

Date	March 25, 2013	Court	Tokyo District Court, 29th Civil Division
Case number	2012 (Wa) 4766		
– A case in which the court found no infringement of the right of adaptation and right to maintain integrity with regard to part of a film (cinematographic work).			

The plaintiff filed this action against the defendant, alleging that the defendant included a part of a film (cinematographic work) produced by the plaintiff (hereinafter the "Film") in the book that the defendant wrote, while making a modification to said part, and by doing so, the defendant infringed the plaintiff's copyright (right of adaptation) and moral rights of the author (right to maintain integrity). Based on this allegation, the plaintiff sought: (i) an injunction against the publishing, etc. of the book under Article 112 of the Copyright Act; (ii) payment of 1.1 million yen as tort damages for infringement of the copyright and moral rights of the author, with delay damages accrued thereon; and (iii) posting of an apology as an appropriate measure to restore the plaintiff's honor and reputation as the author, as provided in Article 115 of the Copyright Act.

The Film consists of about 24 minutes of images and sounds. The plaintiff alleges infringement with regard to the part of the Film from 20 minutes to 21 minutes and 5 seconds from the beginning (hereinafter the "interview"). This part contains a recording of the responses made by a person whom the plaintiff interviewed in the United States (hereinafter the "doctor's response"), accompanied by narration in which the plaintiff summarized the content of the questions to the doctor (hereinafter the "plaintiff's narration ") and the Japanese subtitles of the doctor's responses, which were originally given in English (hereinafter the "subtitles").

The major issues of the case are: (i) whether or not the plaintiff is the author and copyright holder of the Film; and (ii) whether or not the plaintiff's right of adaptation and right to maintain integrity were infringed by the defendant.

With regard to issue (i), the court held that in light of the process of the production of the Film, the plaintiff can be regarded as a person who creatively contributed to the creation of the Film as a whole and can also be regarded as a maker of the Film, and, therefore, the plaintiff can be regarded as the author and copyright holder of the Film. With regard to issue (ii), before passing a judgment on this issue, the court first examined the copyrightability of the interview, and found that the plaintiff's creative expressions can be found only in respect to her choice of Japanese words and sentences in making the subtitles. Based on this finding, the court determined that, since the expressions actually used in the disputed part of the book written by the

defendant differed greatly from those in the subtitles, the essential features of the expressions in the subtitles cannot be recognized as being directly from the disputed part of the book written by the defendant. In conclusion, the court found no infringement of the plaintiff's right of adaptation and right to maintain integrity and thereby dismissed all of her claims.