

Trademark and Unfair Competition Law and Policy in Japan

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To Paula, Emily and Ellie

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PREFACE

Some of the following work previously appeared in a book I wrote in 1998 called *JAPANESE TRADEMARK JURISPRUDENCE*. It was originally published by Kluwer Law International. However, all of the material on the Unfair Competition Prevention Act (Chapters X and XI) were not in the original. Additionally, this book completely updates and newly expresses major portions of the previous work. For these reasons, it seemed inappropriate to call this book a “second edition.”

All Japanese names in this book are given in the Western manner. That is, surnames appear last and given names appear first.

All translations herein were done by the author. Although faithful to the originals, I did exercise some editorial discretion to make them understandable to an English speaking audience. For this reason, these translations are not offered as, nor should they be cited by any court of law as, legally definitive.

Although I endeavored to supply the names of all parties in all citations, I was not always successful. In the past, Japanese courts did not give the parties’ names out of respect for their privacy. Although, thankfully, not in trademark or unfair competition cases, Japanese courts sometimes supply pseudonyms in the place of the party’s actual name (this is usually done in divorce cases or serious criminal cases). Where the party’s name is either not given by the court or I could not discern the party’s name by reading the case or secondary sources regarding that case, I indicate this in the citation by placing the following language: [Party Names Not Provided in Original].

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Many people contributed to this book and I cannot possibly thank them all. I received substantial encouragement and support from Professor Nobuhiro Nakayama of Tokyo University. Some of the research for this book was done while I was a Foreign Research Fellow at the Business Law Center at Tokyo University. Toshiya Kaneko of Tokyo University assisted in reading Chapters X and XI. Kurtis Strovink (William Mitchell '07), Paul A. Godfreed (William Mitchell '08) and Martha J. Engel (William Mitchell '08) provided editorial commentary. Cal Bonde provided word processing support and Meg Daniel provided indexing and other significant production support.

Most importantly, however, is that I routinely relied on my personal set of Hanrei Jiho (the equivalent of the Federal Reporter series in Japan). I believe this to be one of the few complete sets kept current from Volume 1 in 1953 through today. This set was originally donated to me by Professor Lawrence W. Beer. I remain deeply appreciative of this contribution.

Finally, I want to acknowledge my wife Paula and daughters Emily and Ellie. Their understanding, support and inquisitiveness made this work possible.