

Hearing Decisions against Tomorrowland Co., Ltd. and World Co., Ltd.  
 (A Case of Violation of the Premiums and Representations Act  
 with Respect to Misleading Representations on Country of Origin of Imported Pants)

December 6, 2007  
 Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC) issued a decision of commencement of a hearing to Tomorrowland Co., Ltd. (“Tomorrowland”) and World Co., Ltd. (“World”) (hereinafter collectively referred to as “the Respondents”), on January 27, 2005. Thereafter, the JFTC ordered hearing examiners to conduct the hearing procedures. On December 4, 2007, the JFTC made decisions against the Respondents in accordance with Paragraph 2, Article 54 of the Antimonopoly Act (AMA) before amended by the Act No. 35 of 2005.

The profiles of the Respondents and other facts are shown below.

1. Respondents

Company	Address	Representative
Tomorrowland Co., Ltd.	18-9 Minami Aoyama 3-chome, Minato-ku, Tokyo	Hiroyuki Sasaki
World Co., Ltd.	8-1 Minatojima Nakamachi, 6-chome, Chuo-ku, Kobe	Hidezo Terai

2. Chronology of the case

- Nov. 24, 2004: Cease and desist orders issued against Yagi Tsusho Limited, the Respondents <sup>(Note)</sup> (Cease and Desist Order Nos. 20 and 22 of 2004), other relevant enterprises  
 (Note) Yagi Tsusho Limited accepted the cease and desist order.
- Jan. 27, 2005: Decision to initiate a hearing (Decisions Nos. 2 and 4 of 2005)
- Mar. 3, 2005: First session of the hearing
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- Nov. 27, 2006: The 13th and final session of the hearing for the case on Decision No. 2 of 2005
- Feb. 5, 2007: The 14th and final session of the hearing for the case on Decision No. 4 of 2005
- Sep. 20, 2007: Draft decisions sent to the Respondents
- Oct. 4, 2007: The Respondents’ filing of an objection to the draft decisions and request for direct statement before the Commission
- Nov. 19, 2007: Direct statements
- Dec. 4, 2007: Hearing decisions

3. Summary of the decisions

(1) Summary of the violation

During the period from around February 2000 to about July 2004, the Respondents, at their retail stores, each sold to general consumers pants (trousers) manufactured by GTA Moda and imported by Yagi Tsusho Limited (“Yagi Tsusho”), in a manner whereby each item was with a quality tag containing the name of the Respondent and an indication that the country of origin was Italy, described such as “Made in Italy” (hereinafter referred to as “the Quality Tag”). The items also bore a hangtag showing the trademark of the Respondent and that the country of origin was Italy (hereinafter referred to as “the Hangtag”). (The pants sold by the Respondents are hereinafter referred to as “the Products.”) However, The real country of origin of the Products was identified as Romania.

(2) Outline of the principal text

- a. Tomorrowland shall publicly announce that the representations concerning the country of origin of the Products were misleading to general consumers.
- b. The Respondents, in the future, shall never provide with general consumers misleading representations on the country of origin of the Products when they sell any imported pants.

(3) Major points at issue in the case

- a. What is the country of origin of the Products?
- b. Should the Respondents be corresponding to the parties having made representations as described in the Premiums and Representations Act?
- c. Is it necessary to issue a cease and desist order?

(4) Judgment on the points at issue

a. Country of origin of the Products

According to the evidence, the Products can be recognized as having been made in Romania.

b. Correspondence of the Respondents to the parties having made representations as described in the Premiums and Representations Act

In light of the objective of the regulations under the Premiums and Representations Act, it should be understood that companies that have been involved in the decision on the content of misleading representations correspond to the parties subject to the regulations. In this context, “involvement in the decision” should be interpreted as including not only the case of positively making decisions on the content of the representations independently or jointly with any other party, but also the case of making representations in accordance with the content of explanations made by any other party and the case of leaving such decision-making to any other party.

According to the evidence, the following facts have been found. Before they started to purchase the Products in 1999, the Respondents, on the basis of the explanations made by Yagi Tsusho, recognized that the Products were made in Italy. Based on such recognition, they asked Yagi Tsusho to prepare Quality Tags and Hangtags and to attach them to the Products. In response to the request, Yagi Tsusho created the Quality Tags and the Hangtags stating that the Products were made in Italy, and attached them to the Products prior to delivery. And the Respondents continuously sold the Products with the above representations.

Therefore, it is evident from these facts that the Respondents are corresponding to the parties involved in the decision on the content of the representations in question.

c. Necessity to issue cease and desist order

(a) Tomorrowland

Tomorrowland published a notice of voluntary recall on its own website, put up its

apology and notice at its stores, informed the purchasers of the recall over the phone, and carried out the recall of the Products. However, these actions already taken by Tomorrowland are not found adequate as a means for correcting perceptions of general consumers brought by misleading representations. It is uncertain the extent to which the erroneous perceptions were rectified through a series of such efforts. It is also impossible to confirm that a large majority of the customers who have been misled by the representations in question have been notified of the actual facts concerning the representations. It is hence found requisite to issue an order to take action to eliminate the misapprehension.

Tomorrowland carelessly believed the explanations made by the representative of Yagi Tsusho that the Products were manufactured in Italy. It cannot be regarded as having fully met its obligation to pay necessary attention to prevent misleading representations about the country of origin of the Products. However, it can be affirmed that it has been taking measures to prevent a recurrence since this problem came to light, including actions to increase awareness among its employees to prevent a recurrence and to issue requests to the import agents that supply it with the Products. While it is necessary to order it not to repeat any act like this in the future, it will not be necessary to issue any fresh order to take internal actions to prevent a recurrence.

(b) World

World placed a notice of recall and refund in general daily newspapers and its own website and posted at its stores a notice indicating that there was an error in the representations of the country of origin. It also organized a seminar for its employees with a focus on the country-of-origin labeling and gave a presentation on measures to prevent a recurrence at its board meeting. In addition, it made a request and took other actions toward its trading partners. In view of these activities, it is appropriate to acknowledge that general consumers' misperception resulting from the misleading representations has been cleared.

World merely heard from the representative of Yagi Tsusho that the Products were made in Italy before it started trading in the Products. But since then, it failed to make any inquiry with Yagi Tsusho about the country of origin. In this meaning, World cannot be regarded as having paid necessary attention to prevent misleading representations on the country of origin of the Products. Therefore, it is found requisite to give it an order not to conduct any such act in the future.

(Reference)

Present Status of Cases concerning Misleading Representations on Imported Pants

Case Number	Company	Present Status
Hearing case No. 1 of 2005	Beams Co., Ltd.	Decision issued on Jan. 30, 2007
Hearing case No. 2 of 2005	Tomorrowland Co., Ltd.	Decision issued on Dec. 4, 2007
Hearing case No. 3 of 2005	Baycrews Co., Ltd.	Decision issued on Jan. 30, 2007
Hearing case No. 4 of 2005	World Co., Ltd.	Decision issued on Dec. 4, 2007
Hearing case No. 5 of 2005	United Arrows Ltd.	Decision issued on May 15, 2006

\* Hearing decisions were issued to all the five companies involved in the cases of misleading representations about the country of origin of imported pants.