise system, trademarks shall be registered if consent is obtained, except for those falling under the cases mentioned in (1)(ii)①(a) or (b) above.

(ii) Should the consent system be stipulated by law?

① Introduction of a quasi-complete type consent system by operation

By uniform operation as provided under the Examination Guidelines, trademarks, except for those falling under the cases mentioned (1)(ii)①(a) or (b) above, shall be registered if consent is obtained. More specifically, if consent is obtained from the owner of the cited registered trademark, "the trademark for which registration is sought shall be registered as being not similar to the cited trademark."

② Introduction of a quasi-complete type consent system by law (along with the introduction of the concept of likelihood of confusion in that of similarity)

By stipulating that trademarks, except for those falling under the cases mentioned in (1)(ii)①(a) or (b) above, shall be registered if consent is obtained, the "concept of likelihood of confusion" is introduced in the provisions of Section 4(1)(xi) of the current Trademark Law so as to establish a quasi-complete type consent system. More specifically, if consent is obtained from the owner of the cited registered trademark, "the trademark for which registration is sought shall be registered as being similar to the cited trademark but not liable to cause confusion with it."

(3) Direction of the discussion on the consent system

(i) The majority opinion in the committee was that a quasi-complete type consent system should be introduced by operation, and then if any problems occurred, legal revision and other measures should be considered.

A quasi-complete type consent system can also be introduced by law along with the

introduction of the concept of likelihood of confusion because, if the concept of "a trademark that is so similar as to cause confusion" is introduced in the overall framework of the Trademark Law, a consent system will be introduced smoothly by law.

(ii) Issues to be discussed for the operation of the consent system

① It is not necessary to set a special period for consent negotiation.

② The fact that consent has been given should be disclosed in gazettes or the IPDL.

③ In a written consent, it will suffice to state "I consent to the registration of the trademark in the application."

(iii) Issues to be discussed upon the introduction of the consent system

① The Examination Guidelines for Similar Goods and Services should be revised.

② The application of the provision of the principal sentence of Section 3(1) should be reinforced.

III Discussion on the Treatment of Trademarks for Retailing as Service Marks

1 Issues to Be Discussed Regarding the Registration of Trademarks for Retailing as Service Marks

Issue 1

(1) Contents of retail services and treatment of trademarks therefor

(a) Is it necessary for goods and services under the Trademark Law to satisfy the requirement of "being able to be an independent object of commercial trade"?

(b) Isn't it reasonable to understand that an environment has recently been created in which services aimed at offering customers convenience, such as provision of an assortment of goods in a particular store, can be recognized as a type of service that has independent economic value?

(c) Is it appropriate to specify the contents of retail services as "services aimed at offering customers convenience, such as provision and display of an assortment of specific goods," excluding "sale of goods"?

(d) Do retail services include "services aimed at offering customers convenience via the Internet"?

(e) Do retail services only include "general retail services" or also include "specialized retail services"?

(f) Is legal revision necessary?

(g) Are transitional measures necessary?

(2) Discussion on how to describe the designated services covered by trademarks for retailing as service marks

(a) What right is granted in respect of a service

mark for "retailing"?

(b) If "retail services" do not include "sale of goods," how should retail services be described?

(c) How should the designated services be described?

(d) What are specific examples of the description of the designated services covered by trademarks for retailing?

Issue 2

Verification of the relationship between how to designate goods or services covered by trademarks and how to define the trademark and the use of trademark

(1) Where a dispute arises from the use of a trademark, is there any difference between a goods mark and a service mark in terms of the method of proof?

(2) With respect to the registration of trademarks for retailing as service marks, is it possible to include not only "general retailing" but also "all acts that can be deemed to be services" in the scope of objects of protection?

Issue 3

(1) How should similarity be determined between services covered by registrable trademarks for retailing and other goods or services? How should similarity be determined between services covered by registrable trademarks for retailing and other services for retailing?

2 Opinions on the Discussion Items

(1) Opinions of the Trademark Committee of the JPAA

Issue 1

(1)(a) The substance of retail services is to "provide an assortment of goods with the aim of offering customers the convenience of purchasing goods," and the compensation for such services is added to the price of goods purchased by individual consumers who enjoy the services. Based on this recognition, retail services can be recognized as the "act of providing others with benefits, which is capable of being an independent object of commercial trade."

(c) "Sale of goods" refers to the act of assigning goods to customers for value, and services of "retailing" refer to the services aimed at offering customers, for value, the convenience of purchasing goods.

(d) The definitions mentioned in (c) shall apply to "services aimed at offering customers convenience via the Internet."

(e) There is no necessity to distinguish general retailing and specialized retailing as designated services covered by registered trademarks.

(2)(a) If retail services are construed as "provision of an assortment of goods with the aim

of offering customers the convenience of purchasing goods," the scope of rights to be granted in respect of a registered trademark would depend on the scope of such services.

(b)-(d) It should be allowable to describe the designated services as "retailing of..." or "wholesaling of..."

Issue 2

(1) Whether a trademark is used in respect of the designated goods or in respect of the designated services is irrelevant to whether it is a goods mark or a service mark.

(2) The substance of "retailing of goods" is to "provide an assortment of goods with the aim of offering customers the convenience of purchasing goods," and this is not only applicable to "general retailing."

Issue 3

(1) As provided under the Trademark Law, some services may be similar to goods and some goods may be similar to services. In the examination process, determination of similarity between services and goods is deemed to be an issue of Section 4(1)(xv) rather than Section 4(1)(xi) and handled as such. This also applies to the determination of similarity between retail services and goods.

(2) Opinions of the Trademark Committee of JIPA

Issue 1

(1)(a) The provision in parentheses of Section 2(1)(ii) does not preclude the possibility of construing "trademarks for retailing" as service marks.

(b) Trademarks for retailing serve as marks by which customers can distinguish and select labor or benefits provided for them, in particular, through the provision and display of an assortment of goods and customer relations, and they perform fundamental functions of trademarks in the same manner as ordinary service marks, such as indicating the origin of services, guaranteeing the quality of services, and advertising services. In this respect, trademarks for retailing have property value that is worthy of protection as service marks in which reputations of individual retailers are embodied. There is no substantial problem if "independent tradability" is considered flexibly from the perspective of whether a trademark used in respect of an act has property value that is worthy of protection as a trademark in which the act is symbolized.

(c) "Retailing" can be defined as "a series of services provided in the course of sale of goods by the seller for customers with the aim of offering them the convenience of purchasing goods, such as provision and display of an

assortment of goods and customer relations."

(d) "Retailing" via the Internet can also be defined as "a series of services provided in the course of sale of goods for customers with the aim of offering them the convenience of purchasing goods, such as provision and display of an assortment of goods and unique customer relations based on the nature of cyberspace."

(e) It may be appropriate, for a start, to grant registration in respect of "general retailing" as statutory registrable services.

(f) Even if registration were granted to trademarks for retailing as service marks, the current provision of Section 2(1) could be read as applicable and there could be no necessity to revise the definition of the "use" (Section 2(3)) arising therefrom. However, it is worthy of consideration to provide that, for confirmation, "retailing" shall be treated as services under the Trademark Law.

(g) If registration were granted only in respect of "general retailing" as statutory registrable services, it would suffice to revise the attached table of the Trademark Law, as for problems that could be solved through interpretation. There would be no need to take other special measures, such as transitional measure.

(2)(c) The committee is in disagreement with describing the designated services merely as "retail services," but finds no need to discuss the use of the term "retailing."

(d) As designated services, general retail services may be described in the form of ① "B provided at A" or ② "B provided by A." In the form of ①, A can be filled in with the name of a store that does not remind people of any particular goods, such as "department store," and B can be described as "the bringing together, for the benefit of others, of a variety of goods (excluding the transport thereof), enabling customers to conveniently view and purchase those goods." In the form of ②, A can be filled in with the name of a sales method that does not remind people of any particular goods, such as "catalogue selling," and B can be described in the same manner as in the form of ①.

Issue 3

(1) If registration were granted only in respect of "general retailing" as statutory registrable services, it may be reasonable to preclude the necessity of cross search without further consideration in this respect.

(3) Opinions on the major items presented at the research study committee

Issue 1

(1)(a) Some members were of the following opinion. "Even if retail services are required to be tradable independently, it cannot be regarded as

capable of being in itself a normal object of commercial trade; therefore, a suggestive measure would be to regard retail services as an object of commercial trade by operation without further consideration in this respect, or if it is impossible, legal revision would inevitably be necessary."

(b) Some members were of the following opinion. "Increasing the values of Japanese brands as economic resources is recommended in the Intellectual Property Strategic Program. It would be appropriate for us to discuss whether or not retailing is eligible for protection from this perspective. Providing a rich assortment of goods at a convenience store is surely a valuable service, and the trademark used in respect for such service should be protected. Furthermore, for instance, consumers are convinced that genuine products are always available at Mitsukoshi, and such authority is expressed in their wrapping paper. Assuming this, such services can also be deemed to be valuable."

(c) Some members were of the following opinion. "The major point of treating trademarks for retail services as service marks is that the substance of retail services is to provide an assortment of goods for consumers. It is recommended to exclude sale from the scope of retail services according to the international trends in describing services." "It does not matter whether or not retail services includes sale. This does not affect practices, leaving the necessity of legal revision as the only issue to discuss."

(d) Some members were of the following opinion. "If it is only aimed at satisfying needs, it would suffice to grant registration only in respect of general retailing."

Issue 3

(1) Some members were of the following opinion. "As for retail services at department stores, there is no need to determine similarity between trademarks for retail services and trademarks for goods, irrespective of whether or not sale is included in the scope of retail services." "Similarity should, in principle, be determined, irrespective of whether or not sale is included in the scope of retail services."

3 Overseas Service Marks for Retailing

(1) Retail services are excluded from the scope of services: Germany, etc.

(2) Retail services are included in the scope of services:

① Retail services are accepted broadly as designated services: Australia, etc.

② Retail services are described by industry or mode relating to retail services, such as "department store," "retail services at department store," and "retail services of particular goods":

the United States, etc.

③ Retail services are described as defined in the eighth edition of the Nice Classification, "the bringing together, for the benefit of others, of a variety of goods (excluding the transport thereof), enabling customers to conveniently view and purchase those goods": the United Kingdom, etc.

4 Registration of Trademarks for Retailing as Service Marks

(1) Services under the Trademark Law

Services under the Trademark Law must be "able to be independent objects of commercial trade."

(2) Independence of retail services

In order to grant registration to trademarks for retail services, it would be reasonable to revise the Trademark Law so as to provide that "retail services shall be treated as services under the Trademark Law."

(3) Contents of retail services (whether or not "sale" are included)

Protection under trademarks for retail services is needed in respect of "provision and display of an assortment of goods." Furthermore, if retail services were considered to include "sale," it would be difficult to distinguish trademarks for retail services from trademarks for goods that have been recognized as marks used upon sale. Considering these matters, it would be reasonable to limit the scope of retail services that are eligible for trademark registration to "offering consumers the convenience of purchasing goods, such as provision and display of an assortment of goods."

(4) Whether protection should be afforded only in respect of "general retail services" or also in respect of "specialized retail services"

Considering that protection under trademarks for retail services is needed only in respect of "general retail services," protection should start only in respect of "general retail services," and whether or not this policy is appropriate should be subject to public comment.

(5) Necessity to determine similarity between a service mark and a goods marks relating to retail services in the examination process

There is no need to determine similarity if protection under trademarks for retail services is afforded only in respect of "general retail services."

(6) Necessity to determine similarity between services marks relating to retail services in the examination process

Assuming that protection is afforded only in respect of "general retail services," two views would be argued: (i) all services that fall under the category of general retail services should be

deemed to be similar with one another; and (ii) services that fall under the category of general retail services should be deemed to be similar or not similar depending on the contents of the services.

(7) Description of the designated services for retail services

As the designated services, retail services should be described without using the term "retail" so as to avoid confusion with goods marks, and it should be described with an expression such as "offering the convenience of purchasing goods" instead. Further consideration will be needed as to a specific range of general retail services.

(8) Date of enforcement

Along with the enforcement of the ninth edition of the Nice Classification which will contain changes in explanatory notes, it will be appropriate to enforce registration of trademarks for retailing as service marks in respect of applications filed on January 1, 2007 and thereafter.

(9) Necessity of transitional measures

Under the conditions that protection is afforded only in respect of "general retail services," sale is not included in retail services, and it is not necessary to determine similarity between a service mark and a goods mark relating to retail services in the examination process, minimum transitional measures would suffice. However, further consideration should be needed as to the concrete contents of such measures.

50; examples of descriptions of retail services as designated services; operational issues as to the necessity of transitional measures.

(Senior Researcher: Seiji Uchiyama)

IV Conclusion

The research study committee discussed the possibility of introducing the consent system and granting registration to trademarks for retailing as service marks, and reached the conclusion, shown in II.4 and III.4. The following issues remain with respect to the consent system: Since it is impossible to cope with registered trademarks not in use only by refusing applications designating all classes, other measures should be considered; Whether or not it is appropriate to make a review of the Examination Guidelines for Similar Goods and Services (or whether or not it is possible to require considerable workload and costs, including those for changing the computer system, from the Patent Office over a short period of time), which is said to be a prerequisite for introducing the quasi-complete type consent system. The following issues remain with respect to retail services: matters that affect the basis of the trademark system, such as the scope of effect of trademark rights in respect of trademarks for retail services and the scope of acts that might be deemed to be infringement, as well as the scope of the use of a trademark provided under Section