Patent Right	Date	June 15, 2023	Court	Osaka District Court, 21st Civil Division
	Case number	2021 (Wa) 10032		
- A case in which the Court dismissed the Plaintiff's claim in a patent right infringement suit pertaining to a patent for an invention titled "Chip-Type Fuse".				

Summary of the Judgment

In the present case, the Plaintiff, who has a patent right (Patent Right) for a patent (Patent) for an invention titled "Chip-Type Fuse", asserted that the Defendant's sale, etc. of the Defendant's Product, which belongs to the technical scope of the invention indicated in Claim 1 (Invention) of the claims for the Patent, falls under infringement of the Patent Right, and demanded against the Defendant, pursuant to Article 100, paragraphs (1) and (2) of the Patent Act, for an injunction against the sale, etc. of the Defendant's Product and disposal of Defendant's Product, in addition to payment of damages and the late payment charge on the basis of a tort (Article 709 of the Civil Code). While the first instance was in progress, the Plaintiff asserted that the Defendant's Product falls under the technical scope of the invention indicated in Claim 3 (Invention 2) of the claims for the Patent and added an object of claim, which is based on the infringement of patent right pertaining to Invention 2 (Addition).

Issues of the present case are [i] whether or not the Defendant's Product belongs to the technical scope of the Invention (whether or not infringement under the doctrine of equivalents is established), [ii] whether or not the Addition is possible, [iii] whether or not there are grounds for invalidity of the Invention (lack of inventiveness on the basis of an invention indicated in an unexamined patent publication bulletin), [iv] the occurrence of damage, and the amount thereof, and [v] the need for an injunction, etc.

In the judgment of the present case, concerning issue [i], the Court held that it is difficult to acknowledge, based on the evidence submitted by the Plaintiff and other circumstances, etc., that the Constitution c of the Defendant's Product has the same operation and effect as the Constituent Part C of the Invention, so that it cannot be said, at least, that the Second Requirement for the doctrine of equivalents is fulfilled. In addition, there is a difference between the constitution of the Defendant's Product and the constitution of a known art (Otsu 1 Invention). However, the Otsu 1 Invention has a motivation for applying a known art (Otsu 3 Invention) to the Otsu 1 Invention, and there is no factor that bars such application, so that adopting the constitution of the Otsu 3 Invention in place of the constitution of the Otsu 1 Invention pertaining to said difference and making it the constitution of the

Defendant's Product is acknowledged as something that those in the art would have been easily led to do, so that the Defendant's Product does not fulfil the Fourth Requirement of the doctrine of equivalents. Next, in the judgment of the present case, the Court recognized the progress of examination for issue [ii] and acknowledged that the Addition would significantly delay the legal procedures, so that the Court shall not allow the Addition (Article 143, paragraph (1), proviso of the Code of Civil Procedure; paragraph (4) of the same Article).