Date	September 25, 2013	Court	Tokyo District Court, 29th Civil Division
Case number	2010 (Wa) 17810		
– A case in which, with regard to a patent relating to linen supply feeder, the court upheld a claim for damages based on infringement of a patent right.			

Plaintiff 1, who had a patent right relating to an "apparatus for feeding flatwork articles to laundry processing units such as iron rollers" (the "Patent Right"), and Plaintiff 2, who was the exclusive licensee thereof, asserted that the manufacturing and sale of the defendant's product constitutes infringement of the Patent Right. Based on this assertion, the plaintiffs filed this action to seek payment of 92,300,000 yen to Plaintiff 1 and of 270,151,208 yen to Plaintiff 2 with delay damages accrued thereon, respectively.

The major issues were fulfillment of Constituent Features C, E, G, H, and K (Issues 1 to 5), negligence (Issue 6), and damages (Issue 7).

In this judgment, the court ruled as follows: [i] Neither the phrase "can be moved from the stretching device" mentioned in Constituent Feature C nor the phrase "the means for moving" mentioned in Constituent Feature G limits the means of move (Issues 1 and 3); [ii] The defendant's product has a "drive means that is suited to have said carriages separated from each other by moving one to the center of the end part of the front side of the aforementioned conveyer belt and by moving another one preferably to the position extended from a point on the opposite side" in Constituent Feature E (Issue 2); [iii] the "hoisting action" in Constituent Feature H is not limited to "going back and forth on the rail" (Issue 4); [iv] the grooved member in the defendant's product falls under the "rail means" in Constituent Feature K (Issue 5). Based on these rulings, the court found that the defendant's product falls under the technical scope of the invention in question.

Moreover, the court ruled that there are no circumstances that are sufficient to reverse the presumption of negligence under Article 103 of the Patent Act (Issue 6).

With regard to Issue 7 (damages), the court ruled, based on the result of the calculation appraisal, that the amount obtained by multiplying the quantity sold of the defendant's product by the marginal profit from the plaintiff's product, i.e., 239,937,507 yen, is presumed to be damages incurred by Plaintiff 2 pursuant to Article 102, paragraph (1) of the Patent Act and that there are no circumstances that are sufficient to reverse this presumption. The court then ruled that even if appraisal materials are not disclosed to the defendant, it does not affect the admissibility of evidence and probative force of the calculation appraisal.

In relation to Plaintiff 1, the court ruled that Plaintiff 1 lacks the basis for the application of Article 102, paragraph (3) of the Patent Act because it had granted an exclusive license to Plaintiff 2. However, under Article 709 of the Civil Code, the court found the amount equivalent to a license fee, which Plaintiff 1 could have obtained from

Plaintiff 2's additional sale if there was no infringement, i.e., 37,700,000 yen, as damages.