

Date	September 28, 2016	Court	Tokyo District Court, 29th Civil Division
Case number	2015 (Wa) 482		
<p>– A case in which the plaintiff company, which claims to have acquired an exclusive license for use in Japan granted by the plaintiff artists and other artists, sued the defendant which sold and otherwise handled the smartphone cases made by using the designs created by these artists without their authorization; the court upheld the company's claim for damages, while dismissing its claim for an injunction.</p>			

Reference:

Number of related rights, etc.:

Summary of the Judgment

In this case, the plaintiff company, which claims to have acquired an exclusive license for use in Japan granted by the plaintiff artists who are authors and copyright holders of works of paintings and other artists who are authors and copyright holders of works of paintings, sued the defendant which sells and otherwise handles in Japan smartphone cases made by copying these works of paintings, to seek an injunction of the sale, etc. of the smartphone cases, demanded the disposal, etc. thereof, and claimed damages.

The issues of the case are: whether the plaintiff artists are authors and copyright holders of the works of paintings in question (the "Works") (Issue 1); whether the plaintiff company holds an exclusive license to use the Works (Issue 2); whether the defendant's acts infringe the copyrights (right of reproduction and right of transfer) and the exclusive license regarding the Works (Issue 3); whether the defendant's acts infringe the right to transmit the Works to the public (Issue 4); whether the defendant's acts infringe the plaintiff artists' moral rights of author (right of attribution and right to integrity) (Issue 5); whether the plaintiff company is eligible to exercise the artists' right to seek an injunction and demand disposal on their behalf (Issue 6); whether it is found that the plaintiff artists need to suspend the defendant's acts involving the smartphone cases and demand the disposal thereof (Issue 7); and the amount of damage (Issue 8).

In this judgment, the court upheld all of the claims of the plaintiff artists to seek an injunction and demand disposal and partly upheld the claims of the plaintiff artists and the plaintiff company to seek damages, while dismissing the plaintiff company's claims to seek an injunction and demand disposal. The court found facts and decided on the issues of the case as follows.

Issue 1: The plaintiff artists and non-party artists are recognized as authors and

copyright holders of the Works.

Issue 2: In light of the terms of the contracts between the non-party artists and the plaintiff company, it is found that the plaintiff company acquired an exclusive license from these artists. However, with regard to the contracts between the plaintiff artists and the plaintiff company, no evidence has been provided, and therefore it is not found that an exclusive license was granted to the plaintiff company.

Issues 3 and 4: The defendant's acts infringe the plaintiff artists' right of reproduction, right of transfer, and right to transmit to the public, and also infringe the plaintiff company's exclusive license.

Issue 5: The defendant's acts infringe the plaintiff artists' right to integrity but these acts are not found to infringe their right of attribution.

Issue 6: Since the non-party artists are not found to have an obligation to the plaintiff's company to exercise their right to claim an injunction, etc., the plaintiff company is not found to be eligible to exercise the non-party artists' right to seek an injunction and demand disposal on their behalf.

Issue 7: It is found that the plaintiff artists need to suspend the defendant's acts involving the smartphone cases and demand the disposal thereof.

Issue 8: To compensate for the damage suffered by the plaintiff artists, 500 yen for each smartphone case sold by the defendant is awarded to cover their lost profit, pursuant to Article 114, paragraph (3) of the Copyright Act. The plaintiff artists are also awarded solatium and damages equivalent to legal fees. To compensate for the damage suffered by the plaintiff company, 1,958 yen for each smartphone case sold by the defendant is awarded, by analogically applying Article 114, paragraph (1) of the Copyright Act. The plaintiff company is also awarded damages equivalent to legal fees.