

Supreme Court Decisions

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CONTENTS

Private Law

- 1** Supreme Court Decision 2004Da72457 Decided February 1, 2008 **【Prohibition of the Use of an Internet Domain】** <The Case on ICANN Uniform Domain Name Dispute Resolution Policy> 1
- [1] The legal nature of the Uniform Domain Name Dispute Resolution Policy (“UDRP”) by the Internet Corporation for Assigned Names and Numbers (“ICANN”) and whether such policy actually has binding power to regulate the substantive relations on rights and obligations between the registered person of the domain name and a third party beyond the mandatory administrative procedure (negative)
- [2] The case holding that the UDRP does not have binding power to regulate substantive relations on rights and obligations between the Gab company (the third party) who is the trademark holder and Eul who is the registered person of the domain name, under the following facts: after the Gab financial company, which has a trademark or service mark related to “CCF,” was acquired by a famous foreign financial holding company, Eul registered the domain name composed of the business name of the above financial holding company and “CCF” at the ICANN; then the Gab company asked Eul to stop using the domain name pursuant to the UDRP by ICANN
- 2** Supreme Court Decision 2006Da6713 Decided February 1, 2008 **【Damages】** 11
- [1] The criteria in determining whether a police officer used a weapon in compliance with the requirements for its use under Article 10-4 of the Act on the Performance of Duties by Police Officers
- [2] Whether the act of infringing another’s legal interest that does not constitute a criminal offense can constitute a tort under the civil law (affirmative)

bear strict liability when an injury occurs

- [6] Whether it can be permissible to merely invoke the contents of preparatory briefs where appellate briefs did not state a specified ground for appeal as to the facts that the court below violated the law (negative)
- [7] In light of the general surrounding circumstances, in a case where a person who died from taking the cold medication “Contac 600,” an over-the-counter medication containing Phenylprophanolamine (a synthetic sympathomimetic amine), the case holding that the State’s compensatory liability cannot be established on the ground that it cannot be viewed that officials and others of the Korea Food & Drug Administration failed to take any action in order to avoid the risk in the taking of the above medical production

5 Supreme Court Decision 2006Da68209 Decided March 13, 2008
【Assigned Money】 37

- [1] The jurisdiction where one of the legal jurisdictional courts of law is agreed upon to be the jurisdictional court of law, and whether a foreign element of a legal relationship regarding an assignment of the right to repayment of a debt affects the validity of the above agreement (negative)
- [2] The case holding that where a loan certificate, drafted by a debtor and creditor residing in Japan, contains a pre-printed sentence stating that if a legal dispute arises, the court of law seated where the creditor is domiciled shall be the jurisdictional court of law of the first instance, the above pre-printed sentence is not an exemplary sentence, but constitutes an exclusive jurisdiction agreement
- [3] The case holding that if a debtor and a creditor residing in Japan agreed on exclusive jurisdiction in a loan contract and thereafter the right to repayment of a debt was assigned to a Korean citizen with a domestic address in Korea, the above jurisdiction agreement shall become invalid and the court of law of the Republic of Korea has jurisdiction over the dispute

6 Supreme Court Decision 2007Da7751 Decided April 10, 2008
【Damages】 43

The standard for assessing damages in a case where goods completing import clearance procedures are damaged leaving such goods valueless without the possibility of restoration to its original condition (=

[3] The case holding that in case where a police officer used a lethal weapon in the process of tackling a criminal that resulted in the criminal's death, such act gives rise to civil liability for the compensatory damages regardless of an acquittal in the criminal case

3 Supreme Court Decision 2006Da47585 Decided February 14, 2008 **【Damages】** 17

[1] The validity of a bill of lading issued without the receipt or shipment of freight (null and void)

[2] In a case where a bank bought a bill of lading, which was issued without the receipt or shipment of freight, along with an export bill of exchange induced by fraud, whether such bank can claim damages equivalent to the amount paid for the export bill of exchange against a carrier who issued the bill of lading (affirmative), and whether a causal relationship is broken by the payer's acceptance of the export bill of exchange (negative)

4 Supreme Court Decision 2007Da52287 Decided February 28, 2008 **【Damages】** 21

[1] The criteria for determining whether or not a product has a design defect in a product liability and the matters to be specially considered in determining the design defect of medication

[2] The case holding that it is difficult to view that the cold medication "Contac 600," which is an over-the-counter medication containing Phenylpropanolamine (a synthetic sympathomimetic amine), has a design defect that gives rise to tort liability to consumers

[3] The elements of product liability due to such defect in inadequate warnings and the test for determining whether a product is defective in inadequate warnings

[4] The case holding that a cold medication "Contac 600," which is an over-the-counter medication containing Phenylprophanolamine (a synthetic sympathomimetic amine), is not defective in inadequate warnings

[5] The case holding that it cannot be viewed that the printing on the paper packaging for the cold medication for "Contac 600," an over-the-counter medication containing Phenylprophanolamine (a synthetic sympathomimetic amine), contained a warranty of no harm during a consumer's normal usage of Contac 600 and to

domestic market price)

7	Supreme Court en banc Decision 2006Da35865 Decided April 17, 2008 [Damages]	45
---	---	----

The concept of the obstruction of light and the starting point of the statute of limitations regarding the right to claim damages resulting from an obstruction of light due to an unlawful act of construction

8	Supreme Court Decision 2005Da75071 Decided April 24, 2008 [Damages]	55
---	---	----

[1] The legal nature of “Uniform Domain Name Dispute Resolution Policy” prepared by the Internet Corporation for Assigned Names and Numbers (“ICANN”) and whether such policy has binding force to regulate an applicant of a domain name and a third party outside the mandatory administrative procedure (negative)

[2] The meaning of the “place where a cause in fact occurred” in torts or unjust enrichment as provided by Article 13 of the former Conflict of Law

[3] The case holding that the act of transfer and registration of the “hpweb.com” domain name is not unlawful under the governing law of the Republic of Korea, in a case where a party Gab (Korean) brought a claim for damages arising out of tortious act of transfer and registration, which was based on the results of Dispute Resolution Agency mediation for a United States corporation trademark holder of the “hp” mark, against the Gab who had registered a domain name, “hpweb.com,” in accordance with the “Uniform Domain Name Dispute Resolution Policy” as prepared by the Internet Corporation for Assigned Names and Numbers (“ICANN”)

[4] The case holding that if the trademark holder has no right under the substantive law to bring a claim for prohibiting use of the domain name at the time of the transfer and registration, then there is room for establishing unjust enrichment and accordingly the validity of the restitution claim of the domain name by the Gab shall be determined after deciding the applicable law under the Article 13 of the former Conflict of Law, in the case of the act of transfer and registration of the domain name as a result of mediation, where the United States corporation trademark holder of the “hp” mark had applied for mediation at the Dispute Resolution Agency against the Gab who had applied for the registration of “hpweb.com” domain name, in accordance with the

“Uniform Domain Name Dispute Resolution Policy” as prepared by the Internet Corporation for Assigned Names and Numbers (“ICANN”)

9	Supreme Court Decision 2006Da30440 Decided April 24, 2008 【Damages】	64
	[1] The meaning of and method to determine “the date when the victim knew of the damage and the person who caused the harm” which is when the short-term extinction prescription for a claim for tort damages begins.	
	[2] The case holding that the issue of whether an emergency arrest is valid is primarily with regard to the issue of whether it meets the requirements of emergency arrest; there is room to consider that the consequence of legal evaluation at the time of unlawful act is uncertain under the reasonable person standard; practically, in a case where the validity of emergency arrest is at issue in relevant criminal trial, it can be viewed that the victim knows the damage thereof, practically and concretely, only when the judgment of related criminal case is confirmed later	
10	Supreme Court Decision 2005Da6297 Decided May 29, 2008 【Completion of Claim Transfer Procedures】	69
	[1] The method for distinguishing between a general sales contract and a consignment sales contract by a commission agent	
	[2] Whether a principal can exercise the right of the object of repossession (the right of the substitute of repossession) against claims that a commission agent who is declared bankrupt acquired as consideration for sales as a commission agent (affirmative)	
	[3] In a case where a foreign government compulsorily collects compulsory claims, which are the objects of the right of repossession owned by a principal, on the basis of its right to collect taxes and then applies them to taxes, the legal nature of the claim for the return of unjust enrichment equivalent to tax amounts that the principal would acquire against a bankrupt estate (= estate claim)	
	[4] Whether the dividends which are obtained under a bankruptcy claim where an estate claim was reported as a bankruptcy claim can be used for the repayment of the estate claim (affirmative)	
11	Supreme Court Decision 2008Da4537 Decided May 29, 2008 【Construction Bills】	77

The validity of a contract concluded by a chief executive officer whose right to represent the company was suspended state due to a provisional injunction on execution of his or her duties (= absolutely void) and whether such contract becomes valid if the application of provisional disposition ordering the suspension is withdrawn afterwards (negative)

12 Supreme Court Decision 2007Da90647 Decided June 26, 2008
【Damages】 79

- [1] The case holding that the casual relation is acknowledged between the negligence of an external auditor, who failed to disclose accounting fraud during the audit of financial statements, and the investor's purchase of commercial papers of such corporation
- [2] The method of assessing damages for losses suffered by an investor who purchased commercial papers due to the improper audit of an external auditor

13 Supreme Court Decision 2008Da16950 Decided July 10, 2008
【Objection to Claim】 86

- [1] In a case where a party to the contract pre-printed a standardized contract form but there was an individual negotiation as to a certain special agreement clause at the time of contract formation, whether such special agreement clause is subject to the Regulation of Standardized Contracts Act (negative) and the elements for the recognition of the existence of such an individual negotiation
- [2] The case holding that in a case where a real property lessor concluded a lease contract with a pre-printed lease contract, the damages clause related to the delay in delivery of the lease property or restoration to the original condition under the contract shall be deemed as a standard contract term and it is invalid as a clause that imposes unfairly excessive liability upon the lessee under Article 8 of the Regulation of Standardized Contracts Act

14 Supreme Court Decision 2007Da37752 Decided August 21, 2008
【Return of Advance Payments】 92

Whether a guarantor of a bankrupt can offset the debt that he owes the bankrupt by his right for reimbursement as a counterclaim, in the case where he paid off part of a guaranteed debt after the bankruptcy was declared (negative)

15 Supreme Court Decision 2007Da57527 Decided August 21, 2008 [Insurance Proceeds] 97

- [1] The meaning of “any dishonest or fraudulent act committed by employees” as stipulated in Article 12 (ii) of the General Conditions in the Bankers Policy applicable to the Lloyd’s of London’s standard contract in English
- [2] The case holding that the assured’s acts of receiving orders over 71 times to manipulate the price of listed shares fall within the scope of “any dishonest or fraudulent act committed by employees” as stipulated in Article 12 (ii) of the General Conditions in the Bankers Policy applicable to the Lloyd’s of London standard contract in English
- [3] Whether Article 12 (ii) of the General Conditions in the Bankers Policy applicable to the Lloyd’s of London standard contract in English applies only in the case where the assured comes to know of any dishonest or fraudulent act committed by employees “during the insurance period” (negative)
- [4] The case holding that an insurer is not obligated to explain Article 12 (ii) of the General Conditions in the Bankers Policy applicable to the Lloyd’s of London standard contract in English because it is general and common in the matter of transactions and thus, an insurance purchaser could have reasonably expected such a provision without any separate explanation

16 Supreme Court Decision 2008Da9358, 9365 Decided August 21, 2008 [Affirmation of Non-existence of Debt] 107

- [1] Whether the consideration of environmental standards, as established in the Framework Act on Environmental Policy, shall be given priority over housing construction standards under the Housing Act in determining whether the infringement caused by noise coming from road traffic exceeds the tolerable level under generally accepted social norms for the residents living nearby the apartment complex at issue (affirmative)
- [2] In the case where noise coming from road traffic exceeds a tolerable level under generally accepted social norms causing an infringement on nearby residents’ quality of life, whether such residents can seek compensation for tort liability for noise against the seller of apartment lots at issue (negative), and the circumstances where the seller bears liability to the buyer in relation to such noise

17 Supreme Court Decision 2006Da68636 Decided September 11, 2008 **【Damages】** 114

- [1] In a case where a chief executive officer neglects the unlawful conduct of other directors when there is reason to suspect it, whether such chief executive officer is liable for damages incurred by a third party arising from such act (affirmative), and whether a joint chief executive officer and directors in charge of duties in a publicly held corporation are exempted from their duty to monitor the performance of other directors, solely on the ground that they each exclusively deal with their own specialized areas according to a corporate internal division of duties (negative in principle)
- [2] The degree of an auditor's duty of care in a publicly held corporation, where the acts of arbitrariness by some officers and employees are neglected or the auditor's access to the important financial information is systematically and continuously blocked

18 Supreme Court Decision 2007Da74683 Decided September 11, 2008 **【Payment under the Letter of Credit】** 128

- [1] The validity of the undocumented, specific condition(s) supplemented to a letter of credit (L/C) (affirmative with qualification)
- [2] Whether the method of accepting the bill of exchange, which was made between the L/C issuing bank and the L/C negotiating bank, which are all Korean corporations, can be governed by the Bills of Exchange and Promissory Notes Act of the Republic of Korea (affirmative)
- [3] In a case where a drawee has notified his acceptance to a holder without stating the word of acceptance and putting his name and seal on the bill of exchange, whether the drawee is liable for such bill of exchange according to Article 29 (2) of the Bills of Exchange and Promissory Notes Act (negative)
- [4] Whether the L/C issuing bank has a duty to return the document presented, in a case where the L/C purchasing bank presented the L/C document and the bill of exchange to the L/C issuing bank, but its obligation to make payment for the L/C price did not arise for some reasons, including the non-fulfillment of a specific condition supplemented to the L/C was confirmed (affirmative)
- [5] The purpose of Article 14 (e) of the Uniform Customs and Practice for Documentary Credits (UCPDC 500), stipulating that

in a case where the issuing bank decides to refuse the document on for any discrepancy, the issuing bank shall be precluded from claiming that the documents are not in compliance with the L/C conditions, if the issuing bank fails to notify the presenter without delay about such discrepancy and return the document

19 Supreme Court Decision 2007Da90982 Decided September 11, 2008 【Sales Price in the Sales Contract】 140

In applying the theory of piercing the corporate veil, the requirements for recognizing “the corporate shell entity” or “the abuse of the corporate entity”

20 Supreme Court en banc Decision 2006Da49789 Decided September 18, 2008 【Claim for Reimbursement】 147

[1] The purpose of the system of constructive bonus of representative and the representative’s duty to pay class Kap earned income tax under the Corporate Tax Act

[2] Whether the legal principle as to right of indemnification in the withholding tax system applies to the constructive bonus of representative under the Corporate Tax Act without any modification (affirmative)

[3] In the case where the corporation as the person responsible for withholding tax claims reimbursement of the amount equivalent to the amount of Kap class income tax as to the income disposed as bonus to the representative, the contents which the representative has to prove to reject the claim

[4] Whether Article 106 (1) 1’s proviso of the former Enforcement Decree of Corporate Tax Act is invalid, since it is beyond the delegated scope of Article 67 of the former Corporate Tax Act that is its mother law (negative)

21 Supreme Court Decision 2006Da51577 Decided September 25, 2008 【Suspension for Using a Korean Language Internet Address】 158

[1] The determining criteria for acknowledging a domain’s registration and use as “use of a trademark,” which constitutes an infringement of a trademark right under Article 66 (1) 1 of the Trademark Act

[2] The meaning and determining criteria for “expressing a trade name in usually used ways,” as provided under Article 51 (1) of the Trademark Act

[3] Whether giving an order to transfer registration for a domain name, which infringes a trademark right under the Trademark Act, as a measure necessary for the prevention of a trademark right infringement is permissible (negative)

22 Supreme Court Decision 2005Da72430 Decided October 9, 2008 **【Return of Deposit】** 163

[1] The attribution relation of a savings account claim in the case where a joint savings account at a bank is opened for the purpose of preventing the withdrawal of savings deposit by one of the joint account holders before a specific purpose has been achieved

[2] The case holding that in case where the construction company and the landlord company of a housing sales business opened a joint savings account in order to effectively secure a priority payment for fulfilled construction bill claims of the construction company against the landlord company, the share of the savings account claim attributable to each party above can be determined and belongs to both the construction company and the landlord company, in division

23 Supreme Court Decision 2006Da52709 Decided October 9, 2008 **【Return of Royalty Payments】** 168

Whether an act of cultivating a seed of an already known variety before the date of application for variety protection, and gathering and shipping harvests obtained from such seed after the application, falls within the effective scope of the right to protection for such variety (negative)

24 Supreme Court Decision 2006Da50420 Decided December 11, 2008 **【Maintenance Fees】** 173

[1] The case where the Supreme Court may render a judgment ex officio as to an error of applying an interpretation of the substantive law, even if the element of “where the decision is in contravention of the judicial precedents of the Supreme Court,” which qualifies as a ground of appeal in small claims cases, is not met

[2] The legislative purpose of Article 18 of the Act on the Ownership and Management of Aggregate Buildings and the validity of a provision of the management agreement which allows a special successor to the former sectional owner to succeed in delinquent management fees of the former co-owner (= validity limited to

management fees for the section for common use)

- [3] Whether a special successor to the sectional ownership of an aggregate building is obligated to pay the delinquent management fees for section for the common use owned by the former co-owner, in the case where the special successor has already transferred the sectional ownership to a third party (affirmative)

25 Supreme Court Decision 2007Da37370 Decided December 24, 2008 **【Recordation of an Assignment of a Patent Right】** 179

In a case where a corporate executive officer's right to register a patent for an invention he created during the scope of his employment was infringed when the company registered the patent solely in its name, the method of calculating property losses suffered by the corporate officer, and whether damages from the infringement on registered patent rights or exclusive license rights can be calculated by applying Article 128 (2) of the Patent Act by analogy (negative)

26 Supreme Court Decision 2008Da41499 Decided December 24, 2008 **【Damages】** 187

[1] In case of the infringement of the right to light, whether a person only temporarily using land and buildings, falls under the definition of "land owners," who enjoy the benefits of light as an objective beneficial value for life (negative)

[2] The case holding that elementary students, who have temporarily used school facilities (i.e., public facilities) during the school year except for vacations or holidays, are not qualified to have a legally protected right to light, as a beneficial value for life

Criminal Law

27 Supreme Court Decision 2007Do5987 Decided February 28, 2008 **【Violation of the Act on the Aggravated Punishment of Specific Economic Crimes (Breach of Trust)】** 190

[1] Whether acquiring a company through a leveraged buyout ("LBO"), which is the acquisition of a target company by using its assets as collateral to borrow a significant amount of money to finance such acquisition, constitutes a crime of an occupational breach of trust (affirmative in principle)

[2] The case holding that, during an LBO, if the acquiring company used the asset of the target company as collateral without any other consideration in order to secure loans from a third party (principal debtor), then it can be deemed that a crime of a Breach of Trust has been established since the target company sustained financial losses equivalent to the value of the secured assets, even though the third party (principal debtor) provided reorganization claims as security equivalent to amounts of loan and its interests

[28] Supreme Court Decision 2006Do3558 Decided March 13, 2008
【Violation of the Act on Promotion of Information and Communications Network Utilization and Information Protection (Distribution of Lewd Materials)】 197

- [1] Which entity should ultimately determine the concept of “lewdness”
- [2] The legal effect of the ratings category of the Korea Media Rating Board
- [3] The meaning of “lewdness” and the criterion for its determination under Article 65 (1) of the former Act on Promotion of Information and Communications Network Utilization and Information Protection
- [4] The case holding that lewdness should not be determined by applying a stricter criteria by taking into consideration a viewer’s environment in which sexually explicit materials are broadcast on the information and communication network, where videos, designated as appropriate for an 18 year old and older audience by the Korea Media Rating Board, were reproduced without editing or modification

[29] Supreme Court Decision 2007Do8373 Decided April 11, 2008
【Violation of the Act on the Aggravated Punishment of the Specific Crimes (Embezzlement) · Violation of the Act on the Aggravated Punishment of the Specific Crimes (Breach of Trust) · Occupational Breach of Trust · Bribery {Convicted Title of the Crime: Violation of the Act on the Aggravated Punishment of the Specific Crimes (Gift of Property)}】 <The Social Service Order Case regarding Jung Mong-gu> 203

- [1] Whether an order mandating social service, which comprises a fixed monetary contribution, is permissible (negative)
- [2] Whether an order mandating a defendant to deliver a speech or

write essays about his own criminal acts is permissible (negative)

[3] The case holding that a social service order requiring the sincere performance of a social contribution plan consisting of a monetary donation and speech-making/contribution of essays featuring lawful management as the main theme is not permissible in the suspension of a jail sentence for embezzlement for the president of a conglomerate

[4] Whether Article 2 (48) of the Enforcement Decree of the Act on the Aggravated Punishment of the Specific Crimes, which designates the National Agricultural Cooperatives Federation as one of “government-managed corporate enterprise,” goes beyond the limit of a delegated legislation (negative)

30 Supreme Court Decision 2008Do1408 Decided April 24, 2008
【Violation of the Act on the Aggravated Punishment of Specific Economic Crimes (Breach of Trust) / Violation of the Act on the Aggravated Punishment of Specific Economic Crimes (Receipt of Property) / Violation of the Act on the Aggravated Punishment of Specific Economic Crimes (Giving of Property) / Occupational Embezzlement / Occupational Breach of Trust / Violation of the Act on Registration of Credit Business and Protection of Finance Users】 210

[1] Whether employees of a financial institution can be subject to a crime of occupational breach of trust by being in the position to perform administrative duties on behalf of a depositor (negative)

[2] The case holding that a financial institution’s employee’s voluntary act of withdrawing 50 million won from a depositor’s bank account cannot be deemed as a crime of occupational breach of trust

31 Supreme Court Decision 2005Do1603 Decided May 8, 2008
【Violation of the Foreign Exchange Transactions Act】 215

[1] Whether incidental affairs, which are directly necessary and closely related to the “payment, collection and receipt between the Republic of Korea and a foreign country,” fall within the scope of “foreign exchange affairs” as provided in Article 3 (1) 14 (e) of the Foreign Exchange Transactions Act (affirmative)

[2] The case holding that the acts of a person who is engaged in so-called “foreign exchange game affairs” by having received money with commission, including marginal profits at the

exchange rate from an unnamed person wanting to remit money to someone in United States fall within the scope of “foreign exchange affairs” as provided in Article 3 (1) 14 (e) of the Foreign Exchange Transactions Act

- 32** Supreme Court Decision 2008Do2269 Decided June 26, 2008
[Violation of the Customs Act] 218
- [1] Whether a crime of smuggling is established, in the case where the merchandise for sale, not subject to a simplified clearance procedure, is cleared through a simplified clearance procedure by an unlawful method (affirmative)
 - [2] The meaning of “domestic wholesale price,” which serves as the basis of the legal amount of forfeiture under the Customs Act, and whether the calculation of a domestic wholesale price applying the table of deducted rate from market price is lawful (lawful)
- 33** Supreme Court Decision 2006Do2520 Decided July 10, 2008
[Sexual Molestation of Children] 223
- [1] The method for determining whether statements made by a child sexual molestation victim have credibility
 - [2] The procedural requirements needed to increase credibility of a victim’s statement during the photo identification of the offender
- 34** Supreme Court Decision 2008Do3435 Decided July 10, 2008
[Violation of the Unfair Competition Prevention and Trade Secret Protection Act] 226
- [1] The meaning of “has been maintained in secret by considerable effort” among the requirements for “trade secrets,” which are stipulated in Article 2 (2) of the former Unfair Competition Prevention and Trade Secret Protection Act
 - [2] The case holding that company’s files related to work, which are acquired and used by its employees, cannot be viewed as information having been maintained as a trade secret by considerable effort, and thus, does not fall within the scope of “trade secrets” as stipulated in Article 2 (2) of the former Unfair Competition Prevention and Trade Secret Protection Act
- 35** Supreme Court Decision 2008Do3211 Decided July 24, 2008
[Violation of the Juvenile Protection Act] 230
- [1] The meaning of an “act of selling liquor to juveniles” under

Article 51 (8) of the Juvenile Protection Act and the point in time the crime was committed

- [2] The case holding that the crime of selling liquor to minors, which violates the Juvenile Protection Act, was not established where a night club operator had a patron step outside a private room in the night club where such patron had ordered liquor, after the operator demanded to see identification from such patron he suspected of being underage

36 Supreme Court Decision 2008Do5531 Decided August 21, 2008
【Violation of the Special Act on Traffic Accident Disposition and the Road Traffic Act (Driving under the Influence of Alcohol)】 233

- [1] The requirement for allowing the result of a driver’s blood alcohol level measurement as evidence for a conviction
- [2] The degree and method of proof that is required for an acknowledgment of premise in the case where the degree of drunkenness is calculated with the Widmark formula
- [3] The case holding that it cannot be determined that driving under the influence of alcohol existed in light of the facts that the driver’s blood alcohol level measurement was done without any measures to prevent an excessive result, which may occur from alcohol remaining within the mouth and an inappropriate weight-related Widmark formula that was used in the calculating the blood alcohol level

37 Supreme Court Decision 2008Do5984 Decided October 9, 2008
【Violation of the Labor Standards Act】 239

- [1] The meaning of “a person who acts on behalf of a business owner with respect to matters relating to workers” as one type of employer under the former Labor Standards Act
- [2] The elements that constitute the grounds for negating liability for the crime of violating Article 36 of the former Labor Standards Act when an inability to pay wages due to economic hardship arises

38 Supreme Court Decision 2006Do736 Decided October 23, 2008
【Habitual Gambling {Alternative Name of Crime: Violation of the Aggravated Punishment Act of Specific Economic Crimes (Fraud)}】 <The Golf Gambling Case> 244

- [1] The meaning of “an event with an uncertain outcome” as an

element constituting an act of gambling under Article 246 of the Criminal Code

- [2] The case holding that golf wagering games constitute gambling where the defendants played golf 26 to 32 times by betting money on every hole or every ninth hole of a golf course with each defendant's handicap level determined individually

39 Supreme Court Decision 2008Do5200 Decided October 23, 2008 **【Uttering of a Falsified Private Document】** 250

- [1] The method of “uttering” under the crime of uttering of a falsified document
- [2] The case holding that the act of transmitting an image file, which was made by counterfeiting a cell phone application form, by e-mail to a third party and then scanning it, falls within the scope of “uttering” of a falsified private document

40 Supreme Court Decision 2007Do386 Decided December 11, 2008 **【Violation of the Act on the Aggravated Punishment of Specific Crimes (Custom Duties) (Convicted Crime: Violation of the Customs Act)】** 254

- [1] The requirements for “category of tea” under Item No. 0902 of the tariff schedule under Articles 50 (1) and 49 of the former Customs Act and whether the goods belong to the above “category of tea,” in the case where they had been declared and imported as “category of tea” but were circulated and later used for another purpose. (affirmative)
- [2] The case holding that green tea and yellow tea declared and imported as “category of tea” belong to “category of tea,” Item No. 0902 of the tariff schedule under Articles 50 (1) and 49 of the former Customs Act, although their intended use were relaxants for bath water at the time of import

41 Supreme Court Decision 2008Do3656 Decided December 11, 2008 **【Violation of the Punishment of Violence Act (Threat with a Deadly Weapon, etc.), Bodily Injury, Assault, and Adultery】** 259

- [1] Whether a foreigner, who is a citizen of a state which does not punish for a crime of adultery, has a right to file a complaint based on his/her spouse' act of adultery committed in the domestic country (affirmative)
- [2] The case holding that in the case where an application for

modifying an indictment with the charges of the violation of the Punishment of Violence Act (Threat by Mob or with a Deadly Weapon, etc.) are supplemented to a charge of bodily injury, the identical nature of the charges cannot be recognized if their basic factual relationship is not the same

42 Supreme Court Decision 2008Do4101 Decided December 11, 2008 【Violation of the Illegal Check Control Act】 265

- 11] The legislative intent of Article 253 (3) of the Criminal Procedure Act as to the tolling of the statute of limitations for prosecution and the meaning of staying abroad for “the purpose of escaping criminal punishment” under the above provision
- 12] The criterion for determining the issue of whether an offender staying abroad has “the purpose of escaping criminal punishment,” and whether “the purpose of escaping criminal punishment” can be applied to the situation where an offender is serving a prison term for a different crime in foreign country
- 13] The case holding that the statute of limitations period for prosecution in a case continues to run since the “purpose of escaping criminal punishment” under Article 253 (3) of the Criminal Procedure Act cannot be applied while an offender is serving a prison term, in a case where an offender who violated the Illegal Check Control Act, which carries a maximum statutory penalty of five years in prison, went to China to live, was sentenced to 14 years in prison, actually imprisoned for more than eight years, and was then extradited Korea and indicted for the above crime

Administrative Law

41 Supreme Court Decision 2007Du22498 Decided July 10, 2008 【Revocation of Re-determination of Claim for Remedy for Unfair Dismissal from Office】 270

- 11] The meaning of “sexual remarks and actions” as a prerequisite for “sexual harassment on the job” as provided in Article 2 (2) of the former Act on the Equal Employment for Both Sexes and the elements for the establishment of sexual harassment
- 12] The case where a disciplinary dismissal disposition as to a sexual

harasser on the job is viewed as fair

- [3] The case holding that a disciplinary dismissal disposition is legitimate where the branch head of a credit card company repetitively committed acts of sexual harassment over 14 times against eight female employees who were under such branch head's control and supervision

44 Supreme Court Decision 2007Du3930 Decided July 24, 2008
【Revocation of Order Rejecting Request for Recognition of Refugee Status】 280

- [1] The meaning of "persecution" to which a foreigner may be subject and which constitutes one of the elements required for the recognition of the refugee status by the Minister of Justice under the Convention relating to the Status of Refugees
- [2] Who bears the burden of proof as to the existence of "well-founded fear" which constitutes an element required for the recognition of the refugee status (= the foreigner requesting for the refugee status) and the required degree of proof
- [3] Whether the issue of lawfulness of administrative disposition commands a different conclusion just because a political situation of the country of nationality has changed after the disposition of rejecting a request for the refugee status was rendered (negative)

45 Supreme Court en banc Decision 2007Du22320 Decided September 18, 2008 【Revocation of Readjudication of Relief from Unfair Dismissals】 287

- [1] The elements required for establishing a direct employment relationship in accordance with the "direct employment deeming provision" of Article 6 (3) of the former Act on the Protection, etc., of Dispatched Workers and whether such provision only applies to a legal worker dispatch (negative)
- [2] The case holding that the "direct employment deeming provision" of Article 6 (3) of the same Act is applicable in the case where a using employer used worker dispatch in work other than those areas allowed under Article 5 (1) of the former Act on the Protection, etc., of Dispatched Workers and as a result, where the worker dispatch was unlawful

46 Supreme Court en banc Decision 2007Du6342 Decided March 20, 2008 【Revocation of Disposition Imposing Expenses Assigned to Person Causing Such Expenses】 296

- [1] Whether the existence of a direct remedy, such as enforcement proceedings under the presumption of nullity of an administrative disposition, should be considered in determining whether the “legal interests seeking affirmation of nullity” under Article 35 of the Administrative Litigation Act exist (negative)
- [2] In a case where a project implementer, as the person who installed the drain facilities (“other actor”), bears the construction expenses for public sewerage caused by the other act in accordance with Article 32 (2) of the former Sewerage Act, whether expenses assigned to the person causing sewerage under Article 32 (4) of the same Act can also be imposed separately from the above (negative) and the meaning of “quantities of sewerage” in the base or implementation plan report of the project qualifying as the other act

Taxation

[47] Supreme Court Decision 2007Du4490 Decided May 8, 2008
 【Revocation of Disposition Imposing Transfer Income Tax】 308

Whether a preemptive right is included in “stocks, etc.” as stated in Article 94 (3) of the former Income Tax Act and Article 157 (4) of the Enforcement Decree of the same Act (negative)

[48] Supreme Court Decision 2006Du3964 Decided December 11, 2008
 【Revocation of Disposition Imposing Interest Income Tax】 311

- [1] The method to determine a country of residence and who bears the burden of proving the status of dual residency (= taxpayer) where a person is concurrently a domestic resident under the Income Tax Act and a foreign resident, who is obligated to pay taxes under foreign law
- [2] Whether a provision of the Income Tax Act, which stipulates withholding income tax from the source, is unconstitutional (negative)

Intellectual Property

- 49** Supreme Court Decision 2006Hu3052 Decided May 29, 2008
【Invalidity of Registration】 315
- [1] The elements required for the acknowledgment of an invention progression made from collecting and combining prior art known to the general public and known and used art
 - [2] The method for proving known and used art during litigation for the purpose of revoking a patent determination
 - [3] Whether circumstances, such as commercial success for the product derived from the patent invention or the lack of the execution of such art for a long time prior to the application of a patent invention, may serve for the acknowledgement of an invention's progression (negative)
- 50** Supreme Court Decision 2006Hu2288 Decided September 25, 2008 【Nullity of Trade Mark Registration】 319
- [1] The standard for determining whether a mark that is not originally distinctive acquires “distinctiveness through use,” which is required to obtain a trademark registration under Article 6 (2) of the Trademark Act
 - [2] Whether using a trademark long-term, which is recognized as identical, has an effect on the acquirement of “distinctiveness through use” under Article 6 (2) of the Trademark Act (affirmative)
 - [3] The case holding that the trademark “**K2**” acquires distinctiveness through use in the case of using trademarks, such as “K2, *K₂*, K2,” which are recognized as identical to the trademark “**K2**” for a long time and thereafter, using the trademark “**K2**” continuously and with emphasis