

Unfair Competition	Date	September 28, 2023	Court	Tokyo District Court, 40th Civil Division
	Case number	2021 (Wa) 31529		
- A case in which the form of a chair for children alleged to fall under the indication of goods or business according to Article 2, paragraph (1), items (i) and (ii) of the Unfair Competition Act does not fall under the indication of goods or business.				

Summary of the Judgment

The present case is one, in which the Plaintiffs allege that an act such as manufacturing and sales of each of the Defendant's products by the Defendant falls under unfair competition using the same indication of goods or business as the well-known and prominent one as the indication of goods or business of the Plaintiff's product, configures each infringement of a copyright of the Plaintiff's product and exclusive right to use it even if it does not fall under unfair competition, and deviates from the scope of free competition in trade even if it does not fall under unfair competition and does not configure each infringement of the copyright and the exclusive right to use it, and thus infringes enterprise interests of the Plaintiffs. Then, against the Defendant, [i] the Plaintiff, Peter Opsvik AS, made a claim for injunction of manufacturing and sales of each of the Defendant's products and destruction of each of the Defendant's products, principally, under the provisions of Article 3, paragraphs (1) and (2) of the Unfair Competition Prevention Act (hereinafter, referred to as "the Unfair Competition Prevention Act"), and preliminary, under the provisions of Article 112, paragraphs (1) and (2) of the Copyright Law, and made a claim for payment of a total of 1,739,654 yen, including damages of 1,581,504 yen and attorney's fees of 158,150 yen, and delay damages, principally, under the provisions of Article 4, and Article 5, paragraphs (3), item (i) of the Unfair Competition Prevention Act, and preliminary, under the provisions of Article 114, paragraph (3) of the Copyright Law or Article 709 of the Civil Code, [ii] the Plaintiff, Stokke AS, made a claim for injunction of manufacturing and sales of each of the Defendant's products and destruction of each of the Defendant's products, under the provisions of Article 3, paragraphs (1) and (2) of the Unfair Competition Prevention Act, and made a claim for payment of a total of 13,047,408 yen, including damages of 11,861,280 yen and attorney's fees of 1,186,128 yen, and delay damages, principally, under the provisions of Article 4, and Article 5, paragraphs (3), item (i) of the Unfair Competition Prevention Act, and preliminary, under the provisions of application by analogy of Article 114, paragraph (2) of the Copyright Law or Article 709 of the Civil Code, and [iii] the Plaintiffs requested publication of an apology written in the apology advertisement inventory description attached to the judgment, under the

provisions of Article 14 of the Unfair Competition Prevention Act or Article 723 of the Civil Code.

In the judgment of the present case, regarding the issue on the Unfair Competition Prevention Act, although the Plaintiffs allege that characteristics of form of the Plaintiff's product relating to the allegation of the Plaintiffs (hereinafter, referred to as "the Characteristics of form") fall under the indication of goods or business stipulated in Article 2, paragraph (1), item (i) or item (ii) of the Unfair Competition Prevention Act, since the Characteristics of form include extensive and numerous dissimilar forms lacking linear compositional beauty that are formed by the Plaintiff's product, if these fall under the indication of goods or business, rather, it may obstruct fair competition and impair healthy development of social economy, so that it was judged that the Characteristics of form do not fall under the indication of goods or business.

Further, the judgment of the present case, regarding the issue on the Copyright Act, judged that the forms of the Plaintiff product and each of the Defendant's products are obviously different, and thus the manufacturing and sales of each of the Defendant's products do not clearly copy or adapt the Plaintiff's product.

As described above, the judgment of the present case dismissed all of the Plaintiff's claims.