

Date	March 15, 2016	Court	Osaka District Court, 21st Civil Division
Case number	2015 (Wa) 7540		
– A case in which the court accepted the plaintiff's claim for disclosure of sender identification information under Article 4, paragraph (1) of the Act on the Limitation of Liability for Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identification Information of the Senders.			

### Summary of the Judgment

In this case, the plaintiff, who alleged that his/her right was infringed by the domain name used for a website or the distribution of an article posted on the webpage, demanded that the defendant, who owns and manages the rental server in which the website identifiable by the webpage in question was established, should disclose sender identification information under Article 4, paragraph (1) of the Act on the Limitation of Liability for Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identification Information of the Senders for the purpose of exercising the right to demand payment of damages on the grounds of unfair competition specified in Article 2, paragraph (1), item (xii) of the Unfair Competition Prevention Act or on the grounds of copyright infringement.

The plaintiff alleged that the sender's act of using the domain name that is similar to the name of the goods manufactured and sold by the plaintiff (the "plaintiff's goods") constitutes an act of unfair competition specified in Article 2, paragraph (1), item (xii) of the Unfair Competition Prevention Act. The defendant presented a counterargument that said domain name cannot be regarded as "domain name" specified in Article 2, paragraph (1), item (xii) and Article 2, paragraph (9) of the Unfair Competition Prevention Act.

While the plaintiff alleged that the sender's act of posting the manuals, etc. of the plaintiff's goods (the "plaintiff's work") on a webpage constitutes infringement of the plaintiff's copyright, the defendant presented a counterargument that the use of the plaintiff's work should be regarded as "quotation " as specified in Article 32, paragraph (1) of the Copyright Act and does not constitute copyright infringement.

In this judgment, the court found that the sender's domain name, which is similar to the name of the plaintiff's goods (the "Japanese Domain Name"), can be regarded as "domain name" as specified in Article 2, paragraph (9) of the Unfair Competition Prevention Act since it corresponds to an IP address via a domain name consisting of ASCII characters convertible by Punycode conversion. The court ordered the defendant to disclose the identification information of the sender by holding that the

sender's act of using the Japanese Domain Name constitutes an act of unfair competition specified in Article 2, paragraph (1), item (xii) of the Unfair Competition Prevention Act and that the sender's act of distributing infringing information by stating said domain name clearly constitutes infringement of the plaintiff's right.