

Date	February 9, 2011	Court	Tokyo District Court, 40th Civil Division
Case number	2009 (Wa) 25767 and 2009 (Wa) 36771		
<p>– A case in which the court found that the defendant's act of downloading the electronic data of photographs of a member of the Tokyo Metropolitan Assembly from the website of said member and reprinting the photographs in bills and the defendant's own blog, etc. constitutes the infringement of the plaintiff's copyright and moral rights of author.</p>			

The plaintiff, who is a professional photographer, alleged that the defendant's act of downloading the electronic data of photographs of a member of the Tokyo Metropolitan Assembly, which were taken by the plaintiff, from the website of said member, and placing the reproductions of said photographs on bills, a blog, and a billboard on a propaganda truck that criticize said member constitutes the infringement of the plaintiff's copyright (right of reproduction, right of ownership transfer, and right of public transmission [right to make transmittable]) and moral rights of author (right to maintain integrity) in relation to said photographs. Based on this allegation, the plaintiff filed this action against the defendant to seek an injunction against distribution of the bills on which said photographs are placed and destruction of the bills, an injunction against the act of making said photographs transmittable on the Internet website, and the payment of damages.

The defendant contested by alleging that said act falls under the quotations set forth in Article 32, paragraph (1) of the Copyright Act or the modifications that are considered unavoidable as set forth in Article 20, paragraph (2), item (iv) of said Act, but this defendant's allegation was not accepted. The court upheld all of the plaintiff's claims for an injunction and destruction and part of the plaintiff's claim for the payment of damages. In addition, although the defendant filed a counterclaim to seek the payment of damages on the grounds of unjust filing of an action and unjust accusation by the plaintiff, but both of these grounds were not accepted.