

Date	May 29, 2012	Court	Tokyo District Court, 46th Civil Division
Case number	2010 (Wa) 5719		
– A case in which the court dismissed the plaintiff's claim made under Article 2, paragraph (1), item (xiv) of the Unfair Competition Prevention Act.			

The plaintiff alleged that there is a reason for invalidation of the patent (the "Patent") held by the defendant and that organic EL devices in which the products (the "plaintiff's products") manufactured by the plaintiff are used do not fall within the technical scope of the patented invention protected by the Patent. Furthermore, the plaintiff alleged that the defendant's act of making a false allegation constitutes an act of unfair competition, i.e., an act of "making a false allegation" as specified in Article 2, paragraph (1), item (xiv) of the Unfair Competition Prevention Act and, as a secondary claim, that the aforementioned act of notification violates the good faith principle and constitutes an act of obstruction of the plaintiff's business, and therefore constitutes an act of tort against the plaintiff. The plaintiff sought against the defendant an injunction against the aforementioned act of making a false allegation, etc. under Article 3, paragraph (1) of said Act and demanded payment of damages under Article 4 of said Act or Article 709 of the Civil Code. The defendant repeatedly committed the act of making a false allegation. Regarding the Patent, the plaintiff filed a request for a trial for patent invalidation, while the defendant was committing an act of making a false allegation, and after the act of making a false allegation ended, the JPO made a decision to invalidate the Patent. Although the defendant instituted an action to seek rescission of the JPO decision, the defendant's claim was dismissed, and said JPO decision of invalidation became final and binding.

The major issues in this court case are whether the defendant committed [i] an act of unfair competition, [ii] an act of negligence, and [iii] an act of tort.

In this judgment, regarding Issue [i], the court found that the defendant's act constitutes an act of unfair competition.

Regarding Issue [ii], the court found that, while the Patent was invalidated on the grounds that the experiment conducted by the plaintiff proved that a part of the patented invention has no function and effect, it was inevitable for the defendant to suspect that the plaintiff's experiment was defective in terms of experimental conditions, etc., in light of the fact that the results of the experiment conducted by the defendant, which were presented in the description of the Patent, were also reasonable. In conclusion, the court found that the defendant had not committed an act of negligence.

Regarding Issue [iii], the court found that the defendant's act does not constitute an

act of tort.