

Defense against an Injunction on Unfair Competition

A world-famous U.S.-based guitar company sued a Japanese instrument maker, seeking an injunction on all sales, and claiming that the Japanese instrument maker was selling guitars with a shape similar to the U.S.-based guitar company's guitars. The U.S.-based guitar company was very proud of the shape of its guitars, and claimed that the shape of the guitars had a special function in identifying it as the manufacturer.

KLO was retained to defend the Japanese instrument maker. Considering the market situation in Japan, in which the same shape of guitars had been sold from many other makers for more than 20 years, we collected guitar catalogues and music magazines from around Japan in our effort to argue that the design of both guitars was already standard in the Japanese market. The Tokyo District Court and Tokyo High Court admitted to the strength of our arguments and evidence and we won in all stages of the lawsuit and its appeal.

The case is now, famously, a leading case in Japan, standing for the principle that the standardization of goods does not serve to indicate their seller.

Locations in which this case decision was published or cited:

- Tokyo District Court, Judgment, February 27, 1998; Law Times Reports (974) 215 [1998] (Hanrei Times 974 p. 215)
- Tokyo High Court, Judgment, February 24, 2000; Law Cases Reports (1719) 122 [2000] (Hanrei Jiho 1719 p. 122)