

Date	July 16, 2013	Court	Osaka District Court, 26th Civil Division
Case number	2012 (Wa) 10890		
<p>– A case in which the court ruled that the act of posting the front page of the pamphlet for the publicity of a project on a website falls within the scope of the authorization by the holder of the copyright for an illustration used on said front page and said act can be regarded as a lawful quotation.</p>			

1. Plaintiff X1 is the author of the illustration in question (the "Illustration") and has entrusted Plaintiff X2 with the sale of the right to use the Illustration.

Defendant Y1 obtained the authorization from Plaintiff X2 and used the Illustration on the front page of the pamphlet for the publicity of a project (the "Pamphlet").

Defendants Y2 and Y3 obtained the authorization from Defendant Y1 and introduced said project on a website, and posted the image of the front page of the Pamphlet in the article introducing said project (the "Act of Posting").

2. The plaintiffs asserted that the Act of Posting infringed the copyright held by Plaintiff X2 and the moral rights of author held by Plaintiff X1 and claimed damages based on joint tort (principal claim). Furthermore, they also claimed damages based on infringement of the copyright and the moral rights of author held by Plaintiff X1 (subjective alternative claim).

3. The major issues are [i] whether Plaintiff X2 holds a copyright, [ii] whether authorization has been given by the copyright holder[s] for the Act of Posting, [iii] whether the Act of Posting can be regarded as a lawful quotation, and [iv] whether abuse of right is recognized.

4. In this judgment, the court held as follows and dismissed all of the plaintiffs' claims.

(1) Plaintiff X2 is only entrusted by Plaintiff X1 with a business to manage the copyright and does not hold the copyright for the Illustration (determination on issue [i]). Therefore, the claims by Plaintiff X2 are groundless.

(2) The plaintiffs have given the authorization not only for the use of the Illustration on the front page of the Pamphlet but also for the Act of Posting (determination on issue [ii]). In light of its purpose and the manner, etc., the Act of Posting is not intended to unduly harm the interests of Plaintiff X1, who is the copyright holder, and what is more, it is within a reasonable scope from the viewpoint of common sense and compatible with "fair practice," and therefore it can be regarded as a lawful quotation (determination on issue [iii]). The claims by the plaintiffs constitute abuse of right to say the least (determination on issue [iv]).

Therefore, the claims by Plaintiff X1 are also groundless.