

Favorable Ruling Concerning BAO BAO ISSEY MIYAKE

Today we received a favorable ruling on the lawsuit (2017 (wa) No. 31572; hereinafter the “Lawsuit”) we filed against Largu Co., Ltd. (“Defendant”) in the Tokyo District Court for reason of Unfair Competition Prevention Act (“UCPA”) violations among others.

1. Overview of Lawsuit

The Lawsuit was filed in the Tokyo District Court on September 15, 2017, seeking an injunction against the sale, import, etc. of Defendant’s “Avancer” brand bags and pouches shown below (“Accused Products”), which is similar to the BAO BAO ISSEY MIYAKE bags and pouches, and seeking damages therefor for reason of UCPA violations among others.



Left: BAO BAO ISSEY MIYAKE; Right: Accused Product

We began selling BAO BAO ISSEY MIYAKE bags in 2000 as a PLEATS PLEASE ISSEY MIYAKE product (at the time, the product name was “Bilbao”). Then, encouraged by support from our customers, we launched an independent “BAO BAO ISSEY MIYAKE” brand in 2010. The creative design of the bags, where when items are placed in the bag the seams of tile-like pieces bend and the exterior form changes geometrically and three-dimensionally, has received high praise both in Japan and abroad.

We believed that the Accused Products is similar to BAO BAO ISSEY MIYAKE bags and pouches and tried to discuss this matter with the Defendant. However, the Defendant disaffirmed the violation UCPA etc., leaving no prospect of resolving the issue through conversation; as a result, matters progressed unavoidably to the filing of the Lawsuit.

2. Overview of Ruling

The ruling broadly granted our assertions and found that designs comprising the three below-described common features of BAO BAO ISSEY MIYAKE bags and pouches (“Designs”) had been well known as “Indication of Goods or Business” (Article 2,

Paragraph 1(1) of UCPA) representing BAO BAO ISSEY MIYAKE products, thereupon ruling that the Accused Products, which use designs similar to the Designs, confuse and mislead consumers to believe said Accused Products are BAO BAO ISSEY MIYAKE products, and that for this reason, the sale, import, etc. of said Accused Products constitutes an act of unfair competition.

Common Features

- (i) In accordance with the shape of the inserted items, the seams of pieces (*i.e.*, component parts of the bag) bend, thereby creating various angles and geometrically and three-dimensionally deforming the exterior of the bag to match said items;
- (ii) A plain mesh fabric or soft fabric slab is used for the bag material in order to support the exterior of (i) above; and
- (iii) On top of said bag material, a large number of triangular pieces having a somewhat rigid texture giving the impression of a tile are arranged in a tile pattern over substantially all of said bag material, with identical gaps of roughly 2-3 mm between said pieces.

The ruling further ordered that the Defendant: cease all infringing conduct, including selling and delivering the Accused Products, exhibiting for the purposes of sale or delivery, or importing said products; dispose of the Accused Products; and pay damages among others.

3. Our Approach to Design and Product Creation

We begin all of our projects from innovative product creations that combine traditional materials and techniques with the latest technologies, and are always seeking to create products that give our customers new surprises. Furthermore, we treasure ISSEY MIYAKE's distinctive designs, which are the realizations of our creative ideas.

It is undeniable that fair competition plays an essential role in the birth and creation of outstanding new designs. However, designs which cross the line by appropriating multiple features of our products (*i.e.*, designs which go beyond what can be considered permissible inspiration), and which are liable to confuse and mislead our customers into believing "this is an Issey Miyake product", are a threat to the social credibility of our brand; we cannot overlook such conduct.

Going forward, we will take every action necessary to protect the distinctive designs we have created.

Accused Products

Accused Product 1 (Product No. 68697-01/26/32/37/39/50/90)

Accused Product 2 (Product No. 76780-00/01/07/08/31/32/35/50)

Accused Product 3 (Product No. 68696-01/26/32/37/39/50/90)

Accused Product 4 (Product No. 60013-01/26/32/34/37/39/50/90)

Accused Product 5 (Product No. 68054-01/32/34/39/49)
Accused Product 6 (Product No. 43516-01/31/32/35/50)
Accused Product 7 (Product No. 57134-01/32/35/39/50)
Accused Product 8 (Product No. 68062-89)

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