

Date	August 25, 2009	Court	Tokyo District Court, 47th Civil Division
Case number	2008 (Wa) 16289		
– A case wherein the court dismissed a claim made by the plaintiffs, who are the authors of a junior high school history textbook, against the defendant, who is the publisher of such textbook, for an injunction against the publication, etc. of such textbook based on the copyrights.			

The plaintiffs are members of Group A, which is a group established for the purpose of promoting the issuance of conservative history textbooks, and took charge of writing the book in question (the "Book"), which is a junior high school history textbook. The defendant is publishing the Book by entering into a license agreement with the copyright holder(s) with respect to the Book. The plaintiffs alleged that the license agreement for the Book terminates in March 2010, and claimed against the defendant an injunction against the publication, etc. of the Book on and after March 1, 2010, which is the time when the next textbooks shall be supplied to schools, etc., based on the copyright for the parts written respectively by the plaintiffs in the Book.

In response to this, the defendant made the following allegations: [i] the Book is a work of joint authorship created not only by the defendants but also other persons, including the editorial staff of the defendant, and the plaintiffs would not have independent copyrights for each unit or column; and [ii] it was agreed to between the plaintiffs, the defendant and other authors that the publication period of the Book shall continue until the revision of the Book (the adoption period of four years in case the courses of study are not revised or the adoption period of four years plus a changeover period in case a changeover period, during which the textbooks would not be revised, occurs in connection with the next adoption period being shortened due to the revision of the courses of study), and with respect to the Book, a changeover period occurred due to the revision of the courses of study from FY2012. Accordingly, the publication period of the Book shall be until March 31, 2012 and thus has not lapsed as of the end of March 2010, as alleged by the plaintiffs.

In this judgment, the court found, with respect to the defendant's allegation mentioned in [i] above, that [a] the Book comprises a number of units, columns and task-based studies, etc. and each unit and column can be used separately from other parts of the Book, and that [b] the statements of the text constituting each unit can also be used separately from pictures, maps, figures and captions therefor. Based on these findings, the court held that the Book is a combined work in which such works are combined and, therefore, the plaintiffs respectively hold copyrights in the statements

of the texts they have written in the Book. With respect to the defendant's allegation mentioned in [ii] above, the court first found that [a] although no special discussion or dialogue was made with respect to the publication period of the Book between the parties at the time when they entered into a license agreement for the Book, the publication of the existing textbook was planned to be continued between the parties until the publication of a new revised textbook due to the necessity of revision, and that [b] companies publishing other textbooks make no revision to the textbooks during changeover periods that occurred due to a revision of the courses of study. In light of these facts, the court held that it is appropriate to construe that the publication period of the Book was defined in the license agreement to be until the Book is revised and a revised new textbook is published. Based on such holding, the court found, with respect to the Book, that, in association with the implementation from FY2012 of the courses of study revised in 2008, the adoption period of the textbooks to be used from FY2010 shall be reduced to two years, i.e., FY2010 and FY2011, and that the defendant would not revise the textbook to be used from FY2010, and thus the publication period of the Book shall be until the end of March 2012. Based on this finding, the court held that the plaintiffs' allegation that the publication period of the Book is until the end of March 2010 is groundless and thereby dismissed the plaintiffs' claims.