

Matters of Note regarding the Name, etc., of Gaikokuho-Jimu-Bengoshi-Jimusho
(Office of Registered Foreign Lawyer(s)), etc.

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Japan Federation of Bar Associations

Foreign Lawyers and International Legal Practice Committee

Introduction

This Guide describes the matters of note regarding the name, etc., of Gaikokuho-jimu-bengoshi, etc., and illustrates cases with or without problems in the representation of the name of Gaikokuho-jimu-bengoshi Office, based on the amendment concerning the introduction of Gaikokuho-jimu-bengoshi corporations, according to the “Guide on Rules for Foreign Special Members (Revised Ed.)” issued in February 2005, as part of guides and communications to Foreign Special Members. I hope that the understanding of the names of Gaikokuho-jimu-bengoshi and Gaikokuho-jimu-bengoshi corporation offices, the representation of the names of the business entities to which they belong and representation of foreign law joint enterprises and that proper representation will be made.

Japan Federation of Bar Associations

President: Kazuhiro Nakamoto

Matters of Note regarding the Name, etc., of Gaikokuho-jimu-bengoshi Office, etc.

1 Office

A Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation shall establish their offices within the district where the bar associations to which they belong to (Article 45, paragraph 4, and Article 50-10, paragraph 2, of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers (hereinafter referred to as the “Foreign Lawyers Act”)) and Article 20, paragraph 1, of the Basic Rules Concerning Foreign Special Members (hereinafter referred to as the “Basic Rules”), and Gaikokuho-jimu-bengoshi may not establish more than one office, under any name, in Japan (Article 45, paragraph 5, of the Foreign Lawyers Act and Article 20, paragraph 2, of the Basic Rules).

The office of a Gaikokuho-jimu-bengoshi shall be named as “Gaikokuho-Jimu-Bengoshi-Jimusho” (office of registered foreign lawyer(s)) (Article 45, paragraph 1, of the Foreign Lawyers Act and Article 3, paragraph 1, of the Rules Concerning the Name, etc., of Gaikokuho-Jimu-Bengoshi-Jimusho, etc. (hereinafter referred to as the “Foreign Lawyers Name Rules”),) and the use of the words “Gaikokuho-Jimu-Bengoshi-Jimusho ”(office of registered foreign lawyer(s)) is required. The office of a Gaikokuho-jimu-bengoshi corporation shall use the name of the Gaikokuho-jimu-bengoshi corporation in the office name (Article 50-10, paragraph 1, of the Foreign Lawyers Act and Article 9-5, paragraph 1, of the Foreign Lawyers Name Rules) and the use of the words “Gaikokuho-jimu-bengoshi Corporation” (Registered Foreign Lawyer Corporation) is required. In this regard, if a

Gaikokuho-jimu-bengoshi is employed by an attorney-at-law or a legal professional corporation, the Gaikokuho-jimu-bengoshi may use the name of the office of the attorney-at-law or legal professional corporation (Article 45, paragraph 3, of the Foreign Lawyers Act) and the Gaikokuho-jimu-bengoshi shall attach it as his/her own office name (Article 8-4 of the Foreign Lawyers Name Rules).

2 Name of Office

The name of offices of a Gaikokuho-jimu-bengoshi or a Gaikokuho-jimu-bengoshi corporation shall not include the name of any other individual or organization (Article 45, paragraph 2, and Article 50-10, paragraph 2, of the Foreign Lawyers Act and Article 3, paragraph 2, and Article 9-5, paragraph 2, of the Foreign Lawyers Name Rules); provided, however, that the name of the “business entity to which he/she belongs” of the Gaikokuho-jimu-bengoshi and a member of the Gaikokuho-jimu-bengoshi corporation may be used as part of the office name, if there is no other Gaikokuho-jimu-bengoshi or Gaikokuho-jimu-bengoshi corporation that uses that name in Japan or if he/she share the office with other Gaikokuho-jimu-bengoshi or Gaikokuho-jimu-bengoshi corporation that has already used that name (Article, 45, paragraph 2, proviso, and Article 50-10, paragraph 2, of the Foreign Lawyers Act and Article 3, paragraph 2, proviso, and Article 9-5, paragraph 2, proviso, of the Foreign Lawyers Name Rules). In such an event, the Japanese terms “horitsu-jimusho” (law office), “bengoshi-jimusho” (attorney at law’s office) or “bengoshi-hojin” (legal professional corporation) shall not be used in the name of the business entity to which he/she belongs (Article 3-2 of the Rules

Concerning Representation of Foreign Special Members (hereinafter referred to as the “Foreign Lawyers Representation Rules”),). “Business entity to which he/she belongs” is defined as a corporation, partnership or other business entity in the jurisdiction of primary qualification of a Gaikokuho-jimu-bengoshi and a member of a Gaikokuho-jimu-bengoshi corporation, which has its objective the provision of legal services and to which the Gaikokuho-jimu-bengoshi and the member of the Gaikokuho-jimu-bengoshi corporation belong (Article 45, paragraph 2, proviso, and Article 50-10, paragraph 2, of the Foreign Lawyers Act).

3 Representation of the Name of the Business Entity to Which He/she Belongs

(1) A Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation may only use the name of the business entity to which he/she belongs where it is used in the name of its office and where it is appended to the name of the said Gaikokuho-jimu-bengoshi or the name of his/her office (Article 45, paragraph 2, proviso, Article 50-10, paragraph 2, and Article 47, paragraph 2, of the Foreign Lawyers Act). The name of the business entity to which he/she belongs may not be used separately from the office name. For example, if the name of the business entity to which he/she belongs is “AB & C,” it is permitted to use an office name of “AB & C Gaikokuho-jimu-bengoshi Office” and represent it as “AB & C Gaikokuho-jimu-bengoshi Office (AB & C),” but it is problematic to use a name such as “AB & C,” “AB & C Tokyo Office” or “AB & C Tokyo” separately from the office name of “AB & C Gaikokuho-jimu-bengoshi Office,” even if it is a popular name.

(2) Where a Gaikokuho-jimu-bengoshi does not use the name of the business entity to which he/she belongs as the name of his/her office, for using the name of the business entity to which he/she belongs by appending it to his/her own name or office name under the provisions of Article 47, paragraph 2, of the Foreign Lawyers Act, the Gaikokuho-jimu-bengoshi shall report such effect to the bar association to which he/she belong and JFBA along with a document averring that there is no other Gaikokuho-jimu-bengoshi or Gaikokuho-jimu-bengoshi corporation using the name of the same business entity to which he/she belongs in Japan or the applicant will belong to the same office as other Gaikokuho-jimu-bengoshi or Gaikokuho-jimu-bengoshi corporation that has already been using the name of the said business entity to which he/she belongs (Article 32, paragraph 1, of the Basic Rules). In such an event, representation of the business entity to which he/she belong shall not be “more conspicuous” than the representation of the name of the Gaikokuho-jimu-bengoshi and the office name and Japanese terms “horitsu-jimusho” (law office), “benghosi-jimusho” (attorney at law’s office) or “bengoshi-hojin” (legal professional corporation) shall not be used in the name of the business entity to which he/she belongs (Article 4, paragraph 1 and paragraph 2, of the Foreign Lawyers Representation Rules).

(3) Pursuant to the provisions of Article 45, paragraph 2, proviso, of the Foreign Lawyers Act (including the cases where it is applied mutatis mutandis pursuant to Article 50-10, paragraph 2, of the said Act), if the name of the business entity to

which he/she belongs is used in the name of the office of a Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation, the name must be a name permitted as the name of the office of a Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation. For example, even if the business entity to which he/she belongs assumes only limited liabilities, as a Gaikokuho-jimu-bengoshi and a member of a Gaikokuho-jimu-bengoshi corporation assume unlimited liabilities as individuals, the name contrary thereto may not be used. Where the name of the business entity to which he/she belongs is “AB & C LIMITED LIABILITY PARTNERSHIP,” it is permitted to use only the name of “AB & C” in the name of the office of a Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation as the name of the business entity to which he/she belongs, but the name including the part “LIMITED LIABILITY PARTNERSHIP” or “LLP,” indicating limited liabilities may not be used as the name of the office itself. In this regard, where the name of the office is “AB & C Gaikokuho-jimu-bengoshi Office,” it is permitted, pursuant to the provisions of Article 47, paragraph 2, of the Foreign Lawyers Act to use, when practicing, the name of the business entity to which he/she belongs by appending to the name of the office such as “AB & C Gaikokuho-jimu-bengoshi Office (AB & C, LLP).” Anyway, it is necessary to take note so that misunderstanding that it assumes only limited liabilities as stated above will not occur. It is problematic to use a name such as “AB & C, LLP,” “AB & C, LLP Tokyo Office” or “AB & C, LLP Tokyo” separately from the office name of “AB & C Gaikokuho-jimu-bengoshi Office,” even if it is a popular name, as this might bring about misunderstanding that the

office assumes only limited liabilities as stated above.

4 Representation of Foreign Law Joint Enterprise

- (1) A Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation having made notification pertaining to a foreign law joint enterprise shall add to the name of their office the statement that they manage a foreign law joint enterprise and the name of the office of the attorneys-at-law or the legal professional corporation involved in the foreign law joint enterprise concerned, except when the characters “gaikokuho-kyodo.jigyo” (foreign law joint enterprise) are used in the name of the office (Article 49-4 and Article 50-10, paragraph 2, of the Foreign Lawyers Act). For representation of the name of the office where a Gaikokuho-jimu-bengoshi or a Gaikokuho-jimu-bengoshi corporation and a attorney-at-law or a legal professional corporation manage a foreign law joint enterprise, the Rules Concerning Representation of Foreign Law Joint Enterprise are provided.

- (2) Where a Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation managing a foreign law joint enterprise shares the office with a attorney-at-law or a legal professional corporation in the said foreign law joint enterprise (limited only to the principal office, in the case of the legal professional corporation and the Gaikokuho-jimu-bengoshi corporation) and the scope of legal services to be practiced under the said foreign law joint enterprise is not limited and the name of the office of the attorney at law or the name of the principal office of the legal professional corporation contains the characters “gaolplijp-kyodo-jigyo” (foreign

law joint enterprise), the office of the Gaikokuho-jimu-bengoshi and the Gaikokuho-jimu-bengoshi corporation may use the same name as the name of the office (Article 49-5 and Article 50-10, paragraph 2, of the Foreign Lawyers Act and Article 3, paragraph 1, proviso, and Article 9-5, paragraph 1, proviso, of the Foreign Lawyers Name Rules). In such an event, similar to 3 (1) above, the name of the business entity to which he/she belongs may not be used separately from the office name. For example, if the name of the business entity to which he/she belongs is “AB & C,” it is permitted to use an office name of “AB & C Foreign Law Joint Enterprise Law Office” or represent it as “AB & C Foreign Law Joint Enterprise Law Office (AB & C),” but it is problematic to use a name such as “AB & C, LLP,” “AB & C, LLP Tokyo Office” or “AB & C, LLP Tokyo” separately from “AB & C Foreign Law Joint Enterprise Law Office,” even if it is a popular name.

- (3) If a attorney-at-law and a Gaikokuho-jimu-bengoshi managing a foreign law joint enterprise have offices in different places, care must be taken so as not to present them as though they have more than one office by adding to the name of the office the statement that they are managing a foreign law joint enterprise (Refer to Article 9 of the Rules on Foreign Law Joint Enterprise).

Illustrations of representation of the name of the office of a Gaikokuho-jimu-bengoshi (these shall apply *mutatis mutandis* to representation of the name of the office of a Gaikokuho-jimu-bengoshi corporation by reading “Gaikokuho-jimu-bengoshi Office” as “Gaikokuho-jimu-bengoshi corporation” or “Gaikokuho-jimu-bengoshi Corporation Office.”)

1. Cases without problems

[Ex. 1] AB & C 外国法事務弁護士事務所

[Ex. 2-1] AB & C Gaikokuho-Jimu-Bengoshi-Jimusho (office of registered foreign lawyer(s))

[Ex. 2-2] AB & C Gaikokuho-Jimu-Bengoshi-Jimusho

[Ex. 3] AB & C 外国法共同事業法律事務所

[Ex. 4-1] AB & C Gaikokuho-Kyodo-Jigyō-Horitsu-Jimusho (law office of foreign law joint enterprise)

[Ex. 4-2] AB & C Gaikokuho-Kyodo-Jigyō-Horitsu-Jimusho

[Ex. 5] AB & C

AB & C 外国法事務弁護士事務所

[Ex. 6-1] AB & C

AB & C Gaikokuho-Jimu-Bengoshi-Jimusho (office of registered foreign lawyer(s))

[Ex. 6-2] AB & C

AB & C Gaikokuho-Jimu-Bengoshi-Jimusho

[Ex. 7] AB & C

AB & C 外国法共同事業法律事務所

[Ex. 8-1] AB & C

AB & C Gaikokuho-Kyodo-Jigyo-Horitsu-Jimusho (law office of foreign law joint enterprise)

[Ex. 8-2] AB & C

AB & C Gaikokuho-Kyodo-Jigyo-Horitsu-Jimusho

[Ex. 9] AB & C, LLP

AB & C 外国法事務弁護士事務所

[Ex. 10-1] AB & C, LLP

AB & C Gaikokuho-Jimu-Bengoshi-Jimusho (office of registered foreign lawyer(s))

[Ex. 10-2] AB & C, LLP

AB & C Gaikokuho-Jimu-Bengoshi-Jimusho

[Ex. 11] AB & C, LLP

AB & C 外国法事務弁護士事務所

[Ex. 12-1] AB & C, LLP

AB & C Gaikokuho-Kyodo-Jigyo-Horitsu-Jimusho (law office of foreign law joint enterprise)

[Ex. 12-2] AB & C, LLP

AB & C Gaikokuho-Kyodo-Jigyo-Horitsu-Jimusho

2. Cases with problems (These are mere illustrations and do not cover all problematic cases comprehensively. Also, problems might arise only when they are used in the documents sent outside and they do not include the cases of use in internal documents. Further, there is no problem if it is apparent that the name is not the official name in the context, such as in the same document, after specifying the official name and using the popular name in place of the official name as it is repeatedly used. It is determined whether the use violates the laws or rules after reviewing individual cases specifically under the specific situations.

[Ex. 1] AB & C 法律事務所外国法事務弁護士事務所

(Reason) Even when the name of the business entity to which he/she belongs can be used in the name of the office, Japanese terms “horitsu-jimusho” (law office), “bengoshi-jimusho” (attorney at law’s office) or “bengoshi-hojin” (legal professional corporation) cannot be used in the name of the business entity to which he/she belongs (Article 3-2 of the Foreign Lawyers Representation Rules)

[Ex. 2] AB & C 法律事務所

AB & C 外国法事務弁護士事務所

(Reason) Even when the name of the business entity to which he/she belongs can be appended to the name of the office, Japanese terms “horitsu-jimusho” (law office), “bengoshi-jimusho” (attorney at law’s office) or “bengoshi-hojin” (legal professional corporation) cannot be used in the name of the business entity to which he/she belongs (Article 4, paragraph 2, of the Foreign Lawyers Representation Rules,)

[Ex. 3] AB & C, LLP 外国法事務弁護士事務所

(Reason) Even when the name of the business entity to which he/she belongs can be used in the name of the office, the name must be a name permitted as the name of the office of a Gaikokuho-jimu-bengoshi and the above example would lead to misunderstanding that the Gaikokuho-jimu-bengoshi assumes only limited liabilities, which is regarded as impairing his/her own integrity (Article 8 of Foreign Lawyers Name Rules)

[Ex. 4] AB & C, LLP

(Reason) The office of a Gaikokuho-jimu-bengoshi must use the name “Gaikokuho-jimu-bengoshi Office” (Article 45, paragraph 1, of the Foreign Lawyers Act, and Article 3, paragraph 1, of the Foreign Lawyers Name Rules). This shall apply to the representation of the name of the office in foreign languages in Japan. It is limited to the following cases that a Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation can use the name of the business entity to which he/she belongs: where the name is used in the name of its office and where the name is appended to the name of the said Gaikokuho-jimu-bengoshi or the name of his/her office (Article 45, paragraph 2, proviso, Article 50-10, paragraph 2, and Article 47, paragraph 2, of the Foreign Lawyers Act). Even when the name of the business entity to which he/she belongs can be used in the name of the office, the name must be a name permitted as the name of the office of a Gaikokuho-jimu-bengoshi and “LLP” would lead to misunderstanding that the Gaikokuho-jimu-bengoshi assumes only

limited liabilities, which is regarded as impairing his/her own integrity (Article 8 of the Foreign Lawyers Name Rules).

[Ex. 5] AB & C, LLP Tokyo

(Reason) The same as [Ex. 4]

[Ex. 6] Tokyo Office of AB & C, LLP

(Reason) The same as [Ex. 4]

[Ex. 7] AB & C, LLP 東京事務所

(Reason) The office of a Gaikokuho-jimu-bengoshi must use the name “Gaikokuho-jimu-bengoshi Office” (Article 45, paragraph 1, of the Foreign Lawyers Act and Article 3, paragraph 1, of the Foreign Lawyers Name Rules). It is limited to the following cases that a Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation can use the name of the business entity to which he/she belongs: where the name is used in the name of its office and where the name is appended to the name of the said Gaikokuho-jimu-bengoshi or the name of his/her office (Article 45, paragraph 2, proviso, Article 50-10, paragraph 2, and Article 47, paragraph 2, of the Foreign Lawyers Act). Even when the name of the business entity to which he/she belongs can be used in the name of the office, the name must be a name permitted as the name of the office of a Gaikokuho-jimu-bengoshi and “LLP” would lead to misunderstanding that the Gaikokuho-jimu-bengoshi assumes only limited liabilities, which is regarded as impairing his/her own integrity (Article 8 of the Foreign Lawyers Name Rules).

[Ex. 8] AB & C

(Reason) The office of a Gaikokuho-jimu-bengoshi must use the name “Gaikokuho-jimu-bengoshi Office” (Article 45, paragraph 1, of the Foreign Lawyers Act and Article 3, paragraph 1, of the Foreign Lawyers Name Rules). This shall apply to the representation of the name of the office in foreign languages in Japan. It is limited to the following cases that a Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation can use the name of the business entity to which he/she belongs: where the name is used in the name of its office and where the name is appended to the name of the said Gaikokuho-jimu-bengoshi or the name of his/her office (Article 45, paragraph 2, proviso, Article 50-10, paragraph 2, and Article 47, paragraph 2, of the Foreign Lawyers Act).

[Ex. 9] AB & C, Tokyo

(Reason) The same as [Ex. 8]

[Ex. 10] Tokyo Office of AB & C

(Reason) The same as [Ex. 8]

[Ex. 11] AB & C 東京事務所

(Reason) The office of a Gaikokuho-jimu-bengoshi must use the name “Gaikokuho-jimu-bengoshi Office” (Article 45, paragraph 1, of the Foreign Lawyers Act and Article 3, paragraph 1, of the Foreign Lawyers Name Rules). It is limited to

the following cases that a Gaikokuho-jimu-bengoshi and a Gaikokuho-jimu-bengoshi corporation can use the name of the business entity to which he/she belongs: where the name is used in the name of its office and where the name is appended to the name of the said Gaikokuho-jimu-bengoshi or the name of his/her office (Article 45, paragraph 2, proviso, Article 50-10, paragraph 2, and Article 47, paragraph 2, of the Foreign Lawyers Act).