

Other	Date	December 15, 2022	Court	Osaka District Court, 26th Civil Division
	Case number	2022 (Wa) 6809		
- A case in which the Court approved a request for disclosure of sender identification information, which was made against an Internet service provider.				

### Summary of the Judgment

In the present case, the Plaintiff asserted against the Defendant, who operates a telecommunication business, that the photograph images that appeared in an article (Article) posted on a website (Site) by using the Defendant's telecommunications facilities are the same as the photographs for which the Plaintiff has copyrights (Plaintiff's Image), and that it is clear that said posting infringed on the Plaintiff's copyrights (the right of adaptation and the right to transmit to the public), and requested for disclosure of the sender identification information pertaining to the person who posted the Article (Poster).

The main issue of the present case concerns whether or not the "citation" as stipulated in Article 32, paragraph (1) of the Copyright Act can be established.

In the judgment of the present case, the Court held that the citation according to Article 32, paragraph (1) of the Copyright Act is an act of selecting another person's work, which is made public, and recording it in one's own work. It is required that one's own work and the work of another person are related by the purpose of using the work for news reporting, critique, study, or other place in which the work is quoted, and when the citation is made in the sense described above, the citation must be consistent with fair practices and must be made within a scope that is justified. The Article mostly consists of episodes, etc. about a woman who is the subject of the Plaintiff's Image, including her profile, and which are collected and listed, somewhat out of interest and miscellaneously, along with speculations and impressions, etc. of the writer of the Article about the above content, and images such as the Plaintiff's Image. The source indicated for the Plaintiff's Image is not accurate except for the Image 1, and it cannot be said, at least, that said source was indicated in a manner that is consistent with fair practices, and given the relevance as currently shown by the evidence, in light of the content of the Article, it cannot be acknowledged that each photograph had to be posted on the Site, and it also cannot be said that the citation was within a scope that is justified in terms of the purpose. Accordingly, the Court held that the use of the Plaintiff's Image in the Article does not fall under "citation", and approved the Plaintiff's claim.