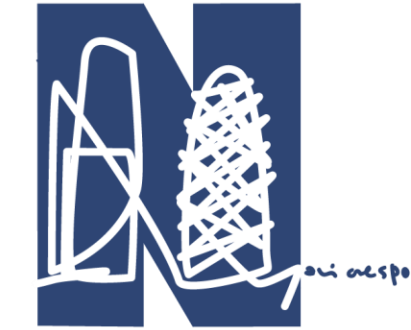


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TM5/INTA
JOINT
WORKSHOP
Chanyang LEE
MOIP
Republic of Korea



Likelihood of Confusion Analysis for Composite Marks

(Focused on Trademark Examination Case Studies)

10th TM5/INTA Joint Workshop



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1. Criteria for Determining Similarity (Principles of Examination)

- **Overall Observation**

- When determining the similarity of trademarks, the examiner observes three aspects—appearance, phonetic sound, and concept—to assess whether there is a likelihood of consumer deception or confusion
- Trademarks are perceived by consumers as a single unit rather than separate elements; therefore, they must be evaluated as a whole.

- **Dominant Element Analysis** (Supplementary Method)

- In actual commerce, certain parts of a trademark may leave a particularly strong impression on consumers. In such cases, the “dominant element”—the most distinctive or prominent part—is identified and compared.

1. Criteria for Determining Similarity for Composite Trademarks

- **Composite marks**

- Consist of characters, symbols, devices, three-dimensional shapes, or combinations thereof, often with color

- **Criteria for Determining Similarity**

- The principle of global assessment applies
- If a specific component performs an independent source-identifying function, dominant element analysis is conducted concurrently

2. Combination of Word and Figurative Elements (Marks with Separable Elements)

- A composite mark in which the figurative and word elements are visually distinguishable, allowing for easy separation of the element
- The figurative and word elements are visually distinguishable, each component may retain independent distinctiveness. Accordingly, the device element, “KOREAN AIR,” and “SKY SHOP” may each be considered dominant.



2. Combination of Word and Figurative Elements (Dissimilar Marks Cases)

Compared to Prior Marks

Prior TMs:

'e-SKYSHOP'
'CYBERSKYSHOP'

Applied-for TM:

The logo for 'Korean Air Sky Shop'. It features a circular icon on the left containing a stylized 'S' shape. To the right of the icon, the words 'KOREAN AIR' are stacked above 'SKY SHOP' in a blue, sans-serif font.

KOREAN AIR
SKY SHOP

These trademarks are tend to be perceived as a whole as the prefixes “e” or “CYBER” are strongly integrated into the overall mark.

Examination Result (Dissimilar)

It is unlikely that consumers would recognize or abbreviate these marks simply as “SKYSHOP.”

Accordingly, these marks were found to be **dissimilar**, with a low likelihood of confusion.

2. Combination of Word and Figurative Elements (Similar Marks Cases)



Compared to Prior Marks

Prior Mark:

EVA
sky shop

Applied-for Mark:

 KOREAN AIR
SKY SHOP

In the trademark, the word elements 'EVA' and 'sky shop' are visually distinguishable.

Examination Result (Similar)

The "SKY SHOP" portion, emphasized through larger font size and cursive styling, functions as an independent dominant element.

Because the primary dominant element "SKY SHOP" is similar to the prior mark, it was deemed likely to **cause confusion** (though registered after deletion of identical designated goods)

2. Combination of Word and Figurative Elements (Integrated Word And Device Marks)

- Text is integrated into a design (e.g., within a wing or shield logo) such that separation is difficult
- Both the phonetic impression and the visual appearance of the device are assessed comprehensively



2. Combination of Word and Figurative Elements (Integrated Word And Device Marks)

Similar Marks: GENESIS

Prior Mark:

GENESIS
제너시스

Applied-for Mark:



While it looks difficult to separate the word from the device, the independent phonetic element “GENESIS” is clearly recognizable. Accordingly, the mark was found **similar** to the prior mark “GENESIS” based on dominant element analysis (observing the dominant element)

Dissimilar Marks: ASTON MARTIN



An opposition case brought by ASTON MARTIN. The wing motif is commonly used in the automobile industry and thus has limited distinctiveness. The central text clearly differentiates the overall phonetic impression, resulting in **a low likelihood of confusion** (opposition withdrawn)

3. Combination of Word Elements (Formation of a New Concept)

- The combination of “**GENTLE**” and “**MONSTER**” creates a new concept of a “gentle monster” in the eyewear industry.
- As it is pronounced as a short five-syllable expression in Korean, the mark is assessed as a whole without separating its elements.
- Therefore, compared with “**JETMONSTER**” and “**GENTLEBOX**,” the marks differ in overall pronunciation and concept, and are considered **dissimilar**.

GENTLE MONSTER



3. Combination of Word Elements (Strong vs Weak Elements)

- Where a mark consists of a combination of word elements, but there is a significant difference in the distinctiveness of each element
- The term “**EATS**” is considered descriptive or commonly used in the food delivery industry and therefore has very low distinctiveness.
- Accordingly, while the mark is assessed as a whole, greater emphasis is placed on the dominant element “**COUPANG**,” which has stronger distinctiveness, and a focused dominant element analysis leads to the conclusion that the mark is **not similar to** “UBER EATS.”

coupangeats



4. Conclusion and Key Takeaways



Determining Likelihood of Confusion

The ultimate objective in assessing similarity is to determine whether there is a likelihood of confusion from the perspective of the relevant consumers.



Harmony Between Principle and Exception

MOIP applies an overall impression test as the general rule, supplemented by dominant element analysis where elements are highly distinctive or readily separable



Case-by-Case Assessment

Because factors such as prior registrations, filing circumstances, and market realities differ, each case must be evaluated on its own circumstances, not rigidly applying uniform standards.

Thank you!



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