

Date	May 30, 2014	Court	Tokyo District Court, 40th Civil Division
Case number	2010 (Wa) 27449		
– A case wherein the court determined that attaching reduced color copies of paintings on the back side of the certificates of appraisal of the paintings constitute lawful quotation.			

In this case, the plaintiffs, who claim to have acquired through inheritance the copyrights for the paintings by a painter, late Yukio Kodama, and currently co-own said copyrights with one-half share each, alleged that the defendant's act of attaching the reproductions of Yukio Kodama's paintings on the back side of the certificates of appraisal of the paintings constitutes infringement of their co-owned copyrights (right of reproduction), and accordingly, the plaintiffs sought an injunction under Article 112, paragraph (1) of the Copyright Act against the creation and distribution of certificates of appraisal of Yukio Kodama's paintings which have reproductions of these paintings attached on the back side, and also demanded that the defendant pay damages of 5,088,000 yen to each of the plaintiffs under Article 709 of the Civil Code and Article 114, paragraph (2) of the Copyright Act, as their lost profit due to infringement of the right of reproduction.

The major issues of the case include whether or not the defendant's act constitutes reproduction or whether or not said act constitutes lawful quotation under Article 32, paragraph (1) of the Copyright Act.

In this judgment, the court held as follows. In light of the method of creating the copies in question (the "Copies") and the purpose for which the defendant attaches the Copies to certificates of appraisal, it is obvious that the Copies maintain the integrity of the essential features of the original paintings in terms of expressions and that those who observe the Copies would be able to directly perceive the essential features of the original paintings in terms of expressions, and thus the Copies are regarded as reproductions of the original paintings. However, using a reproduction of a work for the purpose of conducting aesthetic appraisal of the work falls within the scope of purpose of the quotation provided in the Copyright Act. In this case, the color copies of the original paintings are attached on the back side of certificates of appraisal, with a hologram sticker affixed to the surface thereof, and each certificate of appraisal is completely enclosed in a pouch, covering both the front and back sides. Thus, it is unlikely that the color copies of the original paintings will be used separately from the certificates of appraisal. Furthermore, the act of attaching color copies of the original paintings to certificates of appraisal of these paintings, in view of the method and

manner of performing it, should be held to be within reasonable practices according to the socially accepted standards, and hence, such act can be regarded as being compatible with fair practice required for appraisal of paintings and can also be found to be within the extent justified by the purpose of the quotation. Holding as such, the court dismissed all of the plaintiff's claims.