

JAPAN INTELLECTUAL PROPERTY ASSOCIATION

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July 9, 2012

(By email)

Tobacco Packs Consultation
Department of Health

Re: JIPA Opinions on the “Consultation on standardized packaging of tobacco products”

We, the Japan Intellectual Property Association, are a private user organization established in Japan in 1938 for the purpose of promoting intellectual property protection, with about 900 major Japanese companies as members. When appropriate opportunities arise, we offer our opinions on the intellectual property systems of other countries and make recommendations for more effective implementation of the systems. (<http://www.jipa.or.jp/english/index.html>)

Having learned that the “Consultation on standardized packaging of tobacco products”, published by UK Department of Health on April 16, 2012, we would like to offer our opinions as follows. Your consideration on our opinions would be greatly appreciated.

Sincerely yours,



(Hirokazu Kokumai)

(Chairperson of the Trademark Committee)

Japan Intellectual Property Association

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JIPA Opinions on the “Consultation on standardized packaging of tobacco products”

JIPA has closely and carefully examined the proposed measure, publicized by UK Department of Health as of April 16, 2012, under the title of “Consultation on standardized packaging of tobacco products”. JIPA hereby presents its opinions on this proposed measure.

Response to the Consultation Question No. 1:

JIPA supports Option 1 (Do nothing about tobacco packaging (i.e. maintain the status quo for tobacco packaging))

JIPA Opinions:

Trademarks are essentially used to identify various products or services marketed by that business and to distinguish those goods and services from those produced or rendered by others, resulting to have following fundamental functions such as: identifying the origin or ownership of a product; guaranteeing the quality of a product; and advertising and promotion of a product. The proposed standardized packaging measure may cause difficulties to consumers in differentiating a product from another; thereby aforesaid fundamental functions of trademarks will be prejudiced.

To be more precise, we have concerns that the proposed standardized packaging measure may cause unintended negative consequences, namely encouraging the proliferation of counterfeit products manufactured by illicit traders and promoting a likelihood of consumer confusion of purchasing unwanted products and/or counterfeit products based on their false recognition of such brands.

Therefore JIPA urges UK Department of Health to carefully reconsider the proposed standardized packaging measure having taking into account our opinions set out above.

(EOD)

回答骨子

回答：

オプション1を支持する。

意見：

商標は、本質的には自他商品等の識別力を発揮するものであり、その結果、出所表示機能、品質保証機能、宣伝広告機能を有するものである。上記規制によって、消費者が商品を区別しにくくなり、商標としての機能が低下する懸念がある。

我々が具体的に懸念している事項は、消費者による商品の誤認混同リスクが高まる、および消費者において偽造品と真正品の区別がより困難になることで不正業者による偽造品の横行を助長する、というものである。