

**INTELLECTUAL PROPERTY HIGH COURT OF KOREA**  
**FOURTH – SECOND DIVISION**  
**DECISION**

Case No. 2021Heo2465 Invalidation of Registration (Trademark)

Plaintiff A

Attorney for Plaintiff Woon Patent and Law Firm

Patent Attorneys in Charge Jong Tae Park, Seung Taek Lim,  
Seong Woo Choi

Defendant B.

U.S. CEO C

Attorney for Defendant Patent Attorney Mi Jeong Lee  
Subagent Attorney for Defendant Patent Attorney So Jeong Bae

Date of Closing Argument Dec. 15, 2021

Decision Date Jan. 14, 2022

**ORDER**

1. The Plaintiff's claim is dismissed.
2. The cost arising from this litigation shall be borne by the Plaintiff.

**PLAINTIFF'S DEMAND**

IPTAB Decision 2019Dang2858, decided on Mar. 2, 2021 shall be revoked.

**OPINION**

**1. Background**

**A. Registered Trademark**

- 1) Filing Date of Application/Decision Date of Registration/Date of  
Registration/Registration Number: Jan. 4, 2018/ Jul. 11, 2018/ Jul. 16,



- 2) Mark at Issue:
- 3) Designated Goods: (1) Mobile phone cases, case for smartphones, protective cases for smartphones, wallet-type case for smartphones, protective films adapted for cellular phones liquid crystal of Class 9 under the Category of Goods (2) Bags, leather bags and wallets, leather bags, leather business card wallets, leather briefcases, leather credit card wallets, travelling bags [leatherware], leather key wallets, leather wallets, leather pouches, leather packing bags, leather handbags, all-purpose bags, all-purpose wallets, backpacks, Boston bags, shopping bags (bags), shoulder bags, sports bags, wallets of Class 18 under the Category of Goods (3) Shoes, boots, slippers, sandals, footwear, sneakers, sports shoes, men's and women's swimsuit, sportswear, climbing clothes, clothing, outer clothing, shorts, jumpers, jackets, pants/shorts and briefs, T-shirts, shirts, crew neck T-shirts, leather belts (belts) of Class 25 under the Category of Goods
- 4) Right holder: Plaintiff

#### **B. Prior-used Mark**



- 1) Mark at Issue:
- 2) Used Mark: Clothing, bags, shoes, etc.
- 3) User: Defendant

#### **C. IPTAB Decision**

- 1) On Sep. 4, 2019, the Defendant requested a trial to invalidate trademark registration of the Registered Trademark, arguing that the Registered Trademark, in relation to the Prior-used Mark, contains grounds for invalidation under Article 34(1)11, 12, and 13 of the Trademark Act (2019Dang2858).
- 2) On Mar. 2, 2021, the IPTAB rendered its decision to accept the Defendant's request for trial (hereinafter, the "**IPTAB Decision**") on the ground that "the Registered Trademark is identical or similar, in terms of its mark and designated goods, to the Prior-used Mark known to indicate goods of a specific person in Korea and overseas at the time of filing of the application and could cause misunderstanding or confusion on the part of consumers as to the source of the goods. Thus, consumers could be deceived, and the application for the Registered Trademark was filed for unlawful purposes. Therefore, the Registered Trademark falls under Article 34(1)12 or 13, and thus its registration shall be invalidated".

[Factual Basis] Undisputed facts, statements in Plaintiff's Exhibits 1 and 2 (including hyphenated numbers, if any; hereinafter the same shall apply unless otherwise stated), purport of the overall argument

## **2. Whether the IPTAB Erred**

### **A. Summary of Parties' Arguments**

#### **1) Plaintiff**

- a) The Prior-used Mark may not be deemed to be an indication of a source of a specific person on the following grounds: (1) the Prior-used Mark was not intrinsically distinctive as a mark indicating quality nor acquired distinctiveness based on use in Korea; and (2) the number of collaboration items in which the Prior-used Mark was used is smaller than the number of releases in Korea or the sales volume. Also, ordinary consumers recognize only collaboration items with relatively high distinctiveness as the indication of source rather than the Prior-used Mark.
- b) Even if the Prior-used Mark is known as the indication of a source of a specific person, the Registered Trademark is not similar to the Prior-used Mark for the following reasons: (1) Of the overall feature of the Registered Trademark, "X" is the quality indication of designated goods and used in a number of applied-for or registered trademarks. Thus, "X" is not distinctive and could not be an essential part of the Registered Trademark. The remaining figures other than "X" are essential parts of the Registered Trademark. (2) "X", which is the literal part of the Prior-used Mark, is the indication of absolute quality and thus has weak distinctiveness or none at all. Thus, the overall features of the Prior-used Mark shall be compared and contrasted with those of the Registered Trademark. The sound of the literal parts in both trademarks is of low significance when determining similarity, and the appearance and concept are clearly distinguished by the overall features including figures of both trademarks. Thus, it is not likely that the source of the goods would be misunderstood or confused.
- c) Thus, it may not be deemed, in relation to the Prior-used Mark, that the Registered Trademark falls under Article 34(1)12 and 13 of the Trademark Act. Therefore, the IPTAB Decision is not consistent with the above analysis and shall be revoked.

#### **2) Defendant**

- a) The Prior-used Mark was known to indicate a source of a specific person as of the filing date of the application or the decision date of registration of the Registered Trademark. In other words, the Prior-used Mark was already widely known overseas including in the U.S. and known as the indication of a source of a specific person among consumers in Korea in relation to a street

fashion.<sup>1</sup> Domestic consumers sensitive to fashion brands came to know the global popularity of the Prior-used Mark through the Internet, social media, etc. The domestic media also reported the Prior-used Mark in reflection of global trends. The Defendant released in Korea a number of collaboration collections with famous brands and such facts were known in Korea through news articles. Even the findings of a consumer perception survey of the Prior-used Mark (Defendant's Exhibits 119–122) show that the Prior-used Mark acquired recognition to a substantial degree among domestic consumers.

- b) The Registered Trademark is similar to the Prior-used Mark. In other words, (1) in light of how widely the Prior-used Mark was known, a course of trade where the Prior-used Mark or used goods thereof are called “X” by ordinary consumers or traders, “X”, which is the literal part of the Registered Trademark and the Prior-used Mark, is an essential part with a strong impression widely known to ordinary consumers, and (2) even if the Registered Trademark is different from the Prior-used Mark in terms of appearance, their sound and concept are identical. Since ordinary consumers may easily experience misunderstanding or confusion, it shall be deemed that they are similar to each other.
- c) The Registered Trademark may, in its relationship with the Prior-used Mark, cause misunderstanding or confusion as to a source of goods. Further, the Plaintiff had unjust purposes, such as to inflict damage to the Defendant, as of the filing of the application for the Registered Trademark. Thus, the Registered Trademark, in its relationship with the Prior-used Mark, falls under a ground for invalidation as stipulated by Article 34(1)12 and 13 of the Trademark Act. The IPTAB decision is consistent with the above analysis and shall be upheld.

## **B. Grounds for Invalidation under Article 34(1)13 of the Trademark Act**

### **1) Relevant Law**

In order for a registered trademark to fall under Article 34(1)13 of the Trademark Act, the Prior-used Mark, compared to the registered trademark, must be perceived by consumers domestically or abroad as indicating goods of a specific person at the time of the application, and the applicant of the registered trademark must have used a trademark identical or similar to the Prior-used Mark for unlawful purposes (Supreme Court Decision 2020Hu11431, decided Dec. 30, 2021; Supreme Court Decision 2011Hu3896, decided May 9, 2013; Supreme Court Decision 2012Hu672, decided Jun. 28, 2021).

Whether the Prior-used Mark is perceived as a trademark of a specific person among consumers domestically and abroad shall be determined in light of the following: the period, method, manner, and scope of use of the trademark; and

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<sup>1</sup> The term “street fashion” is a trend derived from clothing, food, etc. voluntarily enjoyed by the young, etc., who form the subculture. Street fashion is different from the so-called high fashion derived from the works of designers and spread to the public.


whether it was known to a substantial degree objectively in the course of trade or social norms (Supreme Court Decision 2017Hu752, decided Aug. 14, 2019; Supreme Court Decision 2011Hu3896, decided May 9, 2013; Supreme Court Decision 2012Hu672, decided Jun. 28, 2012). Here, whether the Prior-used Mark is perceived as indicating goods of a specific person means an objective state recognized in the course of trade based on ordinary consumers. However, it is not required for a name of the holder of rights to the Prior-used Mark to be known in detail. It would be sufficient for the Prior-used Mark to be perceived as the same and consistent source of goods, even if it would be impossible to know who the right holder is (Supreme Court Decision 2020Hu11431, decided Dec. 30, 2021).

Whether the applicant of the Registered Trademark has an unlawful purpose shall be determined as of the filing date of the application for the registered trademark in light of the following: the degree of recognition or creativity of the trademark of a specific person; the degree of identity or similarity between the trademark of the specific person and the trademark of the applicant; the existence of negotiation between the applicant and the specific person as to the trademark and the details thereof; the relationship between the two parties; whether the applicant prepared in detail a business using the registered trademark; identity or similarity between goods or close economic relationship; course of trade, etc. (Supreme Court Decision 2017Hu752, decided on Aug. 14, 2019; Supreme Court Decision 2013Hu1108, decided on Aug. 20, 2014; Supreme Court Decision 2012Hu672, decided Jun. 28, 2012; Supreme Court Decision 2010Hu807, decided on Jul. 15, 2010).

## 2) How Well the Prior-used Mark is Known

### a) Established Facts

#### (1) Defendant's Establishment and Prior-used Mark

In April 1994, D began selling general merchandise, such as clothing, shoes, bags, skateboards, watches, caps, etc., with the Prior-used Mark () , called the “X box logo” in New York, U.S., as a street fashion brand. The Defendant is a business established to manufacture, manage, and sell its products (those manufactured and sold, such as clothing, bags, etc., by the Defendant using the Prior-used Mark are referred to as the “Defendant's Products”) and ran 11 stores in 4 countries as follows: 3 stores in Brooklyn, N.Y. and L.A. in the U.S.; 2 stores in London and Paris; and 6 stores in Tokyo (Harajuku Shibuya, Daikanyama), Nagoya, Osaka, Fukuoka, etc. in Japan.<sup>2</sup>

#### (2) Sales results, etc. of the Defendant's Products

The sales of the Defendant's Products increased gradually for 5 years

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<sup>2</sup> The first store opened by the Defendant was on Lafayette Street, New York. This store got rid of thresholds so that visitors could come in on their skateboards and installed a bowl where they could ride their skateboards. Also, the majority of its staff were also “boarders”. Thus, the subculture of skateboarding was accepted actively. Due to its unique attempts as stated above, the Defendant was recognized as a brand representing skateboards, hip hop culture, and youth culture.

from 2013 to 2017 and reached about 500 million dollars in the same period. The Defendant's Prior-used Mark was ranked 3<sup>rd</sup> after "E", and "F" among the most popular 10 fashion brands in 2017 selected by Google, an Internet search engine, and selected as the most popular "streetwear" in 2017 by "H", a men's fashion website in the U.S. Also, the Defendant's Products were awarded the "2018 Men's Wear Designer Award" by the Council of Fashion Designers of America. I (J Inc.) evaluated, in 2017, the brand value of the Defendant's Products to be more than 1 billion dollars and took over 50% of shares of the Defendant business at 500 million dollars. Foreign newspapers and fashion magazines posted articles on the Defendant's unique business and sales method, the Defendant's Products' popularity and resale transactions, consumers' response, various collaborations, how much the Prior-used Mark is known and its impact on the society, etc. as follows: J (dated Dec. 13, 2017; Defendant's Exhibit 15); H (dated Dec. 28, 2017; Defendant's Exhibit 16); K (dated Jul. 19, 2016; Defendant's Exhibit 19); L (dated Sep. 30, 2016; Defendant's Exhibit 20; dated Mar. 29, 2017; Defendant's Exhibit 24); M (dated Feb. 8, 2017; Defendant's Exhibit 21); N (dated Feb. 21, 2017; Defendant's Exhibit 22); O (dated Feb. 22, 2017; Defendant's Exhibit 23); P (dated Apr. 21, 2017; Defendant's Exhibit 25); Q (dated Oct. 9, 2017; Defendant's Exhibit 6), etc.

(3) Sales Method, etc. of the Defendant's Products

The Defendant adopted a strategy according to which it manufactures various types of items in minimal amounts, the so-called "Drop" strategy under which various types of the Defendant's Products were produced and sold in a minimal amount to enhance their brand value rather than increase sales. In particular, the Defendant released its new items at its stores every Thursday, and the limited editions of the Defendant's Products made through collaborations with other famous brands were manufactured only up to 400 units and sold only at the Defendant's stores in 4 countries, such as the U.S., the U.K., France, and Japan, and via online shopping malls. Also, the Defendant limited the number of customers who could enter the store at one time and the number of items of limited collaboration editions that one customer could purchase. Due to the Defendant's unique Drop strategy, the so-called "resales" were actively traded by small merchandisers or enthusiasts. The Defendant's Products were not officially imported or produced in Korea, but many small merchandisers or enthusiasts purchased the Defendant's genuine items sold in the U.S., etc. and resold them to consumers. When reselling the Defendant's Products as stated above, the resellers stressed that their items were manufactured by the Defendant and sold at its official stores. Meanwhile, the Defendant's Products were resold via online shopping malls, such as

“AJ (eBay)”, etc., at prices up to 30 times their official list prices due to the difficulty of purchase, scarcity, etc. For example, the Defendant sold bricks with the Prior-used Mark at a price of 30 dollars; they were sold out as soon as they were released. Further, they were resold via online shopping malls, etc. at a price of over 1,000 dollars.

The subscribers to the Defendant’s social media Facebook are as stated in the table below. The number of “Followers” of the Defendant’s Facebook page was 1,412,630 in 2016 and 1,835,678 in 2017. Further, the number of “Likes” reached 1,437,166 in 2016 and 1,847,112 in 2017. In particular, the number of “Followers” in Korea was as follows: about 14% that of in the U.S.; about 56% that of in the U.K.; about 46% that of in France; and about 77% that of in Japan. Further, the number of “Likes” in Korea was as follows: about 14% that of in the U.S.; about 56% that of in the U.K.; about 45% that of in France; and about 77% that of in Japan. Meanwhile, consumers in Korea could purchase the Defendant’s Products with the Prior-used Mark through many Internet shopping malls such as “R” (R, Defendant’s Exhibit 135), “S” (S, Defendant’s Exhibit 136), “U” (U, Defendant’s Exhibit 138), etc. Businesses that sold the Defendant’s Products and the products displayed the Prior-used Mark.

Year	Followers	Likes
2016	1,412,630	1,437,166
2017	1,835,678	1,847,112
Nation	Followers	Like
U.S.	291,639	291,109
U.K.	73,125	72,504
France	88,833	89,076
Japan	53,008	52,402
Korea	41,033	40,780

#### (4) Defendant’s Brand Collaboration

The Defendant has produced and sold items with various designs by collaborating with many brands and artists since 1998. The details of parties who have collaborated with the Defendant are as follows:<sup>3</sup>

Year	Brands with which the Defendant collaborated
1998	Sarcastic

<sup>3</sup> The duplicate contents are omitted.

Year	Brands with which the Defendant collaborated
1999	GoodEnough, SSUR-Plus
2001	FC, UnionNYC
2002	A Bathing Ape
2005	JohnSmedly
2006	Neighborhood, UNDERCOVER, aNYthing, Ari Marcopoulous, Jeff Koons, Public Enemy, FK
2007	Richard Prince
2007	Oakley, AS, FC, Joe Cool, Murakami, R. Crumb, AC, Neighborhood, FILA, FuturaLaboratories
2008	FJ, Marilyn Minter, Bad Brains, AS, Sean Cliver, Christopher Wool, Miles Davis, Visvim, OriginalFake
2009	AS, Damien Hirst, AC, Malcolm McLaren, Hanes, Budweiser (Anheuser-Busch), A.P.C., John Coltrane, Gallery 1950, FC
2010	Lee Scratch Perry, FJ, Thom Browne, AS, The Clash, George Condo, SeanCliver, Universal Monsters, John Baldessari, Cost, AC, Popeye, Stussy, Champion
2011	Playboy, AS, FG, Adam Kimmel, Robert Longo, FJ, AU, Levi's, Harmony Korine, Clark's, David Lynch, AC, FK, LibertyofLondon, SchottNYC
2012	AS, Comme des Garcons, AU, FJ, Campbell's Soup, Daniel Johnston, AC, Levi's, Chapman Brothers, Stax Records, AC, Adam Kimmel, FK
2013	AS, Comme des Garcons, FJ, The Misfits, AC, AU, Wackies, Jean-Michel Basquiat, AC, Bruce Lee, Levi's, Champion, FK
2014	Playboy, AS, Comme des Garcons, AC, Dead Kennedys, FJ, Brooks Brothers, Mark Flood, ANTIHERO, Raymond Pettibon, Levi's, Stone Island, H.R. Giger, FK
2015	AU, New York Yankees, AS, UNDERCOVER, Stone Island, Daniel Johnston, FJ, AW, KIDS 20th Anniversary, FG, AC, V, David Sims, Comme des Garcons, Independent, Air Jordan 5, Levi's, Toshio Maeda
2016	Comme des Garcons, AS, Stone Island, Urs Fischer, Black Sabbath, FJ, Sasquatchfabrix, Andy Warhol Estate - Muhammad Ali Estate, AC, Levi's, AU, AS, ANTIHERO, Barrington Levy & Jah Life, FK, Dash Snow, UNDERCOVER, Blade, Aquascutum, Araki, Slayer, FK
2017	AS, AB, Mike Hill, FJ, Rap-A-Lot Records, V, Comme des Garcons, AC, M.C. Escher, Levi's, Michael Jackson Estate, FG, Wilfred Limonious Estate, F, V, FZ, Andres Serrano, Stone Island, Scarface, FW, FU, Independent, FK, AB

- (a) In September 2015, the Defendant manufactured general merchandise, such as “939 6-hole boots, smith boots”, etc., as illustrated in the picture on the right in collaboration with “V (V)”, which is a fashion brand. A portion of the collaboration items was sold in Korea, the U.S., the U.K, France, Japan, etc. by “V”. A composite trademark comprising V’s mark and the Prior-used



Mark was indicated on the collaboration items ( ).



Also, in September 2017, the Defendant manufactured shoes called “Sacred Heart” in collaboration with V, on which a composite trademark was indicated on such items and the packaging thereof, as illustrated in the pictures below. The collaboration items



Excerpt from Defendant’s Exhibit 147-

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were sold in Korea through V’s online website (<http://www.W>). The collaboration with the Defendant was advertised with the phrase “new collaboration of X and V”, etc. The items were sold out in 1 hour and resold at a high price.



Excerpt from Defendant’s Exhibit 147-1



Excerpt from Defendant’s Exhibit 147-2

The following articles were posted in Korea on the collaboration between the Defendant and V.

Type	Details
CY article dated Sep. 7, 2015 (Defendant’s Exhibit 108-7)	[‘V X X’ Collaboration Collection...Limited to 100 Pairs of Shoes] V (V), a British fashion brand, will release its collaboration collection with X (X), a street fashion brand, in a limited edition. The “V X X” collaboration collection will present “939 6-hole boots”, which is a popular item of V, and “Smith” shoes that feature a neat line and a refined front toe. Each of them is presented in two colors, such as black and burgundy. This collection will be released only in Korea, the U.S., the U.K., France, and Japan in a limited edition. Only 100 pairs of the shoes will be sold in V official website on the 7th
Z article dated Sep. 7, 2015 (Defendant’s Exhibit 108-9)	[Release of V, X (X) limited edition ... 100 pairs in limited sales] On the 7th, V (V), a fashion brand, announced that it would release a collaboration edition with X (X), a famous street fashion brand, in accordance with its release of AW items in 2015.

Fashion AA snap article dated Sep. 7, 2015 (Defendant's Exhibit 108-10)	[V, X (X) will release a limited edition] V (V), a fashion brand representing the U.K., will release its collaboration collection with X (X), a street fashion brand, in accordance with its release of AW items.
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- (b) In March 2017, the Defendant manufactured clothing, such as “jacket, shirts, T-shirts, track pants”, etc., and general merchandise, such as “camp caps”, caps, etc., as illustrated in the picture below in collaboration with “AB (AB)”. Some of these were sold in Korea in the same month.



Excerpt from Defendant's Exhibit 110-6

- (c) In collaboration with “AC (AC)”, which is a fashion brand, the Defendant manufactured, in 2016, shoes, etc. called “Air Max” and, in April 2017, shoes, etc. called “X x AC Air More Uptempo (Sutempo)”, as illustrated in the picture below.



Excerpt from Defendant's Exhibit 142

The collaboration items between the Defendant and AC were sold by the so-called “Online Draw” Method where consumers entered an event for a predefined quantity at a predefined time in May 2017, and the items were sold only to winners of the event. The phrase “Air More Uptempo x X” including the Prior-used Mark was marked on the top left of the sales website. Also, the collaboration items bore a composite trademark of the AC trademark and the Prior-used Mark positioned vertically between “x”, as illustrated in the picture below. On the date of the release of the collaboration items, AC's domestic online shopping website became slow or temporarily unavailable due to the massive connection of consumers who wanted to purchase the items. The collaboration items were sold out as soon as they were released. Further, posts that introduced the items or the release

thereof were posted on Internet blogs, cafés, etc.



Excerpt from Defendant's Exhibit 150-1

- (d) In July 2017, the Defendant manufactured in collaboration with “F (F)” clothing such as “denim jackets and leather jackets” and bags such as “leather backpacks”, as well as general merchandise, such as “leather wallet belts, sneakers, caps, skateboards”, etc. Further, F sold some of the collaboration items in a limited way at the F store located in the AD Building in Seoul.



Excerpt from Defendant's Exhibit 52

The items manufactured in collaboration with the Defendant and F indicated, as illustrated in the picture below, the Prior-used Mark of the Defendant and the so-called “Monogram” trademark of F in a combined form.



Excerpt from Defendant's Exhibit 40

Type	Details
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AE article dated Feb. 6, 2017 (Defendant's Exhibit 110-2)	<p>[Meeting of F and X, superheroes!]</p> <p>F and X, superheroes. A lot of Instagram feeds relate to a story of the meeting of two superheroes. What stories? It relates to the 2017 S/S men's wear collection concerning the collaboration between F and X...</p>
AF article dated Feb. 8, 2017 (Defendant's Exhibit 110-3)	<p>[F 2017 FW Paris Men's Wear Collection, Meeting of luxury and street culture]</p> <p>This season is a capsule collection with X, a New York street fashion brand which began in 1994 based on skateboarding culture, and combined different graphics with a pop artistic feel by reflecting a cross-cultural mode of Paris, France. X's symbolic box logo is positioned between new moto gram patterns...</p>
W Korea article dated Jun. 30, 2017 (Defendant's Exhibit 110-27)	<p>[F x X Entering into Seoul]</p> <p>At midnight of June 30th, FXX collection announced its store without notice. Even though such news was announced suddenly, its enthusiasts rushed to the AD F store...</p>
AG article dated Jun. 30, 2017 (Defendant's Exhibit 110-28, 29)	<p>[F·X will Open their Pop-up Store in AD Building]</p> <p>It was created by the collaboration of D, who is a founder of X, with AH, who is the artistic director of the F male collection. This collection, which is the first collaboration between X and F, is a part of its 2018 Fall–Winter Male Collection. General accessories, leather products, etc. will be presented for the first time before their official launch. This project represents the meeting of NY street style and the craftsmanship unique to F, not just a collaboration of the two brands.</p>
AE article dated Jun. 30, 2017 (Defendant's Exhibit 110-30)	<p>[X x F Announces their Complete Item Groups of Collaboration Collection]</p> <p>X (X) and F (F). X (X) and F (F), shocking the world with their blockbuster collaboration at the beginning of this year. X's official website announced the whole item groups of a collaboration collection to be released in 9 cities in the world, such as in Korea, Japan, Beijing, Sydney, London, etc...</p>
AI article dated Jun. 30, 2017 (Defendant's Exhibit 110-31, 33)	<p>[[Exclusive] Opening of F-X Collaboration Store in Korea]</p> <p>The collaboration collection of F, which is a luxury French brand, and "X", which is a U.S. fashion brand called the "emperor of back street" ...</p> <p>This collaboration became an issue as the meeting of brands with different cultures. The collaboration collection was first announced in the 2017 Fall Winter F Male Collection held in Paris at the beginning of this year. It attracted substantial concern that fake items would be distributed even before genuine items were actually sold. X is famous for having people form long lines. X has become a brand like an icon among the young, since D, its founder, released its items for skateboarders in the backstreets of New York in 1994. X releases a small number of new items every Thursday and people form long lines in front of its store from the preceding day. As soon as the store is open, all items are sold out and thereafter are traded on AJ, etc. at prices 2–5 times higher than their selling prices...</p>
AK article dated Jul. 5, 2017 (Defendant's Exhibit 110-34)	<p>[Celebrities wearing F x X]</p> <p>Stars who wear F x X, which is the hottest collaboration, are gathered. AL and AM announced celebrities who wear a hoodie with F's monogram and X's red logo box in their Instagram accounts...</p>
AN article dated Jul. 5, 2017	<p>[[Fashion Report] (2) 28 million won for hooded T-shirt? Resale frenzy for "limited edition fantasy" of enthusiasts]</p>

(Defendant's Exhibit 110-37)	Resale price of X x F collaboration hood T-shirt rises to 20 million won This chaos was anticipated to a certain degree. X, who is one party of the collaboration, is famous for a strategy of releasing new items in a limited quantity every week and having people form a long waiting line in front of its store every release date...
FM article dated Jul. 5, 2017 (Defendant's Exhibit 110-39)	Since this is a collaboration with X, which is a street fashion brand referred to as the "F of backstreet", X's "Drop" method is applied as its sales method. As X releases a very small number of new items every Thursday, this collaboration will be released in a limited quantity in two drops...
AO article dated Jul. 7, 2017 (Defendant's Exhibit 110-40)	[Change in fashion power! Frenzy of sales of F x X collaboration limited edition] ... Very long waiting line formed in front of X's store on Lafayette Street in Manhattan, New York every Thursday shows how popular X is ...
AP article dated Jul. 13, 2017 (Defendant's Exhibit 110-44)	[What on Earth is "F x X"?] Nowadays, the hottest fashion issue is the collaboration of F and X (F x X, picture)...
AQ article dated Jul. 13, 2017 (Defendant's Exhibit 110-45)	[<Detailed Tracking> "FXX" Suspended its Sales as "Causing Inconvenience"] ... "FXX" collaboration collection attracted the attention of the fashion industry this year as the meeting of a luxury brand and a subculture fashion brand. However, its sales schedule was cancelled due to excessive excitement of fashion enthusiasts...
AO article dated Dec. 21, 2017 (Defendant's Exhibit 110-5)	[[Summary] 10 fashion keywords as to Korea's fashion market in 2017] 10. Street & Heritage: Spread of street mode based on heritage. The collaboration of "F" and "X" was the issue that attracted the most attention of the fashion industry in 2017. "X", the subject of litigation for borrowing a monogram pattern of "F", came to collaborate with "F" on the basis of its changed status and succeeded in imparting more special and cooler brand images to "F", which used to have a rather haughty image.

The collaboration items were announced in the "F 2017 Autumn/Winter Men's Wear Collection" held in Paris, France. Immediately after the disclosure, the press, fashion magazines, social media, etc. stated that it is an unprecedented collaboration and consumers would fiercely compete for purchasing the items. When selling the collaboration items in Korea, the number of items that could be purchased was limited as follows: 2 leather items; 2 pairs of shoes; 2 items of clothing; 1 accessory, etc. The collaboration items sold out as soon as they were warehoused notwithstanding the limitations and high prices. As to the sales of collaboration items, the following articles were posted in Korea.

- (e) In addition, the Defendant had planned and manufactured a number of shoes in collaboration with various businesses, such as AR, AS, AT, AU, AW, etc. until the application for the

Registered Trademark was filed.<sup>4</sup>

(5) Articles, etc. in Korea on the Defendant's Products

In Korea, the press has reported the Prior-used Mark and the Defendant's Products as stated in Attached Form 1 from 2014 to the date of filing the application for the Registered Trademark (Jan. 4, 2018). Also, celebrities, such as AX, AY, Drake, Justin Bieber, etc., who wore the Defendant's Products for which the Prior-used Marks are indicated, have been publicized in the press domestically and abroad.

If the "X brand" is searched for on "NAVER", which is an Internet portal website, a number of blog posts on the Prior-used Mark are found as follows: "X (X) brand story" (dated Jun. 18, 2010); "Let's learn about it! X (X) brand review!!" (dated May 5, 2015); "X (X) brand story" (dated Jun. 24, 2015); "The ultimate street fashion brand X (X)" (dated Jan. 3, 2016); "X (X) brand story by very wear" (dated Jan. 21, 2016); "[Manhattan/SOHO Shopping] Casual brand X to which the young pay attention" (dated Jul. 7, 2016); "Let's learn about X (X), a fashion brand!" (dated Apr. 4, 2017); "Introduction of brand X" (dated Aug. 16, 2017); "U.S. street fashion brand X (X)-Master of street" (dated Oct. 8, 2017); "Brand you know - X" (dated Nov. 10, 2017); etc.

Also, in 2017, a total of 2,375 posts were posted on the Prior-used Mark and the Defendant's Products via the Knowledge iN bulletin of "NAVER", which is an Internet portal website. Of these, many posts relate to where consumers could purchase the Defendant's Products or whether the items, such as clothing, general merchandise, etc., are genuine (the Defendant's Products), etc. Many answered that it is highly likely that an item purchased at a relatively affordable price might be an "imitation (fake item)" or an item available in general stores or markets might be fake, because the Defendant's Products are distributed only through transactions between individuals.

[Factual Basis] Undisputed facts, statements and images in Plaintiff's Exhibit 13 and Defendant's Exhibits 1-118, 125, and 135-152, and purport of the overall argument

b) Preliminary Analysis

(1) Result of Use of Collaboration Composite Trademark

(a) Where the Prior-used Mark is used in combination with a trademark, product cover brand, etc. (hereinafter, the

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<sup>4</sup> The following evidence shows the collaboration products with other businesses: AR (Defendant's Exhibit 35-2); AS (Defendant's Exhibits 35-9, 20, 24, 27, 33, 36, 41, 44, 46, 53, 59, 61, 69, 74, 78, 87, 94, 96, 105, 115, 120, 125, 132, 137, 146, 157, 167, 172); AT (Defendant's Exhibits 35-5, 68, 86, 104, 122, 145, 160, 171, 199, and Defendant's Exhibits 112-21, 22); AU (Defendant's Exhibits 35-58, 63, 71, 81, 92, 100, 123, 145, 155); AZ (Defendant's Exhibit 35-73); BA (Defendant's Exhibits 35-76, 95, 114); AW (Defendant's Exhibit 35-130), etc.

“Collaboration Trademark”) through alliance or collaboration with other business, if it reached a point where domestic consumers or traders perceived the fact that the Prior-used Mark was used in combination of the Collaboration Trademark in light of the following: period and manner of use of the Collaboration Composite Trademark; how well the Prior-used Mark and the Collaboration Trademark were known; frequency of alliance or collaboration; etc, it shall be deemed that a degree of how much the Prior-used Mark was known may be determined based on the period, method, manner, scope of use, etc. of the trademark used in combination with the Prior-used Mark and the Collaboration Trademark (hereinafter, the “Collaboration Composite Trademark”)

In light of the following circumstances that could be known from the facts established above, it seems that at the time the Defendant’s Prior-used Mark and the Collaboration Trademarks, such as F, V, etc were used in combination, domestic consumers or traders perceived the combined use thereof. Therefore, the period, method, etc. of use of the Collaboration Composite Trademark used in combination with the Defendant’s Prior-used Mark, and the Collaboration Trademarks of F, V, etc. shall be used additionally, when determining how well the Defendant’s Prior-used Mark was known:

(1) The Prior-used Mark had already been used for a relatively long period of time when the Collaboration Composite Trademark was used. Also, the Defendant’s Products were known with their unique sales method. Also, the fact that celebrities wore the Defendant’s Products on which the Prior-used Mark was used was frequently publicized domestically and abroad by the press. The fame and scarcity of the Defendant’s Products have been widely talked about among many domestic consumers interested in a fashion since 2010. Further, the Defendant’s Products were resold at prices much higher than their list prices. As stated above, the Prior-used Mark was substantially well known to consumers when the Collaboration Composite Trademark was used, and the Collaboration Trademarks of F, etc. were also well known to consumers in Korea.<sup>5</sup>

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<sup>5</sup> In this respect, the parties have no issue (pp. 9–14, the Plaintiff’s Brief dated Dec. 13, 2021).





Excerpt from Defendant's Exhibit 150-1

(2) From 2015 to the filing date of the application for the Registered Trademark, the Defendant had released in Korea the items of collaboration with various famous fashion brands, such as V, AC, F, AB, etc., and indicated the Collaboration Composite Trademark thereon. The Collaboration Composite Trademarks did not lose their independence in a part corresponding to the Prior-used Mark and were clearly distinguished from the Collaboration Trademark in terms of appearance. The Collaboration Composite Trademarks were used in a form to be sufficiently perceived as indicating multiple sources of the Defendant and the collaborating businesses.

(3) Also, even when the news articles or collaborating businesses mentioned the collaboration items, it was clarified that the Collaboration Composite Trademarks indicated multiple sources of the Defendant and the collaborating businesses by using the names of the Prior-used Mark and the Collaboration Trademarks as combining with the “x” symbol, such as “V x X”, “X x AC”, etc. In the case of the collaboration items on which the Collaboration Composite Mark was used, they are more difficult to purchase and have higher prices compared to goods that only used the Collaboration Trademarks. However, it seems that it was widely known to consumers and traders in Korea through news articles, Internet blogs, social media, etc. that the items are popular among consumers, as the Prior-used Mark is used in combination.

- (b) On this point the Plaintiff argues that it may not be deemed that the use of the Collaboration Composite Trademarks contributed to the degree of how well the Prior-used Mark was known, because, of the Collaboration Composite Trademarks, the part corresponding to the Prior-used Mark was not distinctive, and thus only the Collaboration Trademark indicated a source, and that the sales of collaboration items were insubstantial.

However, as examined above, when the Collaboration Composite



Trademarks were used, the Prior-used Mark was already known to consumers to a substantial degree. Further, the collaboration items enjoyed a high degree of recognition with the fact that they sold out immediately after their release in a relatively small amount and were resold at substantially high prices thereafter. Thus, the Plaintiff's argument is inconsistent with the above analysis and shall not be accepted.

(2) Result of Use by Third Party

Where the Prior-used Mark was known by a use of its holder or by a use, etc. of a licensee who obtained a license to the mark directly from the holder, or even where the mark was known by the use of a third party not directly related to a license to the trademark itself, it would not be hindered in determining the degree to which the Prior-used Mark was known (Supreme Court Decision 2012Hu3619, decided Mar. 14, 2013).

Thus, the degree to which the Prior-used Mark was known when it was used shall be determined based on the following: the result of use by the Defendant, who is the holder of the right to the Prior-used Mark, or collaborating businesses, who are licensees thereof; and the result of use in the manner of a resale transaction by which small-scale stores or individuals traded genuine items as examined above.

c) Analysis

- (1) In consideration of the literal meaning of "X", the Prior-used Mark means "best, supreme", etc. and thus seems to have almost no intrinsic distinctiveness, being perceived to indicate the quality or effect of the used goods, such as clothing, bags, shoes, etc. However, in light of the period, frequency, and continuity of use of the Prior-used Mark, productions, sales, market share, advertising and promotional methods, etc. of the items on which the Prior-used Mark was affixed, it may be acknowledged that the Prior-used Mark with no original distinctiveness came to be perceived as a trademark or an item of a specific person among domestic consumers or traders. Thus, This court hereinafter will make a final determination of the extent to which the previously used trademark is recognized, in light of the result of use, period of use, etc. of the Prior-used Mark. (The Plaintiff takes issue as to the final extent to which the Prior-used Mark was finally known, arguing that the Prior-used Mark failed to acquire the distinctiveness based on use.)
- (2) It would be reasonable to deem that, as of the filing date of the application for the Registered Trademark, ordinary domestic consumers perceived the Prior-used Mark as indicating the goods of a specific person considering as a whole the following circumstances that can be inferred from the established facts, i.e., the period, frequency, and

continuity of use of the Prior-used Mark, production volumes sales, market share, advertising and promotional methods, etc. of items on which the Prior-used Mark was affixed, fame and credit of the Defendant and collaborating businesses, to the extent which the collaborating businesses are known, responses of the press or ordinary consumers in Korea, etc.

- (a) The Prior-used Mark had been used for a long period of time of 24 years from 1994 to 2018 when the application for the Registered Trademark was filed. The Prior-used Mark had been widely known to skateboard enthusiasts, the youth, ordinary consumers of street fashion, etc. in countries such as the U.S., where the Defendant's stores were located, and was covered numerous times in articles about fashion etc. as a kind of cultural phenomenon along with youth subcultures. It seems that the popularity of the Prior-used Mark and the Defendant's Products reached traders and consumers in Korea, as they were covered by many fashion magazines, newspaper articles, Internet posts, social media posts, etc. In the U.S., etc., the Defendant's Products on which the marks were affixed were frequently traded in a resale manner. Of these, a substantial portion was traded via online shopping malls. Sellers of the products sold, advertised, and promoted the Defendant's Products, stressing that the item they sold was "genuine", manufactured and sold by the Defendant. It seems that even in Korea, the foregoing resale trades were frequently made in almost the same forms.
- (b) The Defendant was widely known to consumers for releasing various items through collaborations with many famous fashion brands, such as "AC", "F", "V", "AB", etc. The items produced through such collaborations used the Composite Trademark with the Prior-used Mark included in independence form. In such cases, the collaborating businesses directly sold the collaboration items together with the Defendant, and these collaboration goods were introduced domestically as being produced through cooperation with the foregoing major fashion businesses, etc. for import, sale, or advertisement. The collaboration items so imported and sold were highly popular and thus sold out as soon as they were released.
- (c) Numerous domestic media articles and blog postings are found cautioning readers about mass trade in not only replicas and fake goods in relation to the Prior-used Mark, but also "legit fakes" where persons other than the Defendant manufacture and sell goods using unlawfully claimed trademarks..<sup>6</sup> In particular, there

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<sup>6</sup> "BB" article dated Jul. 1, 2018, immediately after filing of the application for the Registered Trademark, stated that "'X,' a U.S. street brand which is deemed to be 'hip'. It is said that it is difficult to obtain 'X' because it is produced only in small amounts. However, you could find it easily in Myeong-dong, etc. and on the Internet. This is because these are so-called 'replica and fake goods'. Also, since a trademark of X is not yet registered in Korea, there is no legal ground to crack down on them" (Defendant's Exhibit 151-2).

was a news article to the effect that a Chinese entity of BC Corporation manufacturing electronic appliances, etc. mistook a foreign company which registered the “legit fake” mark in Italy in 2018 for the Defendant and promoted a collaboration therewith, only for the talks to break down when the Defendant complained..<sup>7</sup> It seems that the Prior-used Mark was perceived to indicate a source of specific goods, to the degree that the authenticity would become an issue in relation to the Defendant’s Products.

- (3) On this point, the Plaintiff argues the following: as examined above, the Prior-used Mark means “best, supreme”, etc. and is perceived as the indication of the absolute quality of the used goods, such as clothing, bags, shoes, etc.; thus, the Prior-used Mark did not have the intrinsic distinctiveness or acquire the distinctiveness by use because it has no track record of domestic usage;; therefore, the Prior-used Mark could not be used as a prior-used mark to be compare to the Registered Trademark to determine whether the Registered Trademark falls under Article 34(1)13 of the Trademark Act. However, the Plaintiff’s argument could not be accepted on the following grounds:
  - (a) As examined above, even if the Prior-used Mark is perceived, in terms of literal composition, as indicating the quality or effect of used goods, such as clothing, bags, shoes, etc., and thus has no intrinsic distinctiveness, it could be recognized that the Prior-used Mark came to be perceived as a trademark or an item of a specific person depending on the result of its use. Thus, in light of the period, frequency, and continuity of use of the Prior-used Mark, production and sales of items on which the Prior-used Mark was affixed, fame and credibility of the Defendant and collaborating businesses, how well the collaborating items are known, response of the domestic press and ordinary consumers, etc., it is recognized that, as of the filing date of the application for the Registered Trademark, the Prior-used Mark was well known as to be perceived as a trademark or an item of a specific person.
  - (b) As examined above, even the result of use by a third party by the reselling method where small stores or enthusiasts trade genuine items could be used to determine the degree to which the Prior-used Mark was known. Also, it may be deemed that, through the Collaboration Composite Trademark in which the Defendant’s Prior-used Mark and the Collaboration Trademark of F, V, etc. are combined and used, the Prior-used Mark was used in Korea by the Defendant or collaborating businesses, such as F, V, etc.,

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<sup>7</sup> “BB” article dated Dec. 11, 2018 reported that “BC is under attack in Japan, announcing its collaboration with the “fake X” ... X is a U.S. street fashion brand established in 1994 and so popular as to collaborate with luxury brands, such as F, etc. ... A problem is that the X collaborating with BC is the fake X whose headquarters are not in the U.S. but in Italy” (Defendant’s Exhibit 111-111).

who were licensees thereof. Thus, it may not be deemed, as the Plaintiff presents as a ground for its argument that there is no result of use in Korea, that the Prior-used Mark did not reach a degree to which consumers in Korea perceive the Prior-used Mark as indicating the goods of a specific person.

- (4) Also, as to the goods of the same type as the designated goods of the Registered Trademark, the Plaintiff argues the following: since there are a number of trademarks containing “X”, a literal part (X) of the Prior-used Mark is not distinctive like the literal part (X) of the Registered Trademark; and thus it may not be deemed that the Prior-used Mark was known to consumers in Korea as a trademark of a specific person.

In light of statements in Plaintiff’s Exhibits 7–9 and the purport of the overall argument, it may be recognized that applications for trademarks in Attached Form 2, which contain the literal part “X”, were filed for designated goods under Classes 9, 18, and 25 of the Category of Goods that the trademarks were registered or the filing thereof was publicly announced. However, applications for trademarks other than Nos. 1–9, 11, 17, and 28–38 in Attached Form 2 were filed after the filing date of the application for the Registered Trademark (in addition, applications for trademarks other than Nos. 1, 28, and 29 were filed after 2010<sup>8</sup> when it seems that the popularity of the Prior-used Mark was introduced in Korea). There is no problem to determine that the Prior-used Mark was perceived to indicate goods of a specific person as of the filing of the application for the Registered Trademark. Nos. 2–9, 11, 17, and 29–38 in Attached Form 2 relate to marks in which the literal part “X” and other figures or the indication of source are combined. Further, Nos. 1 and 7 generated a new concept of “supreme commander, commander-in-chief” as a whole by combining the literal part “X” and the text “COMMANDER”, and No. 28 generated a new concept of “Supreme Court, Highest Court” as a whole by combining the literal part “X” and the text “COURT”. It is difficult to determine that the literal part (X) of the Prior-used Mark is not distinctive based on the trademarks stated above. (The trademark right of mark No. 10 expired in accordance with a trademark registration invalidation decision as a result of the Defendant’s request for trial (Defendant’s Exhibit 131-1); the opinion of the decision was that trademark No. 10 falls under Article 34(1)13 in its relation to the Prior-used Mark.)<sup>9</sup>

Thus, it may not be deemed, based on the examples of trademark

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<sup>8</sup> As examined above, the fame and scarcity of the Defendant’s Products have been widely talked since 2010 by consumers interested in a fashion.

<sup>9</sup> In the case of most of trademarks stated in Attached Form 2, applications were filed on or after Jul. 18, 2014 when the Defendant’s trademark application (Application Number 40-2013-0048599) was decided to be rejected (Plaintiff’s Exhibit 15-2) after the Prior-used Mark came to be widely recognized in Korea.

registration and application announcement in Attached Form 2, that the literal part (X) of the Prior-used Mark was not distinctive in relation to the used goods thereof as of the filing of the application for the Registered Trademark. The Plaintiff's argument is inconsistent with the above analysis and shall not be accepted.

3) Similarity of Trademarks

a) Relevant Law

Determination on similarity between trademarks is to be based on whether there are concerns that ordinary consumers, in regards to two trademarks used for the same goods, could misperceive or confuse the source of the goods in the course of trade from the perspective of their intuitive perception of the trademark, grounded in an objective, overall observation of the appearance, name, and conception of the trademark by recollection. Even if one of the appearances, sounds, or concepts is similar, they may not be deemed to be similar marks if they in its entirety can clearly prevent the confusion of a source, taking into account other factors. On the contrary, even if marks have a different part, they shall be deemed to be similar marks if the sound or concept is similar and ordinary consumers could easily misunderstand or confuse them (Supreme Court Decision 99Hu1096, decided Apr. 25, 2000; Supreme Court Decision 2001Hu3415, decided Nov. 26, 2002; Supreme Court Decision 2011Hu3322, decided Jan. 16, 2013).

b) Analysis

- (1) The Registered Trademark has the English Alphabets "X" between stars (✱) against a circular arc background and combines white letters duplicated at the top and bottom with a figure of seahorse. The Prior-used Mark has the English Alphabets "X" in italic font against a red rectangular background. Accordingly, the Registered Trademark and the Prior-used Mark are different in terms of overall appearance, such as addition of a seahorse figure, font, uppercase and lowercase letters, etc.



Prior-used Mark



Registered Trademark

- (2) As examined above, the Prior-used Mark was perceived as indicating the goods of a specific person as of the filing of the application for the Registered Trademark. It is determined that the sound (X, X) and concept (best, supreme) by the literal part ("X") in the Prior-used Mark

played an important role for ordinary consumers or traders to perceive as stated above in light of the following facts:

(a) The Prior-used Mark is relatively simple, in which a white literal part strongly contrasts against a red rectangular background and no other element is added. As examined above, as of the filing of the application for the Registered Trademark, the Registered Trademark was used for a long period of time and widely known to consumers domestically and abroad. The Prior-used Mark or used goods thereof were called “X” or “X” by ordinary consumers or traders. Also, domestic news articles, blogs, and social media posts frequently referred to the Defendant’s brand as “X”, which is the literal part of the Prior-used Mark, or as “X”, which is the sound thereof. As examined above, domestic news articles, blog posts, etc. not only shared the fact that replica or fake goods related to the Prior-used Mark were traded in large quantities but also mentioned that the authenticity of the Defendant’s Products were at issue, meaning that the Prior-used Mark was perceived as indicating a source of specific goods. The posts referred to the Prior-used Mark or the Defendant’s Products as “X” or “X”.

(b) In releasing various items, the Defendant used marks in which the literal part “X” of the Prior-used Mark was changed in various ways as follows: by changing the color or the font of the literal part in the Prior-used Mark; by adding other figures; by combining with a Collaboration Trademark; by changing so that only a part of the literal part would be shown as illustrated in the picture on the right; etc. Nonetheless, it seems that ordinary consumers or traders perceived the source of the Defendant’s Products by calling them “X” or “X” consistently.



Defendant’s Exhibit  
110-3

(3) In the Registered Trademark, the literal part “X” appears twice along a circular arc on both sides of stars (★) at the top and bottom. Thus, it seems that the literal part is substantially stressed. The English alphabets “X” relate to sounds and concepts identical to those of the literal part of the Prior-used Mark. In light of the circumstances stated in the previous paragraph, it may be deemed that the literal part of the Registered Trademark would, as of the filing of the application therefor, impart a relatively strong impression to ordinary consumers or traders considering the Registered Trademark. However, it cannot be deemed that the seahorse figure in the Registered Trademark conspicuously



Defendant’s Exhibit  
150-1

constitutes the Registered Trademark to the extent that the literal part “X” should be excluded when determining whether the trademarks in their entirety are similar based on the similarity of their appearance. (The Plaintiff’s argument to the effect that the Registered Mark formed its sound or concept by the seahorse figure is inconsistent with the above analysis and thus shall not be upheld.) Thus, it would be reasonable that the Registered Trademark would be referred to as “X” or “X” due to its literal part, as in the Prior-used Mark, and a concept of “best, supreme” would be formed.

- (4) On this point, the Plaintiff argues the following: the literal part “X” appearing along a circular arc in the Registered Trademark is only to indicate or show off the quality, etc. of the designated goods in the marketplace; thus, the distinctiveness and significance of the literal part “X” shall be deemed to be of less importance; and therefore it shall be deemed that the remaining elements shall constitute essential parts of the Registered Trademark.

According to statements in Plaintiff’s Exhibit 6, it could be known that the trademarks in Attached Form 3 were applied for and registered. However, there is no evidence to deem that the trademarks in Attached Form 3 form a sound or concept irrespective of the literal part appearing on the circular arc of the relevant mark, or that the literal part is a decoration without distinctiveness. Moreover, the Registered Trademark stressed the literal part “X” by including the same twice along the circular arc on both sides of stars (★) at the top and bottom. However, other than Nos. 6 and 20 in Attached Form 3, there was no trademark that stressed the literal part by being included repeatedly, like the Registered Trademark. Thus, it is difficult to deem, based only on the evidence above, that the distinctiveness or significance of the literal part in the Registered Trademark is of less importance or that the remaining elements constitute an essential element of the Registered Trademark. Therefore, the Plaintiff’s argument above shall not be accepted.




c) Summary of Analysis

To summarize, the Registered Trademark and the Prior-used Mark are different in terms of appearance. However, they are identical in terms of sound and concept, and thus it is likely that ordinary consumers or traders would misunderstand or confuse the source of the goods in the course of trade. Thus, the two marks are ultimately deemed to be similar.

4) Unlawful Purposes



- a) The designated goods of the Registered Trademark, such as mobile phone cases, bags, clothing, etc., are identical or highly similar to clothing bags, shoes, etc., which are the goods on which the Prior-used Mark are used.

b) In light of statements in Defendant's Exhibits 113–115, 123, and 124, and the purport of the overall argument, the following facts may be acknowledged:

- (1) From Nov. 14, 2012 to the date of request for trial, the Plaintiff had been a director of BD Corporation. In an online shopping mall of the company (<http://BE/>), as stated in Attached Form 4, items, such as “socks, bags, shoes”, etc. on which trademarks, such as “”, very similar to the Prior-used Mark in terms of the literal part, font, and color, are affixed, were sold with brand names, such as “X socks”, “X slippers”, “X bags”, etc., and product items (categories) stress a mark almost identical to the Prior-used Mark, such as “” (Defendant's Exhibit 124). Of items sold via the online shopping mall, a form where only the English alphabets “Sup” is separated, like “”, was indicated. This is very similar with the mark of “bags” illustrated in the picture on the right, which was produced by “F” in collaboration with the Defendant and announced in “F 2017 F/W Men's Wear Collection” in Paris, France on Jan. 19, 2017.



Excerpt from  
Defendant's  
Exhibit 110-3

- (2) On Aug. 26, 2019, the Plaintiff filed the application for the Registered Trademark and the trademark “”, which was similar with “”, well known as an Italian luxury brand. However, the application was rejected on the ground that it falls under Article 34(1)11 and 13 of the Trademark Act (Application Number 40-2019-0131844, Defendant's Exhibit 114). Immediately thereafter, on Sep. 6, 2019, the Plaintiff filed an application for a trademark as illustrated on the right with “bags, wallets”, etc. as the designated goods (Application Number 40-2019-0138890, Defendant's Exhibit 113).



- c) As examined above, in light of the extent to which the Prior-used Mark was known, how identical or similar the Registered Trademark and the Prior-used Mark are, how identical or similar the designated goods of the Registered Trademark and the used goods of the Prior-used Mark are, etc., it is acknowledged that the Plaintiff had, when he/she filed the application for the Registered Trademark, unlawful purposes to obtain unlawful profits taking advantage of the creditability embodied in the Prior-used Mark or inflict damage by interrupting the domestic sales of the Defendant, who is the holder of the right to the Prior-used Mark.

## 5) Summary of Analysis



The Registered Trademark is similar to the Prior-used Mark perceived by domestic consumers as indicating the goods of a specific person as of the filing of the application thereof; and corresponds to a trademark to be used for unlawful purposes such as to obtain unlawful profits or inflict damage to a specific person, being a trademark. Thus, the Registered Trademark falls under Article 34(1)13 of the Trademark Act.

### **C. Invalidation under Article 34(1)12 of the Trademark Act**

#### **1) Relevant Law**

In order for a trademark to correspond to a trademark that is likely to mislead consumers as stipulated by Article 34(1)12 of the Trademark Act, the prior-used trademark, in contrast to the registered trademark or its designated goods, should be known to domestic consumers to such a degree that it could be perceived as a trademark or an item of a specific person: Provided, That it is not required for the Prior-used Mark or the used goods thereof compared with the registered trademark or the designated goods thereof to be famous. In such cases, it may be deemed that the trademark is likely to mislead consumers by causing them misunderstanding or confusion as to the source only in the following cases: where a trademark identical or similar to the prior-used mark is used on goods that are identical or similar to the goods using thereof; or where a trademark is identical or similar to the prior-used mark; and in a special circumstance where buyers could be misled to believe that a trademark is being used by the owner of the prior-used mark to the degree that the mark is used in goods identical or similar to the goods using the prior-used mark, in light of detailed course of use of the prior-used mark, how closely the goods on which the two marks are used are economically related, and the general course of trade, etc (Supreme Court Decision 2014Hu1921, decided Jan. 12, 2017).

#### **2) Analysis**

- a) As examined above, the Prior-used Mark was perceived as indicating the goods of a specific person by domestic consumers when the application for the Registered Trademark was filed. Therefore, it can be concluded that the Prior-used Mark was known to be perceived as a trademark or an item of a specific person by domestic consumers as of the date when the registration of the Registered Trademark was decided.
- b) As examined above, the Registered Trademark is similar with the Prior-used Mark as a whole and the designated goods of the Registered Trademark are identical or similar to the used goods of the Prior-used Mark. Thus, the Registered Trademark falls under Article 34(1)12 of the Trademark Act, being a trademark that is likely to mislead consumers by causing misunderstanding or confusion as to a source in its relationship with the Prior-used Mark.

### **D. Whether the IPTAB Erred**

As examined above, the Registered Trademark falls under Article 34(1)12 and 13 of the Trademark Act and thus its trademark registration shall be invalidated. The IPTAB decision is consistent with the above analysis and shall be upheld. Further, the Plaintiff's argument for illegality is without merit.

### **3. Conclusion**

The Plaintiff's claim to revoke the IPTAB decision is without merit and is therefore dismissed. It is decided as ordered.

Presiding Judge	Soon Min Kwon
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Judge	Taek Soo Jung
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Judge	Joo Hyeong Mun
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**[Attached Form 1]**

**Domestic and Foreign News Articles on Prior-used Mark and Defendant's Products**

<b>Type</b>	<b>Details</b>
BF article dated Feb. 4, 2010 (Defendant's Exhibit 103)	<b>[Platform, discloses Gourmet-Bloch]</b> BG was a designer of hardcore brands, such as X, BH, etc. and shows attractive designs.
BI article dated Feb. 23, 2011 (Defendant's Exhibit 104-1)	<b>[BJ, "dizzy" nude only with skateboard]</b> Recently, BJ participated in the production of fashion brand "X (X)" art books to be published in the latest "BK (BK)", which is a French magazine.
BL article dated Mar. 1, 2011 (Defendant's Exhibit 104-2)	<b>[Street fashion enters department stores]</b> X, BM, BN, etc. are growing in popularity with apparel and accessories with fresh and bright colors. <u>"X" is famous for fashion with primary colors, such as red, blue, sky-blue, etc., which is made by skateboarders in the U.S.</u>
BO article on new products dated Nov. 29, 2011 (Defendant's Exhibit 104-3)	<b>[BP, releases leopard-print padded coats]</b> On the 25 <sup>th</sup> of last month, BP and X (X) launched collaborated leopard nuptse jackets as 2011 F/W new products. Newly released padded jackets printed fancy leopard pattern on nuptse down jackets, famous products of BP in three colors, such as yellow, green, and gray.
BQ article dated Dec. 14, 2011 (Defendant's Exhibit 104-4)	<b>[[Teenagers in jeopardy] (1) Conversations with mom: 'fix me something to eat', 'I'm hungry', 'it is cold']</b> It is often said that BP is behind the season. Boys like BR, or BS brands, and X brand padded jackets are famous.
BT article dated Aug. 13, 2012 (Defendant's Exhibit 105-1)	<b>[Meet with "BU", "BV"]</b> "BV" attracted attention by leading various collaborations, such as "Cartoon + 'BV'" with BW, a tattoo artist, and "'BX'+ 'BV'", "'X'+ 'BV'", "'BV'+ 'BY'", "'BV'+ 'BZ'", etc.
BT article dated Aug. 20, 2012 (Defendant's Exhibit 105-2)	<b>[From "cultural independence army" to a leader of mainstream market]</b> "CA", launched in 1997 as a store specializing in skateboards, has expanded its contents with a focus on street fashion brands with high-quality competitiveness and designs, such as "DC", "BH", "X", etc. In particular, CA endeavored to select brands with a clear identity and message.
CB article dated Jan. 28, 2013 (Defendant's Exhibit 106-1)	<b>["BX" into male casual issue brand]</b> "BX" is attracting attention, staging various performances in addition to apparel with X (X) collection.
CC article dated Jun. 12, 2013 (Defendant's Exhibit 106-2)	<b>[Do you know? Designer shops in New York even CD could not play around with]</b> "Diversity" is undoubtedly at the center of New York's charm as a fashion capital. For example, X shop in Soho is crowded every Thursday with young people who want to buy new products. They display an essence of street fashion, but there is an FI flagship store designed by CE around the corner.
CC article dated Jul. 2, 2014 (Defendant's Exhibit 107-1)	<b>[I should have sold "indiscriminately". Man Sik's Apparel]</b> Last year, I thought of selling apparel seriously... I thought of selling products of brand "X". Brand X, a casual brand which celebrates its 20 <sup>th</sup> anniversary this year, has enjoyed popularity among enthusiasts but was one of the most popular brands

	<p>last year. The hat in the picture was sold for 40 dollars (around 40 thousand won) in a store, but the same hat was sold at a price over 120 thousand won in Korea (it is still like this). In Korea, X products were sold at prices more than 3 times the original. Products from collaborations with famous brands, such as DR, etc., have enjoyed huge premiums. Last year, X was called “Man Sik’s Brand”, which is a term of art among apparel vendors, meaning a popular brand for everyone (including mockery for the lack of personality). In other words, it means “X” products would sell out regardless of design. After I confirmed the popularity of X with my own eyes, I thought of opening my own business.</p>
<p>CF article dated Jul. 24, 2014 (Defendant’s Exhibit 107-2)</p>	<p><b>[CG’s “tight killer schedules”]</b> I visited X store, which was a favorite of mine that I had not been able to visit for a while due to the tight “killer schedules”. I found a pink panther, which is a famous animation, and a T-shirt that street fashion brand X had collaborated on.</p>
<p>CH article dated Oct. 20, 2014 (Defendant’s Exhibit 107-3)</p>	<p><b>[A “hat” wearing Autumn]</b> CI, who is a model, would go with a skateboard at her side! The hat is from X and the shoes are a product that CJ and CK collaborated on.</p>
<p>CF article dated Jan. 21, 2015 (Defendant’s Exhibit 108-1)</p>	<p><b>[An era of “training fashion”]</b> In training fashion, street fashion brands are one step ahead of high fashion. More popular street fashion brands, such as Champion, X, CL, CM, etc., are equipped with sweat suits in various designs and are already “sold out”.</p>
<p>CC article dated Jan. 28, 2015 (Defendant’s Exhibit 108-2)</p>	<p><b>[I picked up three sets of the same clothes]</b> Street brands, such as BH, X (X), CN, provide various styles in collaboration with American casual brands, such as CP and CQ, and thus expand their horizon. The collaborating brands receive the history and quality of the champions, and The champions enjoys the sensitivity of brands at the front lines of fashion. You can find the most valid way how brands survived for a long period of time. I picked up three sets of the same clothes.</p>
<p>BFTV article dated Mar. 22, 2015 (Defendant’s Exhibit 108-3)</p>	<p><b>[[F/W 2015 Seoul Fashion Week] 87MM, clothes made by “Seoul” guys who know something]</b> Q. You used to collaborate with many designers. Nowadays, collaborations are famous. Are you thinking of any brand to collaborate with? Or a person for collaboration? Ji Wun &amp; Won Jung: X. Q. Are there any special reasons? Won Jung: It is the best in the world. We sent an email but haven’t received a reply yet... Ji Wun: I like to try things I haven’t done yet rather than things I’ve done often or could do without difficulty.</p>
<p>CR article dated Apr. 15, 2015 (Defendant’s Exhibit 108-4)</p>	<p><b>[“CS”, a hat select shop, will present various imported classic hats]</b> You can encounter, in CS, the best hats of each country and numerous designer brands. Also, CS will have and sell hats that used to be difficult to get. You can find CU hat worn by CT, X collaboration hat, etc.</p>
<p>CF article dated Aug. 12, 2015 (Defendant’s Exhibit 108-5)</p>	<p><b>[Campaigns that have to be pasted up on the walls to survive]</b> A series of X (X) advertisements that are making a comeback of poster campaigns that had been stagnant. As the portraits of Kate Moss, BJ, Neil Young, etc. are distributed on the streets, people created parody posters exceeding the originals. Thereafter, street wear brands, such as CV, CW, etc., that dreamed of being the</p>

	next X participated in the boom of poster campaigns.
CX article dated Sep. 3, 2015 (Defendant's Exhibit 108-6)	<p><b>[X's accessory collection]</b></p> <p>X (X) is a brand representing the street culture and is so popular that people form lines in front of its store whenever it releases each season. Even if you do not know this brand, you must be familiar with X's red box logo. Every season, X releases not only apparel but also accessory collections, such as ski goggles, calculators, acupressure balls, etc., which are unimaginably bizarre and strange for a fashion brand. People expect strange accessories more than apparel. Today, we will examine the 2015 F/W X Accessory Collection released not long ago. Whatever you might imagine, you will experience more than that. Since there is no official store of X yet and its official website recognizes my IP address as being in Japan, to my regret, prices are indicated in Yen.</p>
CY article dated Sep. 7, 2015 (Defendant's Exhibit 108-7)	<p><b>[V X X' Collaboration Collection...Limited to 100 Pairs of Shoes]</b></p> <p>V (V), a British fashion brand, will release its collaboration collection with X (X), a street fashion brand, in a limited edition. The "V X X" collaboration collection will present "939 6-hole boots", which is a popular item of V, and "Smith" shoes that feature a neat line and a refined front toe. Each of them is presented in two colors, such as black and burgundy. This collection will be released only in Korea, the U.S., the U.K., France, and Japan in a limited edition.</p>
Z article dated Sep. 7, 2015 (Defendant's Exhibit 108-9)	<p><b>[Release of V, X (X) limited edition ... 100 pairs in limited sales]</b></p> <p>On the 7<sup>th</sup>, V (V), a fashion brand, announced that it would release a collaboration edition with X (X), a famous street fashion brand, in accordance with its release of AW items in 2015. The VXX (X) collaboration collection will present "939 6-hole boots", which is a popular item of V, and "Smith" shoes that feature a neat line and a refined front toe. Each of them is presented in two colors, such as black and burgundy.</p>
Fashion AA snap article dated Sep. 7, 2015 (Defendant's Exhibit 108-10)	<p><b>[V, X (X) will release a limited edition]</b></p> <p>V (V), a fashion brand representing the U.K., will release its collaboration collection with X (X), a street fashion brand, in accordance with its release of AW items in 2015.</p>
CZ article dated Sep. 26, 2015 (Defendant's Exhibit 108-11)	<p><b>[[Super rich] Super rich to be (22) – "born-to-be minor", "X" that creates a fashion of backstreet rascals]</b></p> <p>Today is one day before when "X (X)", a fashion brand, will release its new items for the 2015 S/S season. People who wanted to "welcome" the items even a day before formed a long line in front of its store. This phenomenon, happening whenever X releases new collections, has become a cultural event. Some compare X with Apple, because this phenomenon is similar with what happens whenever new iPhones are released. However, X enthusiasts welcome new collections playing music and dancing in front of the store. They are referred to as the "X enthusiasts" because they look like they are a cult performing a ritual. X has built a solid fan base for the past 20 years. X joined the mainstream when AY and AX, who are singers, and many indie bands and rappers appeared in TV and on radio with X collections.</p> <p>X has presented its skateboards in collaborations with famous artists, such as DA, DB, etc., which were treated as works of art and became one of the favorites of collectors.</p>
CZ article dated Oct. 2, 2015	<b>[[Super rich] D, a founder of "X" ... Never dreamed to line up to buy back street "rascal fashion"]</b>

(Defendant's Exhibit 108-12)	D (D), a founder, has reflected a feeling of minority, "not to echo an interest of the public".
BN KITRI article dated Nov. 4, 2015 (Defendant's Exhibit 108-13)	<b>[Put my own personality! A "sticker culture" that became a global trend]</b> If you have ever purchased clothes of street fashion brands, you would receive a sticker with the brand logo, too. Street fashion brands are so famous for their stickers, as people come to like street fashion brands and purchase them to collect their stickers. X (X), a famous street fashion brand, lacked the budget to advertise itself in its early stages of business and thus gave people a sticker with its logo. As X enthusiasts put the stickers all around the city, X came to enjoy substantial promotional effects. X delivered its message at an affordable cost. This seems to be the fun and propagation of street culture.
CY article dated Jan. 20, 2016 (Defendant's Exhibit 109-1)	<b>[Harmony of digital with analog]</b> X has not yet decided the price of skateboards.
CR article dated Feb. 16, 2016 (Defendant's Exhibit 109-2)	<b>[DC will release a limited edition in collaboration with X]</b> DC, a global outdoor brand in Korea, will release its new 2016 SS products in collaboration with X (X), a famous NY street fashion brand. DC X X (X) collaboration products will be released in two models, such as "Chair One" and "Table One", which are famous items of DC, each of which will be in a black color checker pattern... DD, a representative of DC, stated that "we have collaborated with various brands. In particular, the collaboration with X has a symbolic meaning and thus we are proud of it". X is the top BN in each field and is known to collaborate only with brands or artists with originality.
Z article dated Feb. 16, 2016 (Defendant's Exhibit 109-3)	<b>[DC and New York X will release limited edition camping goods]</b> DC (representative, DD), an outdoor brand of Korea, will release camping goods in a limited manner, in collaboration with X (X), a famous NY street fashion brand.
DE article dated Feb. 16, 2016 (Defendant's Exhibit 109-4)	<b>[DC, an outdoor brand, will release a limited edition in collaboration with X]</b> DC, a global outdoor brand in Korea, will release its new 2016 SS products in collaboration with X (X), a famous NY street fashion brand. DC X X (X) collaboration products will be released in two models, such as "Chair One" and "Table One", which are famous items of DC, each of which will be in a black color checker pattern.
DF article dated Feb. 16, 2016 (Defendant's Exhibit 109-5)	<b>[X 16 S/S Look-Book]</b> A brand suddenly occurring to us when a season begins. XX (X) released its 2016 S/S lookbook. This collection composed of a suede jacket of a python pattern, a color block jacket which reminds one of Piet Mondrian, a denim trucker jacket of a pink color, a reflective S logo hoodie, a pajama set with various spaces, etc. will be released in New York, London, LA, and Japan on Feb. 18 and Feb. 20. For details, please refer to X's official website.
DG article dated Feb. 17, 2016 (Defendant's Exhibit 109-6)	<b>[DC will release a limited edition in collaboration with X]</b> DC, a global outdoor brand in Korea, will release its new 2016 SS products in collaboration with X (X), a famous NY street fashion brand.
AQ article dated Mar. 28, 2016 (Defendant's Exhibit 109-7)	<b>[Famous foreign brands, such as AC, etc. are caught up in controversy for releasing a Rising Sun design]</b> X became the target of criticism that its T-shirts sold in Japan, reminiscent of the

109-7)	Rising Sun flag. X has sold box T-shirts with logos in a limited manner whenever it opened a new store. But some pointed out that the design of T-shirts sold last year in its store in Japan is the Rising Sun design.
DH article dated Apr. 8, 2016 (Defendant's Exhibit 109-8)	<b>[[Whose] Jessie Hood Zip-up with a feel of a strong girl?]</b> ►Fashion hashtag #whose#DH#Jessie#Jessie Instagram#Hood zip-up#Strong girl_Hood_Also_Uncommon#Comfortable_Uncomfortable#X
DI article dated May 25, 2016 (Defendant's Exhibit 109-9)	<b>[Fashion trends in 2016 Spring, Summer Collection]</b> The young have been reckless, relentless, defiant, and radical throughout history. Their culture became punk culture in the 1960s and hippie culture in the 1970s and reached its peak in the early 1990s. They created a street culture combining the grunge of alternative rock, tattoos and graffiti derived from hip hop and gangsta rap, and extreme sports, such as skating, snowboarding, etc. Underground brands, such as BH, X, DJ, etc., claimed antifashion against mainstream brands.
CF article dated May 26, 2016 (Defendant's Exhibit 109-10)	<b>[Real style of models]</b> Favorite brand X ... Interesting instagrammer @Xnewyork. The eye is drawn to street art books like everyday pictures.
AF article dated Jul. 29, 2016 (Defendant's Exhibit 109-11)	<b>[[London boys] DK vs X, Hangout for “cool kids” and paradise for “youth fashion”]</b> Hang around DK, X store located at Piccadilly Circus, if you want to see good-looking teenagers dressed up in London, England. Skateboard brands with strong enthusiast characteristics are underground around the world. If you want to find out a hideout of cool skaters, you have to visit an alley of youth with DK's shopping bags that look like foil or white PVC envelopes with X's red signature logo... X in New York, U.S., completes its cool image with its clerks who react coolly even when customers ask about sizes or purchase in bulk and who put T-shirts in a shopping bag even without a polybag.
CF article dated Aug. 2, 2016 (Defendant's Exhibit 109-12)	<b>[True #OOTD of male designers]</b> No matter what others say, now is the era of DL. DN became a super designer taking over DL and DM. It seems that he would stick to a fastidious and deconstructive style like the previous two collections. However, he used to wear X T-shirts with old denim pants.
DO article dated Aug. 12, 2016 (Defendant's Exhibit 109-13)	<b>[[SCOOP analysis] Scarcity value vs Rip-off Two faces of reseller – News Zum]</b> Not only is the scale of items dealt by resellers growing, but also the types thereof are diversifying. First, to become a target of resellers, the supply of an item should be less than the demand therefor. Thus, clothes of famous brands with enthusiast fan bases, such as AC's Jordan basketball shoes, X's clothes, etc., have become targets for resellers. However, recently, not only clothes, but also toys, dolls, kitchen utensils, and even foods are being resold.
DP Korea article dated Aug. 19, 2016 (Defendant's Exhibit 109-14)	<b>[Continuously Controversial “Rising Sun Fashion”]</b> Not only global brands but also luxury brands have recently been criticized by the public about the release of so-called “Rising Sun” products... On the 8 <sup>th</sup> of last month, DQ announced its official position through BP Facebook. The products were released in 2014 in collaboration with X (X), its casual brand in the U.S. and BP in the U.S. and thus not related to DQ.
W Korea article dated	<b>[Boarder Chic]</b>

Sep. 9, 2016 (Defendant's Exhibit 109-15)	That book was sold in Collette during the Paris Collection and sold out in an instant as the first collaboration of X and DR... X photograph album taken by DS, a fashion photographer.
DT article dated Sep. 15, 2016 (Defendant's Exhibit 109-16)	<b>[Camping in front of a store from a few days ago to purchase specific clothes and hats]</b> Street brands relate to the street fashion of skateboarders or hip hoppers, such as X (X), DU (DU), BH (BH), DV (DV), DW (DW), DX (DX), etc. Some of them are sold aftermarket at 5 times their original prices. Further, more and more Korean youths camp to purchase them.
AQ article dated Nov. 7, 2016 (Defendant's Exhibit 109-17)	<b>[[Trend+] Old man? My prime is just beginning]</b> DY (41), an office worker, could not take his eyes off computers and smartphones the 27 <sup>th</sup> of last month. He clicked all day long as if registering for courses at college 20 years ago. He clicked all day long to purchase products that "X", a brand in New York, U.S., releases on its website. These are hooded jumpers, sweatshirts, knitted hats, etc. for teenagers. DZ (37) is an office worker we met in Itaewon. DZ, who is a father of a girl, wore an EA white T-shirt and an EB (EB) jumper and held an X bag (big picture).
CF article dated Nov. 14, 2016 (Defendant's Exhibit 109-18)	<b>[Fashion Week, I have to get it!]</b> I'll definitely visit X, because it sells the coolest products, such as T-shirts, caps, photograph albums, stickers, miscellaneous items, etc.
EC article dated Nov. 14, 2016 (Defendant's Exhibit 109-19)	<b>[[EB News] "This is not the way a rare item is supposed to be" Trump T-shirts sold at 27 million won]</b> It was confirmed that this T-shirt printed with Trump's unique hair style, shirt, and necktie was sold at 23 thousand dollars (about 27 million won). According to Metro, this T-shirt was co-produced in 2003 by ED, a famous Russian artist, and "X" (X), a famous brand in New York.
AF article dated Nov. 15, 2016 (Defendant's Exhibit 109-20)	<b>[[★Fashion Philosophy] ID, #Street brand model #Seoul Fashion Week Celebrity #OOTD]</b> In response to a question about styles worn normally and not officially, an answer was presented to be well accepted by women in their early 20s that "I like popular street fashion brands, such as CJ, X, etc."
W Korea article dated Nov. 25, 2016 (Defendant's Exhibit 109-21)	<b>[Brand on the street]</b> Skateboards continue to be an issue even in women's wear collections. The tremendous popularity of X, which is a skate label in New York, has taken over the Paris Fashion Week. X selected Paris as its second city to enter into Europe and the press was invited to its new store in the Le Marais district. Its plan was successful and celebrities from the high fashion industry, such as AH, EF, EG, etc., were invited to its opening party held on the last day of the Fashion Week and celebrated X's 22 <sup>nd</sup> anniversary and the opening of its new store.
EH article dated Dec. 14, 2016 (Defendant's Exhibit 109-22)	<b>["EI", a street edit shop, proceeds with the sale online and in EA line shops at the same time]</b> EI deals with popular street fashion brands, such as X, AC, BV, CJ, EJ, EK, BBC, BH, EL, DX, BX, etc., brands that one could not easily come across, such as EM, CK, BU, etc., and even famous domestic brands.
W Korea article dated Jan. 5, 2017	<b>[Meeting of X and F?]</b> An issue of collaboration of X and F, which their fans have long awaited, popped



(Defendant's Exhibit 110-1)	up again. The fans are sure about the collaboration after seeing an image posted by AH, an art designer of F, on his/her own feed and a sweatshirt with a tag. We have to pay close attention to what collection they would put out.
AE article dated Feb. 6, 2017 (Defendant's Exhibit 110-2)	<b>[Meeting of F and X, superheroes!]</b> F and X, superheroes. A lot of Instagram feeds relate to a story of the meeting of two superheroes. What stories? It relates to the 2017 S/S men's wear collection concerning the collaboration between F and X. In the fashion industry, which is a fierce battleground where novelty must be presented continuously, a superhero F has tried to find a member of the Avengers. At last, F took over the fashion industry in collaboration with another hero having strong powers.
AF article dated Feb. 8, 2017 (Defendant's Exhibit 110-3)	<b>[F 2017 FW Paris Men's Wear Collection, Meeting of luxury and street culture]</b> This season is a capsule collection with X, a New York street fashion brand which began in 1994 based on skateboard culture, and combined different graphics with a pop artistic feel by reflecting the cross-cultural mode of Paris, France. X's symbolic box logo is positioned between new monogram patterns. A new symbolic pattern was applied to clothes manufactured with various materials, including classic pale-washed Japanese denim, camouflage jacquard-feel coupe, etc. Also, a product was released which uses colorways in cognac and chocolate colors which remind one of an original monogram canvas first shown in 1896.
W Korea article dated Dec. 22, 2017 (Defendant's Exhibit 110-4)	<b>[Winter items with which warmth could be felt]</b> 3_X×EN Tumbler This is irresistible. Even though I love X accessories, this tumbler is too sexy. This tumbler is the product of a collaboration with EN (EN), with a history of 100 years. Maybe, a "generation who used to carry their lunchboxes" would be able to remember the Elephant brand lunchbox. In 1990s, the Elephant brand lunchboxes were regarded as luxury items. It would be a sufficient reason to buy as a combination of the brand instigating a sense of nostalgia and the favorite brand.
AO article dated Dec. 21, 2017 (Defendant's Exhibit 110-5)	<b>[[Summary] 10 fashion keywords for Korea's fashion market in 2017]</b> 10. Street & Heritage: Spread of street mode based on heritage. The collaboration of "F" and "X" was the issue that attracted the most attention of the fashion industry in 2017. "X", the subject of litigation for borrowing a monogram pattern of "F", came to collaborate with "F" on the basis of its changed status and succeeded to impart more special and cooler brand images to "F", which used to have a rather haughty image.
W Korea article dated Mar. 14, 2017 (Defendant's Exhibit 110-6)	<b>[Release of XXAB 2017 Spring/Summer Collection]</b> The products of the collaboration between X and AB were released. The 2017 Spring/Summer X announced the release of new collaboration products. News of the collaboration with AB! This collaboration collection will be released in various categories, such as lineup jackets, Harrington jackets, sweatshirts, crewneck T-shirts, track pants, camp caps, etc. AB's unique light color play goes well with the logo of X in a strange way. X's official online mall will open at 1:00 A.M. on the 17 <sup>th</sup> in Korean time. Let us hop in the "Sold-Out" with clicking.
DH article dated Mar. 14, 2017 (Defendant's Exhibit 110-9)	<b>[Ring earring, beret, logo fashion ... Retro fashion items with memory]</b> A logo fashion which began to show off one's own clothes and wealth. Such trend arrived again with a retro trend. Picture=X, EO Instagram

W Korea article dated Oct. 27, 2017 (Defendant's Exhibit 110-10)	<b>[Behind Story of Paris Fashion Week]</b> One way for 15 years. I arrived at a store with the sad memory that I had to return to Korea a day before X Paris Open three seasons before. I visited the store on Saturday not Thursday, the day of release. However, I found a long line of dozens of people. I was able to enter the store after waiting for 40 minutes. Of course, the shopping was so satisfying.
AO article dated Apr. 21, 2017 (Defendant's Exhibit 110-11)	<b>[Street fashion as hot as street dance battle "Line Up 3.5"]</b> Appearance of street fashion brands and styles, such as EP, X, CJ, EQ, etc. In this event held on April 8, various street sports brands attracted the attention of interested parties by providing street fashion items of various styles for participating teams. Also, various trends of street fashion domestically and abroad could be seen in one place, as street dancers' favorite brands and styles appeared. "ER", who won the International Street Competition and are very famous internationally, displayed a cool street fashion with an "ES" jacket with unique printing and an "X" snapback.
AF article dated Apr. 21, 2017 (Defendant's Exhibit 110-12)	<b>[[2017 Youth Culture: Market keyword] Passion and fever of the young, which shake the market]</b> The drop system sales method is playing a decisive role in attracting the hearts of the young, who are crazy about a style that is ordinary but unique. A phenomenon in which the young obsessed with speed wait in line for many days to purchase a limited edition item is so understandable in terms of "difference" and "getting ahead". X, which became a star brand with its limited edition drop system, is supported ardently by the young to the degree that it is said that anything would be sold once it had its logo.
ET article dated Apr. 22, 2017 (Defendant's Exhibit 110-13)	<b>[“0Retro’ in a good sense” ... Best vs Worst of “Retro” in distribution]</b> As hip hop has recently become a hot trend in the cultural community, logo print items are also attracting attention. Many of them are sports brands, such as X, AC, CJ, etc., or the brands that hip hop artists enjoy wearing. However, it would be “frustrating” to bring back the past brands, such as “EU”, etc., even if the logo printing is famous.
AE article dated Apr. 24, 2017 (Defendant's Exhibit 110-14)	<b>[Official release of X x AC air more up-tempo]</b> The air more up-tempo, which is a work of a collaboration between X (X) and AC (AC), is finally realized. According to official images, “AIR”, which was a characteristic silhouette of the air more up-tempo representing AC's basketball shoes, is replaced with the “X” logo. Further, its body and embroidery were completed with nubuck and leather, respectively. Also, a scotch material put over the outskirts of the logo could be a key point showing X's unique wit. The product composed of three colors, such as black, red, and gold, will be released in the U.S. and Europe on April 27 and in Japan on April 29, two days after the former.
BN KITRI article dated Apr. 24, 2017 (Defendant's Exhibit 110-15)	<b>[“X Money Gun” so popular among hip hoppers (image)]</b> X (X), a fashion brand, released on the 22 <sup>nd</sup> last month (hereinafter, in Korean time) the “Money Gun” for the 17 SS season. The “Money Gun” is attracting the attention of enthusiasts who love street fashion brands and hip hop. The “Money Gun” sold out on online websites as soon as it was released. According to purchasers, it sold out in about 20 seconds. The Money Gun is a red replica gun with a logo representing X. It will shoot “bills” instead of bullets. Its sales price was about 120 thousand won, but it is traded at a premium for around 200–300 thousand won. However, it sells immediately once it is posted on auction

	websites, such as AJ, etc. In Korea, it could be bought through resale shops or trading between individuals.
EV article dated Dec. 13, 2017 (Defendant's Exhibit 110-16)	<b>[Items in the news in 2017]</b> Two best items in 2017 so loved that they could not be had easily no matter how much they were wanted... Further, the other item is the "FxX" collaboration collection. People who wait for the items crowded in front of the store even a few days before the release. The reselling price skyrocketed up to 30 times due to such popularity and suspension of sales.
AE article dated Dec. 12, 2017 (Defendant's Exhibit 110-17)	<b>[X and EW will cooperate in 2018 season?]</b> X (X), a genius of collaboration, selected EW (EW), a byword for luxury watches, as its next partner. It would not be a groundless rumor in light of the collaboration through which they produced 20 watches on a limited basis in 2013. The collaboration items that embossed the phrase "FUCK EM" on a dial and a box logo on the back were released not for sale. Thus, people's attention is being drawn as to what kinds of results would be generated in the new season.
Naver article dated Dec. 12, 2017 (Defendant's Exhibit 110-18)	<b>[The Internet is so excited at a rumor of a collaboration between EW and X]</b> The Internet is so excited at a rumor that EW, a luxury watch brand of Switzerland, and X, a street fashion brand of U.S., would collaborate. Many fashion people have spread this rumor. Fashion magazines conveyed the frenetic atmosphere instigated only by a rumor of collaboration between the two brands... This is not the first time for EW watches to include the X logo. In 2013, EX and X produced watches in a limited edition together with a specialized watch company. The watches were not released officially. The X logo was engraved on the back of the Submariner, which is a representative model of EW, and the phrase "FUCK EM", which is a slogan of X, was marked in red on the dial. 20 units were produced and sold at a price of 10–12 thousand dollars (10.92–13.10 million won). It was known that some of them ended up in the hands of resellers and traded at a price of 50 thousand dollars (54.6 million won).
AE article dated Apr. 27, 2017 (Defendant's Exhibit 110-19)	<b>[Credit card in street wear]</b> A signature of famous street fashion brand was contained... 8 brands, such as EX (EX), EY (EY), DK (DK), EZ (EZ), FA (FA), X (X), FB (FB), and FC (FC), appeared in the so-called "Future Street Cred" project. Each credit card contains the brand information in its credit card number or expiration date in a witty way.
AE article dated May 2, 2017 (Defendant's Exhibit 110-20)	<b>[X x FD collaboration collection]</b> Following the news of the air more up-tempo collaboration with AC (AC) last week, X (X) will collaborate with FD, who is a Dutch printmaker. He may be easily misunderstood as a hip hop musician and his full name is FD (FD). This collaboration edition is based on his masterpieces of geometric principles, and mathematical concepts would be applied to trench coats, baseball shirts, sweat hoodies, T-shirts, shorts, caps, etc.
AE article dated May 10, 2017 (Defendant's Exhibit 110-21)	<b>[X x FE 2017 Spring collaboration collection]</b> The news of the collaboration was delivered between X (X) and FE (FE), which form a solid fan base through continuous collaboration collections. For this season, they completed unique visuals by adding their unique street feel to trucker jackets and 505 denim jeans, which are representative items of FE.
AE article dated May 11, 2017 (Defendant's Exhibit	<b>[X 2017 Spring Sunglasses Collection]</b> Pay attention to unique sunglasses to protect your eyes before summer arrives. As there is a saying that "fashion is completed with sunglasses", the sunglasses

110-22)	collection newly presented by X (X) would upgrade your fashion sense much higher. In this season, the sunglasses were composed of a total of five frames, such as royse, eclipse, palladium, comet, and alton. All sunglasses were manufactured in an Italian handmade manner.
FF article dated Dec. 7, 2017 (Defendant's Exhibit 110-23)	<b>[Long padded jacket? AC? CJ? X? – Ocea Column]</b> We could easily purchase AC CJ long padded jackets in a department store, but why it would be so difficult to buy X long padded jackets? Nowadays, limited editions of famous brands are so popular. It is so difficult to obtain not only sneakers, such as AC Jordan, etc., but also clothes of some brands, such as X padded jackets, DJ hooded T-shirts, etc. If they are produced through collaborations, it would be even harder to obtain them. Why does this happen? It is because of the brands' high price strategies. For example, X runs only 11 EA stores in the world. To my regret, there is no store in Korea managed directly by X. Of course, X does not support wholesalers, like me. This is to protect its brand value vigorously... It would be difficult to obtain its products with a couple of employees. A resale price of the X box logo rose up to 1 million won. As the price continues to rise, there would be a number of fake item dealers.
DF article dated Jun. 7, 2017 (Defendant's Exhibit 110-24)	<b>[X x FG Collaboration Collection]</b> X (X)'s next collaboration partner was announced without notice. It was FG (FG) that used to successfully collaborate in 2015... In particular, X has released an image of FH (FH), who is a legendary skateboarder, in order to commemorate this collaboration collection.
DF article dated Jun. 15, 2017 (Defendant's Exhibit 110-25)	<b>[X x BV Disclosure of Slip-on Pack]</b> X (X) delivered the news of a collaboration with BV (BV) through Instagram. They will collaborate again in addition to their collaboration last February. This time, BV brings to the fore the main printing "666" of a denim jacket that appeared in the X 2017 Spring, Summer Collection based on its classic model slip-on.
BQ article dated Jun. 30, 2017 (Defendant's Exhibit 110-26)	<b>[[World in Culture] FI clip and X brick are fashion, too?]</b> Last year, X released bricks engraved with its brand logo. They were made of red clay and sold at a price of 30 dollars (34 thousand won). The young consumers were crazy about this wild idea and the bricks sold out at their release. As consumers wanted to buy the "discontinued" bricks, the price of used bricks went up to 1,000 dollars (1.13 million won) on AJ, an auction website. X made fashion with items previously outside the realm of fashion, such as Bibles, fire extinguishers, nunchaku, etc., in addition to the bricks.
W Korea article dated Jun. 30, 2017 (Defendant's Exhibit 110-27)	<b>[F x X Entering Seoul]</b> At midnight of June 30, the FXX collection announced its store without notice. Even though such news was announced suddenly, its enthusiasts rushed to the ADF store. A lineup of this collection that an editor visited the store at their release time and obtained! If you want to get an item, let us rush there right now. The store will be open from 11:00 A.M. to 7:00 P.M. until July 14. The items will not be restocked or re-warehoused.
AG article dated Jun. 30, 2017 (Defendant's Exhibit 110-28, 29)	<b>[F·X will Open their Pop-up Store in AD Building]</b> It was created by the collaboration of D, who is a founder of X, with AH, who is the artistic director of the F male collection. This collection, which is the first collaboration between X and F, is a part of its 2018 Fall–Winter Male Collection. General accessories, leather products, etc. will be presented for the first time

	before their official launch. This project represents the meeting of NY street style and the craftsmanship unique to F, not just a collaboration of two brands.
AE article dated Jun. 30, 2017 (Defendant's Exhibit 110-30)	<b>[X x F Announces their Complete Item Groups of Collaboration Collection]</b> X (X) and F (F). X (X) and F (F), shocking the world with their blockbuster collaboration at the beginning of this year. X's official website announced the whole item groups of a collaboration collection to be released in 9 cities in the world, such as in Korea, Japan, Beijing, Sydney, London, etc... The store in Korea is already crowded with campers from the day before.
AI article dated Jun. 30, 2017 (Defendant's Exhibit 110-31, 33)	<b>[[Exclusive] Opening of F-X Collaboration Store in Korea]</b> The collaboration collection of F, which is a luxury French brand, and "X", which is a U.S. fashion brand called the "emperor of backstreet" ... This collaboration became an issue as the meeting of brands with different cultures. The collaboration collection was first announced in 2017 Fall Winter F Male Collection held in Paris at the beginning of this year. It attracted substantial attention that fake items would be distributed even before genuine items were actually sold. X is famous for having people form long lines. X has become a brand like an icon among the young, since D, its founder, released its items for skateboarders in the backstreets of New York in 1994. X releases a small number of new items every Thursday and people form a long line in front of its store from the preceding day. As soon as the store is open, all items are sold out and thereafter are traded on AJ, etc. at prices 2-5 times higher than their selling prices. An artistic director of the AH F male collection said that "males in New York would not be able to complete their dialogues without X. This collaboration may be deemed to be about uptown and downtown, artist and musician, friends and heroes".
AE article dated Nov. 28, 2017 (Defendant's Exhibit 110-32)	<b>[X x FJ 2017 Winter Collection]</b> X (X) and FJ (FJ) will collaborate again for grand finale of this Winter season... Its items will be Baltoro jackets, mountain parkas, sweatshirts, backpacks, nutpse blankets, etc. The dignity of these two brands will be represented by adding a graphic of a snowy mountain. As this collection is completed with highly rare designs, it is expected that enthusiasts would fiercely struggle to get it.
AK article dated Jul. 5, 2017 (Defendant's Exhibit 110-34)	<b>[Celebrities wearing F x X]</b> Stars who wear F x X, which is the hottest collaboration, are gathered. AL and AM announced celebrities who wear a hoodie with F's monogram and X's red logo box in their Instagram accounts. Who looks better lies in the eye of the beholder.
W Korea article dated Nov. 23, 2017 (Defendant's Exhibit 110-35)	<b>[Kids Falling in Love with FK]</b> X x FK's 6 inch waterproof boots with colorful Stars and Stripes pattern
AE article dated Nov. 22, 2017 (Defendant's Exhibit 110-36)	<b>[X x FK 2017 Winter Collection]</b> X (X), successfully completing its collaboration with FL company, delivered the news of a new collaboration with FK (FK). The collaboration collection of X and FK has sold out with its iconic design whenever they were released every season. Further, they presented designs that did not fall short of people's expectations. Also, they enhanced this collection even more by disclosing down jackets with X embroidery, etc.
AN article dated Jul. 5,	<b>[[Fashion Report] (2) 28 million won for a hooded T-shirt? A resale frenzy</b>

<p>2017 (Defendant's Exhibit 110-37)</p>	<p><b>for “limited edition fantasy” of enthusiasts]</b></p> <p>A reselling price of an X x F collaboration hooded T-shirt rose to 20 million won. This chaos was anticipated to a certain degree. X, who is one party of the collaboration, is famous for a strategy to release new items in a limited quantity every week and having people form a long waiting line in front of its store every release date. It is so obvious that chaos would ensue, as X decided to collaborate with F, a typical luxury brand. In the case of New York, experiencing chaos due to “X’s long waiting line” every week, the store was not opened, as the local committee opposed to the opening of popup store... At 7:00 P.M., 13 youths formed a line in front of the F store in the AD building. They showed a strong will not to yield to hot weather and rain.</p>
<p>AE article dated Nov. 14, 2017 (Defendant's Exhibit 110-38)</p>	<p><b>[X x FL Company 2017 Autumn, Winter Collaboration Collection]</b></p> <p>X (X) and FL Company (FL) announced their 2017 Autumn, Winter Collection together. This collection, where X joined FL Company, that dealt in all products related to skateboards in California in the late 1970s, focused on the clothes... Please check the image shown above, because it is expected that enthusiasts would be in a mad scramble for the items.</p>
<p>FM article dated Jul. 5, 2017 (Defendant's Exhibit 110-39)</p>	<p><b>[[Fashion Report] (1) Waiting in a line for 4 nights and 5 days ... “X x F” shopping crisis that reminds one of real estate speculation]</b></p> <p>Since this is a collaboration with X, which is a street fashion brand referred to as the “F of backstreet”, X’s “Drop” method is applied as its sales method. As X releases a very small number of new items every Thursday, this collaboration will be released in a limited quantity in two drops... In this first drop, red hoodies, T-shirts, stadium jumpers, backpacks, etc. with the logo of X and F. However, when I entered the store, popular items had already sold out. Nonetheless, shoppers who enter the shop together me snatched items. Most of them focused on sneakers and accessories, such as caps, key rings, etc. Their prices were as follows: around 6 million won for leather jackets; 1.1 million won for sneakers; 0.44 million won for a logo bandana; 0.6 million won for a camouflage cap; 0.4–0.9 million won for a key ring; and 0.9 million won for a leather belt. A purchaser remarked that “X has never been officially released in Korea. The price is high, as X collaborates with F. However, since this collection is monumental, I would like to get it”.</p>
<p>AO article dated Jul. 7, 2017 (Defendant's Exhibit 110-40)</p>	<p><b>[Change in fashion power! Frenzy of sales of F x X collaboration limited edition]</b></p> <p>As F, which is a global luxury brand, announced its collaboration with X through its 2017 F/W men’s wear collection, the fashion industry and fashion people around the world were shocked. Exclamations poured out and the social media of fashion people all around the world was filled with F and X, even before the show was over. Some critics mentioned that “X revived and changed F which is outdated and depressed with a new image” ... The fact that a huge fashion house courted X, which is a fashion brand with a street feel representing an underground culture, symbolizes the fact that the power to lead fashion has been taken over by consumers ... A very long waiting line formed in front of X’s store on Lafayette Street in Manhattan, New York every Thursday shows how popular X is ... This is because X releases a small number of limited items every Thursday and thus most of them sell out as soon as they are released or in a few days thereafter. X runs EA line stores only in 4 countries, such as the U.S., Japan, the U.K., and France despite its global popularity ... In the “X x F” popup store in the F flag shop of the AD Building in Seoul, the first drop opened on June 30 was</p>

	completely sold out in just three days. Also, on the 7 <sup>th</sup> , when the 2 <sup>nd</sup> “F x X” limited edition was re-warehoused, a long waiting line had formed in front of the AD Building from three days prior.
AE article dated Nov. 9, 2017 (Defendant’s Exhibit 110-41)	<b>[X x FE 2017 Autumn, Winter Collaboration Collection]</b> FE (FE), which shall not be omitted from the X (X)’s collaboration series, returned in the 2017 Autumn, Winter Season.
FN article dated Jul. 10, 2017 (Defendant’s Exhibit 110-42)	<b>[“X”, which is a street fashion brand courted by F, had its enthusiasts form a waiting line by releasing its new items in a limited way every week]</b> X has many modifiers, such as “CD of backstreet”, “emperor of street”, “final boss of street fashion”, etc. X is a NY street fashion brand established by D (D) in 1994. X (X) secured enthusiasts not less than Apple with its unique business based on scarcity. When X released bricks with its logo at a price of 30 dollars, they were sold out instantaneously. They were resold on AJ (e-bay) at a price of 1,000 dollars. AH, who is a director of F, said that they collaborate with X because “X is a brand symbolizing the young in New York”. A rare scene unfolds in front of the X store located on Lafayette Street in New York every Thursday. There were people who slept out in a long waiting line from the last night. Even if the store opens at 11 o’clock, the line shortens slowly because only 10 people could enter the shop at a time. One person could purchase only one item at a time. Thus, people purchase an item even if they do not need it. This is because once they “obtain an item”, they can resell the item on AJ at a premium. Ordinary brands release their collection for one season at once, whereas X discloses a very small number of new items every week. This is called the “Drop” system. As only a limited number of items are released, most of them sell out as soon as they are released or in a few days ... Another element that excites the young is the limited collaboration through which only 400 copies are released. X is the first player who began the collaborations and limited sales which are now taken for granted. The collaboration items are released every week as the Drop, their lists are so fancy. The brands and genres are so diversified, such as famous brands, such as AC, BP, etc., artists, such as FQ, DB, etc. Thus far, more than 700 collaborations have proceeded... X’s sales have not been announced. However, the following shows X’s success: long waiting lines in front of its stores every week; resale items sold at prices amounting to several times the sale prices; and the fact that the personal assets of D, a founder, are premised to amount to 40 million dollars (about 47 billion won). X’s red box logo comes from FR (FR)’s art “I shop therefore I am”, who is a conceptualistic artist in the U.S. X means the “best” if translated literally.
FS article dated Nov. 8, 2017 (Defendant’s Exhibit 110-43)	<b>[[ISSUE] Street fashion flows upwards (1)]</b> “X” that has been at issue at all times through various collaborations. ... “X”, a street fashion brand, gave the public an anti-pop culture image by attaching its sticker to underwear advertisements of “FT”. Thereafter, “X” has collaborated with lifestyle brands, such as Air Jordan of “BV” or “AC”, outdoor brands, such as “BP”, and luxury brands, such as “F”, etc. In particular, the “F x X” collaboration collection had about 500 customers form a long waiting line in front of its store in LA, U.S. and, in the end, the collection sales event was cancelled.
AP article dated	<b>[What on Earth is “F x X”?]</b>

<p>Jul. 13, 2017 (Defendant's Exhibit 110-44)</p>	<p>Nowadays, the hottest fashion issue is the collaboration of F and X (F x X, pictured). Last month, X opened popup stores and began to sell its limited items in 8 cities in the world from the 30<sup>th</sup>. In Korea, all items sold out on the first day, i.e. the 30<sup>th</sup>. Even on the 7<sup>th</sup> when items were re-warehoused, consumers formed a long waiting line in front of the F store in the AD Building in Seoul in heavy rain and got all the items in an instant. It was scheduled to continue to sell them until the 14<sup>th</sup>; however, they have already sold out. X's headquarters in the U.S. suddenly announced that it would suspend the sales of collaboration items. The reason was because "a safety problem could occur due to overheated atmospheres, such as camping, etc. in some countries". Many analyzed that the suspension was because commotion occurred among people who slept out in front of its store in Tokyo, Japan for a few days and the police were called. X, which is a street fashion brand from New York, U.S., is the most popular brand among the "fashion people". The name of the brand X written in white against a red background is evaluated as containing the sensibility of the defiant youths. X gets rid of a threshold in the store and thus customers can enter and wander around the store on skateboards. Most of all, X adopted a strategy to release a very small number of new items every week. X had consumers form a waiting line and sold only one item for each customer. Also, X has collaborated with hundreds of famous brands, such as AC, BV, BP, DR, FP, etc. Only 400 items are sold, and so they have a scarcity value. The fact that X has its stores only in 4 countries, such as France, also instigates consumers' desire.</p>
<p>AQ article dated Jul. 13, 2017 (Defendant's Exhibit 110-45)</p>	<p><b>[&lt;Detailed Tracking&gt; "FXX" Suspended its Sales as "Causing Inconvenience"]</b></p> <p>It is a classic technique of luxury brands to produce only a small number of items and thus have customers fret. "F", which is a luxury brand, intended to "have customer form a waiting line" in collaboration with "X", which is a brand symbolizing street fashion as the hip hop culture is popularized, but suspended its schedule for additional sales as "causing inconvenience" in various countries. The "FXX" collaboration collection attracted the attention of the fashion industry this year as the meeting of a luxury brand and a subculture fashion brand. However, its sales schedule was cancelled due to excessive excitement of fashion enthusiasts... F Korea announced that the popup store in Seoul was also terminated together with the 2<sup>nd</sup> release on the 7<sup>th</sup> ... Further, the online release schedule "is not yet decided". Enthusiasts responded variously. Some said that, as some press pointed out, "they should sell more", if the reselling is a problem. Meanwhile, others said that "it is too early to tell, because a couple of stores in the U.S. still re-warehouse items" and are ready for a surprise release.</p>
<p>AO article dated Jul. 13, 2017 (Defendant's Exhibit 110-46)</p>	<p><b>[High-handedness of resellers! FXX Collaboration Announced the Suspension of Sales of Items]</b></p> <p>F announced that the sales of FXX collaboration items and EA line will be suspended completely due to high-handedness of resellers... Thus, it is expected that a reselling price of the "FXX Collection", whose excessive reselling price became an issue (up to 30 times of their list price), would skyrocket in the future ... Posts that X items should be resold at 10-30 times list prices are already being uploaded one after the other.</p>
<p>DF article dated Nov. 7, 2017 (Defendant's Exhibit</p>	<p><b>[X x FU Sales of Skateboard Deck]</b></p> <p>X (X) announced its collaboration with FU (FU), a photographer, as a part of its 2017 Autumn, Winter Artist Series ... In this collaboration composed of two types</p>



110-47)	of skateboard decks, X used her works, such as “Untitled #181” and “Untitled #175”, which belong to the “Grotesque Series”. Wouldn’t this be possible only for X?
FV article dated Jul. 15, 2017 (Defendant’s Exhibit 110-48)	<b>[What Celebrities Wear the “F X X Collection”?]</b> The collaboration of “F (F)”, a French luxury brand, and “X (X)”, a NY street fashion brand, was the “hottest” meeting in the fashion industry ... Justin Bieber made headlines for having two types of “F X X” jerseys with F’s monogram.
FF article dated Nov. 1, 2017 (Defendant’s Exhibit 110-49)	<b>[Fashion Spectrum Overturned by Collapsed Borders]</b> X is suffering a frenzy of being sold out and reselling whenever it releases new items. The young are excited with hair clippers, shovels, bricks, etc. newly released ... X, a street fashion brand of New York, released the collaboration items in this Autumn, Winter Collection. A list price of a skateboard CW mark clearer than F’s logo is no less than 77 million won. The netizens and fashion experts loved X more than F and opined that X would revive F, which has been in a slump. People form a long waiting line for new items in front of X’s store on Lafayette Street in Manhattan, New York every Thursday.
AE article dated Oct. 30, 2017 (Defendant’s Exhibit 110-50)	<b>[X x FW 2017 Autumn Collaboration Collection]</b> How far can X (X) go? Now, it is the collaboration with legendary Japanese SF animation FW (FW).
FY article dated Aug. 1, 2017 (Defendant’s Exhibit 110-51)	<b>[F-X·Face Shop-FX ... Unusual “Collaboration” Frenzy]</b> On the 6 <sup>th</sup> , F, which is a representative French luxury brand, released new items in collaboration with “X”, which is a street fashion brand in the U.S. The world paid attention to what kinds of items would be created with F’s unique “LV” logo and X’s young feeling. It is said that the F-X collaboration items balanced F, which may be felt as outdated or distant, with X’s unique brightness and comfort. Thus, they became sensationally popular among the young.
BL article dated Aug. 1, 2017 (Defendant’s Exhibit 110-52)	<b>[F-X·Face Shop-FX ... Unusual “Collaboration” Frenzy]</b> On the 6 <sup>th</sup> , F, which is a representative French luxury brand, released new items in collaboration with “X”, which is a street fashion brand in the U.S. The world paid attention to what kinds of items would be created with F’s unique “LV” logo and X’s young feeling. It is said that the F-X collaboration items balanced F, which may be felt as outdated or distant, with X’s unique brightness and comfort. Thus, they became sensationally popular among the young. These collaboration items were sold in Korea only two times on June 30 and July 7. Hundreds of people were gathered in front of its popup store in the AD Building in Seoul. Prices of leather jacket, sneakers, bandanas, caps, and leather belts were 6 million won, 1.1 million won, 0.44 million won, 0.6 million won, and 0.9 million won, respectively. However, the items sold out in a short period of time. Currently, they are resold at least 2–3 times and at most dozens of times higher than their list prices.
DF article dated Aug. 3, 2017 (Defendant’s Exhibit 110-53)	<b>[Leaked Image of X X AC Collaboration Sneakers]</b> Last night, a hot issue exciting enthusiasts was delivered. The sneakers newly launched as a collaboration with AC (AC) were announced through @X_leaks_news.
W Korea article dated Aug. 3, 2017 (Defendant’s Exhibit	<b>[Items that the Fashion People would Buy but could not Wear!]</b> X is O.K. and Red is all right too. There is no reason not to buy them.

110-54)	
AE article dated Aug. 28, 2017 (Defendant's Exhibit 110-55)	<b>[X x V 2017 Autumn, Winter Collection]</b> X (X) and V (V) joined hands once again after the collaboration in the first half of this year.
AE article dated Sep. 5, 2017 (Defendant's Exhibit 110-56)	<b>[Release of X x AC SB Air Force 2]</b> X (X) announced its collaboration without notice. Its partner was AC SB (AC SB), which had collaborated with X very well.
FS article dated Sep. 7, 2017 (Defendant's Exhibit 110-57)	<b>[[ISSUE] Return of Hip Sack which Has Become "Hip"]</b> F (F) belt bag collaborated with "X (X)", a street fashion brand ... F (F) announced, in the men's wear collection in Paris in January, belt bags of design collaborated with "X (X)", a street fashion brand.
J.com article dated Sep. 8, 2017 (Defendant's Exhibit 110-58)	<b>[#Fashionista Life]</b> Are there any clothes from Sprite T-shirts to X raincoats that don't match?
AE article dated Sep. 12, 2017 (Defendant's Exhibit 110-59)	<b>[X x FZ Collaboration Collection]</b> FZ (FZ) was selected as the next collaboration partner of X (X), after V (V) and AC SB (AC SB).
AE article dated Oct. 19, 2017 (Defendant's Exhibit 110-60)	<b>[XXAC, 2017 Autumn, Winter Collaboration Collection]</b> X (X) announced a new collaboration collection in two days after delivering the news of collaboration with FJ (FJ) ... A trail runner silhouette symbolizing the 1990s was realized without change, but the X logo and 3M reflecting hit details were added neatly.
AE article dated Oct. 23, 2017 (Defendant's Exhibit 110-61)	<b>[Disclosure of Detailed Image of XXAC 2017 Autumn, Winter Collaboration Collection]</b> Detailed images of X (X) x AC (AC) 2017 Autumn, Winter Collaboration Collection were announced.
DI article dated Jan. 1, 2018 (Defendant's Exhibit 111-1)	<b>[Let's Look Again Boyfriend Items]</b> Could we separate skateboards from fashion? Let alone street culture brands, such as BV, X, etc., even high-end fashion houses, such as GA, GB, F, etc. analyze their needs and release various collections.
W Donga article dated Jan. 4, 2018 (Defendant's Exhibit 111-2)	<b>[[#trend] all new fashion ideas 9]</b> Fanny pack that has been classified as an outdated item and recognized as a tourist's bag to prevent pickpocketing! However, F revived the fanny pack again. The fashion industry was so excited in the last men's wear collection by fanny packs with the X logo that is "hip".

[Attached Form 2]

**Examples of Application and Registration of Trademark including “X”  
(Plaintiff’s Exhibits 7-9)**

No.	Factual basis	Mark	Classes	Application No./Registration No. (Filing date of application/Date of registration)	Current state
1	Plaintiff’s Exhibit 7-1	SUPREME COMMANDER	9, 16	40-0601787 (Dec. 6, 2004)	Registered
2	Plaintiff’s Exhibit 7-2	SUPREME 90 DAY	9, 16	40-0904696 (Feb. 15, 2012)	Registered
3	Plaintiff’s Exhibit 7-3	Supreme. La. La.	9, 26	40-0920709 (May 21, 2012)	Registered
4	Plaintiff’s Exhibit 7-4	Supreme Color	9	40-0994159 (Sep. 10, 2013)	Registered
5	Plaintiff’s Exhibit 7-5		9	40-1119937 (Jul. 7, 2015)	Registered
6	Plaintiff’s Exhibit 7-6		9	40-1119938 (Jul. 27, 2015)	Registered
7	Plaintiff’s Exhibit 7-7	<b>SUPREME COMMANDER</b>	9	40-1116119 (Jul. 6, 2015)	Registered
8	Plaintiff’s Exhibit 7-8	<b>SUPREMEGOLD</b> 슈프리골드	9	40-1127503 (Sep. 2, 2015)	Registered
9	Plaintiff’s Exhibit 7-9	SUPREME MR 240	9	40-1202451 (Sep. 12, 2016)	Registered
10	Plaintiff’s Exhibit 7-10		9	40-1525535 (Sep. 26, 2019)	Registered
11	Plaintiff’s Exhibit 7-11		9, 25, 35	45-0054210 (Feb. 16, 2015)	Registered
12	Plaintiff’s Exhibit 7-12		9	40-2018-0163311 (Nov. 22, 2018)	Published
13	Plaintiff’s Exhibit 7-13		9	40-2018-0163312 (Nov. 22, 2018)	Published
14	Plaintiff’s Exhibit 7-14		9	40-2019-0028601 (Feb. 25, 2019)	Published
15	Plaintiff’s Exhibit 7-15	VRS Supreme	9, 18, 35	40-2019-0043457 (Mar. 21, 2019)	Published

16	Plaintiff's Exhibit 7-16		9	40-2019-0178009 (Nov. 19, 2019)	Published
17	Plaintiff's Exhibit 8-1		18	40-1026877 (Mar. 10, 2014)	Registered
18	Plaintiff's Exhibit 8-2		18	40-2018-0025176 (Feb. 26, 2018)	Published
19	Plaintiff's Exhibit 8-3		18	40-1402081 (Oct. 1, 2018)	Registered
20	Plaintiff's Exhibit 8-4		18	40-2018-0101517 (Jul. 24, 2018)	Published
21	Plaintiff's Exhibit 8-5		18	40-2018-0132159 (Sep. 20, 2018)	Published
22	Plaintiff's Exhibit 8-6		18	40-2018-0146325 (Oct. 25, 2018)	Published
23	Plaintiff's Exhibit 8-7		18, 25	40-2018-0162908 (Nov. 22 2018)	Published
24	Plaintiff's Exhibit 8-8		18	40-2018-0175956 (Dec. 14, 2018)	Published
25	Plaintiff's Exhibit 8-9		18, 25	40-2018-0182490 (Dec. 27, 2018)	Published
26	Plaintiff's Exhibit 8-10		18, 25	40-2018-0182494 (Dec. 27, 2018)	Published
27	Plaintiff's Exhibit 8-11		18, 25	40-2018-0182496 (Dec. 27, 2018)	Published
28	Plaintiff's Exhibit 9-1		25	40-0293142 (Jul. 8, 1994)	Registered
29	Plaintiff's Exhibit 9-2		25	40-0625693 (Jul. 21, 2005)	Registered
30	Plaintiff's Exhibit 9-3		25	40-0975810 (Jun. 18, 2013)	Registered
31	Plaintiff's Exhibit 9-4		25	40-0942286 (Nov. 26, 2012)	Registered
32	Plaintiff's Exhibit 9-5		25	40-0951709 (Feb. 1, 2013)	Registered
33	Plaintiff's Exhibit 9-6		25	40-0975818 (Jun. 18, 2013)	Registered
34	Plaintiff's Exhibit 9-7		25	40-1036857 (May 12, 2014)	Registered

35	Plaintiff's Exhibit 9-8		25	40-1036947 (May 12, 2014)	Registered
36	Plaintiff's Exhibit 9-9		9, 25, 35	45-0054210 (Feb. 16, 2015)	Registered
37	Plaintiff's Exhibit 9-10		25	40-1075820 (Dec. 15, 2014)	Registered
38	Plaintiff's Exhibit 9-11	NIKE FLEX SUPREME	25	40-1198269 (Aug. 24, 2016)	Registered
39	Plaintiff's Exhibit 9-12		25	40-1386161 (Aug. 9, 2018)	Registered
40	Plaintiff's Exhibit 9-13		25	40-1386162 (Aug. 9, 2018)	Registered
41	Plaintiff's Exhibit 9-14		25	40-1386163 (Aug. 9, 2018)	Registered
42	Plaintiff's Exhibit 9-15		25	40-1386164 (Aug. 9, 2018)	Registered
43	Plaintiff's Exhibit 9-16		25	40-2018-0052792 (Apr. 19, 2018)	Published
44	Plaintiff's Exhibit 9-17		25	40-2018-0087124 (Jun. 27, 2018)	Published
45	Plaintiff's Exhibit 9-18		25	40-2018-0095883 (Jul. 12, 2018)	Published
46	Plaintiff's Exhibit 9-19	SUPREME MMONKL	25, 35	40-1464942 (Apr. 2, 2019)	Registered
47	Plaintiff's Exhibit 9-20		25	40-2018-0133099 (Sep. 21, 2018)	Published
48	Plaintiff's Exhibit 9-21		25	40-2018-0146328 (Oct. 25, 2018)	Published
49	Plaintiff's Exhibit 9-22		18, 25	40-2018-0162908 (Nov. 22, 2018)	Published
50	Plaintiff's Exhibit 9-23		25	40-2018-0175959 (Dec. 14, 2018)	Published
51	Plaintiff's Exhibit 9-24		25	40-2018-0179744 (Dec. 21, 2018)	Published
52	Plaintiff's Exhibit 9-25		18, 25	40-2018-0182490 (Dec. 27, 2018)	Published
53	Plaintiff's Exhibit 9-26		18, 25	40-2018-0182494 (Dec. 27, 2018)	Published
54	Plaintiff's Exhibit 9-27		18, 25	40-2018-0182496 (Dec. 27, 2018)	Published

55	Plaintiff's Exhibit 9-28		25	40-1519327 (Sep. 9, 2019)	Registered
56	Plaintiff's Exhibit 9-29		25	40-2019-0028463 (Feb. 25, 2019)	Published
57	Plaintiff's Exhibit 9-30		25	40-2019-0028465 (Feb. 25, 2019)	Published
58	Plaintiff's Exhibit 9-31		25	40-2019-0028497 (Feb. 25, 2019)	Published
59	Plaintiff's Exhibit 9-32		25	40-2019-0035973 (Mar. 8, 2019)	Published
60	Plaintiff's Exhibit 9-33	<b>SUPREME</b> BY BUDRI	25	40-2019-0041872 (Mar. 19, 2019)	Published
61	Plaintiff's Exhibit 9-34		25	40-2019-0044999 (Mar. 25, 2019)	Published
62	Plaintiff's Exhibit 9-35		25	40-2019-0047422 (Mar. 28, 2019)	Published
63	Plaintiff's Exhibit 9-36	VIVID&supreme	25, 35	40-2019-0066294 (Apr. 29, 2019)	Published
64	Plaintiff's Exhibit 9-37	<b>Supreme</b> ★	18, 25, 35	40-2019-0075970 (May 16, 2019)	Published
65	Plaintiff's Exhibit 9-38		25	40-2019-0153258 (Oct. 7, 2019)	Published
66	Plaintiff's Exhibit 9-39	<b>SUPRE MES</b>	18, 25	40-2019-0161297 (Oct. 22, 2019)	Published
67	Plaintiff's Exhibit 9-40		25	40-2019-0178012 (Nov. 19, 2019)	Published
68	Plaintiff's Exhibit 9-41		25	40-2020-0009957 (Jan. 20, 2020)	Published
69	Plaintiff's Exhibit 9-42	MCTSUPREME SINCE 2012	25	40-2020-0113499 (Jul. 2, 2020)	Published

[Attached Form 3]

**Examples of Trademarks on Whose Circumference English alphabet Are Disclosed**

**(Plaintiff's Exhibit 6)**

No.	Factual basis	Mark	Classes	Registration No.	Part in English
1	Plaintiff's Exhibit 6-1		14, 24, 25	40-0234118	The Best European
2	Plaintiff's Exhibit 6-2		25	40-0258419	SPORT
3	Plaintiff's Exhibit 6-3		25	40-0275964	IVY SPIRIT E.LAND SHOP
4	Plaintiff's Exhibit 6-4		22, 25, 28	40-0411544	FOREIGN LANGUAGE INSTITUTE I CAN DO
5	Plaintiff's Exhibit 6-5		14, 24, 25	40-0440431	KING OF SPORTS NEW JAPAN PRO-WRESTLING
6	Plaintiff's Exhibit 6-6		25	40-0457157	SOCKS MART
7	Plaintiff's Exhibit 6-7		25, 35	45-0000804	RICHES & PRIDE SCOTTISH STANDARD
8	Plaintiff's Exhibit 6-8		25	40-0465913	THE OFFICIAL UNIFORM OF NEW YORK
9	Plaintiff's Exhibit 6-9		25	40-0469291	PREMIUM
10	Plaintiff's Exhibit 6-10		18, 25	40-0553250	TOTAL BRAND
11	Plaintiff's Exhibit 6-11		18, 25, 26	40-0704552	SPORTS JEANS
12	Plaintiff's Exhibit 6-12		25	40-0873686	MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY
13	Plaintiff's Exhibit 6-13		25	40-0908974	PORTLAND OREGON
14	Plaintiff's Exhibit		25	40-0911160	SPORT PARIS



	6-14				
15	Plaintiff's Exhibit 6-15		18	40-0975222	OUTDOORS SINCERITYHIGH EFFICIENCY INNOVATION
16	Plaintiff's Exhibit 6-16		25	40-1015820	URBAN AUTHENTIC EST. 1970
17	Plaintiff's Exhibit 6-17		18, 28	40-1037467	AMERICA'S FIRST BASEBALL COMPANY EST. 1876
18	Plaintiff's Exhibit 6-18		18, 25	1157301	THE STANDARD or THE
19	Plaintiff's Exhibit 6-19		25	40-1070018	YOUR ADVENTURE BEGINS HERE A WILD PLACE TO EAT & DRINK
20	Plaintiff's Exhibit 6-20		25	40-1106162	ELEMENT WIND WATER FIRE EARTH
21	Plaintiff's Exhibit 6-21		9, 16, 18	40-1117606	NEW YORK
22	Plaintiff's Exhibit 6-22		18, 25	1189568	EST. 1990 ENGLAND
23	Plaintiff's Exhibit 6-23		25	1210118	HAPPY GOOSE 100% DOWN FREE
24	Plaintiff's Exhibit 6-24		25, 28, 41	45-0060759	PHILADELPHIA
25	Plaintiff's Exhibit 6-25		18,25	1222745	ANTARCTIC RESEARCH PROGRAM GPS-ET MAPPING SURVEYS
26	Plaintiff's Exhibit 6-26		9, 18, 25, etc.	1197623	DEUTSCHER FUSSBALL-BUND
27	Plaintiff's Exhibit 6-27		25	1256117	BESPOKE STYLE HAND CRAFTED
28	Plaintiff's Exhibit 6-28		25	40-1191057	NLESS INNOVATION MCMLXXXIX
29	Plaintiff's Exhibit 6-29		18, 25	40-1302138	AMERICAN BRAND Established 1983



30	Plaintiff's Exhibit 6-30		25	40-1315202	THIS IS A SPECIAL LABEL USED FOR QUALITY PRODUCTS
31	Plaintiff's Exhibit 6-31		9, 18, 25, etc.	40-1357637	EXPLORE YOUR LIFE
32	Plaintiff's Exhibit 6-32		25	40-1526382	TRADITIONAL BRITISH STYLE FOR MODERN ART PERFORMERS
33	Plaintiff's Exhibit 6-33		25	40-1637180	EST. 1920 THE ORIGINAL OUTDOOR OUTFITTER
34	Plaintiff's Exhibit 6-34		9, 25, 28, 35, 38, 41	40-1673314	WORLD CLASS FOOTBALL CLUB

Online Shopping Mall of Corporation BD (Defendant's Exhibit 124)

TRENDBAG 트랜드백

로그인 / 회원가입 / 마이페이지 / 주문조회 / 사이트맵

신상품BestSupreme프라다시루가방백성책백여성가방가죽가방세일상품어플가방기타회사소개커뮤니티

CATEGORY BEST

기타고지 테스트 상품입니다.

Home > 상품입력

슈프림 제품 (>25개)

BEST1

[슈프림]3636  
도매회원공개

BEST2

[슈프림]3629  
도매회원공개

PRODUCT LIST

제품리스트

3807[슈프림양말]  
도매회원공개  
NEW

고급철통 포장  
3806[슈프림양말]  
도매회원공개  
NEW

3805[슈프림양말]  
도매회원공개  
NEW

3804[슈프림양말][플질]  
도매회원공개  
NEW

1박스 5개 들어있음  
3803[슈프림양말][플질]  
도매회원공개  
NEW

3802[슈프림양말]  
도매회원공개  
NEW

27#=1봉지 / 바닐라맛  
3801[슈프림양말]  
도매회원공개  
NEW

3800[슈프림슬리퍼약함]  
도매회원공개  
NEW

3809[슈프림슬리퍼모든]  
도매회원공개  
NEW

슈프림슬리퍼키링(10개 단위)  
도매회원공개  
NEW

[슈프림]3721  
도매회원공개

[슈프림]3719  
도매회원공개

