

Date	July 7, 2016	Court	Osaka District Court, 26th Civil Division
Case number	2014 (Wa) 2468		
<p>– A case in which the court found that the plaintiff's patent for an invention titled "bread-slicing machine" lacks an inventive step and shall therefore be invalidated, that no copyrightability can be found in the program installed in the bread-slicing machine manufactured and sold by the plaintiff, and that copyrightability can be found in the drawings and photographs contained in the manuals attached to said bread-slicing machine.</p>			

References:

Numbers of related rights, etc.:

Summary of the Judgment

In this case, the plaintiff, which holds a patent right (the "Patent Right") for an invention titled "bread-slicing machine" (the "Invention") and manufactures and sells bread-slicing machines, made the following claims against the defendant:

[i] The plaintiff alleged that the product manufactured and sold by the defendant falls within the technical scope of the Invention and sought an injunction against the defendant's act of manufacturing, selling, or otherwise handling the defendant's product and demanded disposal thereof based on the Patent Right; [ii] The plaintiff, who owns a copyright for the computer program (the "plaintiff's computer program") installed in the bread-slicing machine manufactured and sold by the plaintiff itself, alleged that the defendant manufactured and sold the defendant's product by installing a computer program that is the same as the plaintiff's computer program in terms of content and consequently infringed the aforementioned copyright of the plaintiff, and based on this allegation, the plaintiff sought an injunction against the defendant's act of manufacturing, selling, or otherwise handling the defendant's product and demanded disposal thereof under Article 112 of the Copyright Act; [iii] The plaintiff, which owns a copyright for the manuals (the "plaintiff's manuals") attached to the bread-slicing machine manufactured and sold by the plaintiff itself, alleged that the defendant prepared and distributed manuals (the "defendant's manuals") that are the same as the plaintiff's manuals in terms of content and consequently infringed the aforementioned copyright of the plaintiff, and based on this allegation, the plaintiff sought an injunction against the defendant's act of preparing and distributing the defendant's manuals and demanded disposal thereof under Article 112 of the Copyright Act; and [iv] The plaintiff demanded payment of damages from the defendant for an act of tort that is attributable to the defendant's infringement of the aforementioned patent right or

copyright.

The issues in this case are: [i] whether the defendant's act constitutes infringement of the Patent Right (whether the defendant's product falls within the technical scope of the Invention or whether the patent in question (the "Patent") should be invalidated in an invalidation trial); [ii] whether the defendant's act constitutes infringement of the copyright for the plaintiff's computer program (who is the author of the plaintiff's computer program, whether the plaintiff's computer program is copyrightable, whether the defendant's act constitutes reproduction, adaptation or assignment of a reproduction of the plaintiff's computer program); [iii] whether the defendant's act constitutes infringement of the copyright for the plaintiff's manuals (who is the author of the plaintiff's manuals, whether the plaintiff's manuals are copyrightable, whether the defendant's act constitutes reproduction, adaptation or assignment of a reproduction of the plaintiff's manuals, whether the defendant's act can be deemed to constitute infringement); [iv] the amount of damages claimed by the plaintiff for the defendant's infringement of the Patent Right and the copyright for the plaintiff's computer program; and [v] the amount of damages claimed by the plaintiff for the defendant's infringement of the copyright for the plaintiff's manuals.

In this judgment, the court found as follows:

[i] Since the Invention could have been easily made by any person ordinarily skilled in the art based on the structure, etc. of the products released by the plaintiff prior to the application filing date of the Patent and can be considered to lack an inventive step, the Patent shall be invalidated in an invalidation trial; [ii] In view of the facts that, since there are not many possible options for how to describe the internal relays of the plaintiff's program by using a ladder diagram, no creativity can be found in the description of the internal relays and that no creativity can be found in the order of the descriptions of the circuits or in the comments contained in the plaintiff's computer program, the plaintiff's computer program cannot be found to be copyrightable; [iii] As far as the drawings contained in Plaintiff's Manual 1 and the photographs contained in Plaintiff's Manual 2 (the "Drawings, etc.") are concerned, it is reasonable to find the Drawings, etc. creative enough as works and the defendant is liable for infringement of the right of reproduction for the Drawings, etc. and is found likely to prepare and distribute the defendant's manuals, which contain the Drawings, etc., and hence, it is reasonable to accept the plaintiff's claim for an injunction to such an extent that an injunction is sought against the defendant's act of preparing and distributing the defendant's manuals containing the Drawings, etc. and to accept the plaintiff's claim for disposal to such an extent that the disposal of only the Drawings, etc. in the

defendant's manuals is demanded; [iv] It is not necessary to determine the amounts of damage related to the claims for payment of damages for the infringement of the Patent Right and the infringement of the copyright for the plaintiff's computer program, respectively; and [v] In this case, it should be said that, since the defendant's act of infringement cannot be found to have caused any decrease in the plaintiff's sales profits, there are no grounds to apply Article 114, paragraphs (1) and (2) of the Copyright Act and that the amount equivalent to the amount receivable by the plaintiff (Article 114, paragraph (3) of the Copyright Act) for having exercised the copyright for the plaintiff's manuals can be calculated as 62,500 yen, which is the total of the amount determined in consideration of the costs that would have arisen if the drawings and photographs had been prepared by the defendant itself and the degree of creativeness of the Drawings, etc. and the amount of fees of the attorneys and patent attorneys.