

| | | | |
|---|-----------------|-------|----------------------|
| Date | April 25, 1997 | Court | Tokyo District Court |
| Case number | 1993 (Wa) 22205 | | 29th Civil Division |
| – A case in which the court determined the copyrightability of design drawings for interior products such as smoking stands and dust boxes. | | | |

References: Article 2, paragraph (1), item (i) and Article 10, paragraph (1), item (vi) of the Copyright Act

Number of related rights, etc.:

Summary of the Judgment

The plaintiff, who produced design drawings for interior products, namely, smoking stands and dust boxes, etc. ("Design Drawings") in response to a request from the manufacturer, alleged that the defendant's act of manufacturing and selling products (the "Defendant's Products") that are identical with or similar to the products which would be produced if the Design Drawings were used constitutes infringement of the copyrights, etc. held by the plaintiff with respect to the Design Drawings. Based on this allegation, the plaintiff claimed against the defendant an injunction against the manufacture and sale of the Defendant's Products, publication of an apology and compensation for damages.

In this judgment, the court made the following determinations and held that the Design Drawings cannot be found to be copyrightable works.

- i. The Design Drawings were produced in response to the manufacturer's request in order to manufacture industrially mass-produced goods, such as smoking stands and dust boxes. The Design Drawings expressed the specific structure and design of the fixtures in detail by using an ordinary drafting technique in order to enable the manufacturer's factories or subcontractors to produce goods in accordance with the intentions of the plaintiff, who is the designer, and the manufacturer.
- ii. The design drawings of industrial products are usually produced in accordance with shared rules that can be understood by any persons who have received basic training therefor. As a result, there is no room to find originality in the expressions used therein per se. The Design Drawings can also be considered to be such ordinary design drawings and the expressions used therein cannot be found to have originality or creativeness. The specific designs of fixtures that can be perceived from the Design Drawings can be regarded as thoughts or ideas that are expressed through the Design Drawings. If any person tries to express those specific designs in drawings in an ordinary manner, they would unavoidably produce similar drawings containing figures consisting of straight lines, curved lines, etc., auxiliary lines, dimensions, numerical

values, and notes concerning materials, etc. that are actually expressed in the Design Drawings. These figures consisting of straight lines, curved lines, etc., auxiliary lines, dimensions, numerical values, and notes concerning materials, etc. that are actually expressed in the Design Drawings are inseparable from the specific designs of fixtures, i.e., the thoughts expressed in the drawings.

iii. In consideration of the nature of the Design Drawings mentioned above and the fact that the fixtures expressed in the Design Drawings themselves should be considered not as copyrightable works, but as mass-produced useful articles, the Design Drawings cannot be found to be copyrightable works.

Judgment rendered on April 25, 1997
1993 (Wa) 22205

Judgment

Plaintiff:X

Defendant:BUNBUKU CO., LTD.

Main text

1. All of the plaintiff's claims shall be dismissed.
2. The plaintiff shall bear the court costs.

Facts

No. 1 Judicial decision sought by the parties

I. Objects of claims

1. The defendant shall neither manufacture nor sell the goods stated in Attachment 1 "Product List" and "List of Photographs in the Defendant's Catalog."
2. The defendant shall publish a one-time apology presented in Attachment 2 "Draft Apology" in the magazines stated in Attachment 3 "Magazine List" by using one entire page of each magazine in a font size of 16 point or larger.
3. The defendant shall pay the plaintiff two million yen and delay damages accrued thereon at a rate of 5% per annum from February 5, 1994 until the date of full payment.
4. The defendant shall bear the court costs.
5. A declaration of provisional execution

II. Answer in response to the objects of claims

1. All of the plaintiff's claims shall be dismissed.
2. The plaintiff shall bear the court costs.

No. 2 Allegations made by the parties concerned

I. Grounds for the claims

1. Production of design drawings by the plaintiff

In response to a request from Kabushiki Kaisha Daichi ("Daichi"), the plaintiff produced 21 design drawings for interior products, namely, smoking stands, dust boxes, umbrella stands, and plant boxes ("Design Drawings"; Exhibits Ko 2 to 22).

2. Defendant's act

(1) The defendant manufactured and sold the products (the "defendant's goods") presented in Attachment 1 "Product List" and "List of Photographs in the Defendant's

Catalog" from around 1987 to February 4, 1994, which is the date of the service of the complaint.

(2) The defendant's goods are identical or extremely similar to the goods that could be manufactured based on the Design Drawings.

3. Claims based on copyright infringement

(1) Copyrightability of the Design Drawings

The Design Drawings were created based on the design concept "simple is best, simple is wherever" by using sharp forms and straight lines as basic design components consisting of simple and geometric configurations in pursuit of harmonization with modern urban space and modern urban buildings in order to produce high-class interior products made mostly of stainless steel, not only for the purpose of performing certain practical functions but also for the purpose of being placed as aesthetic objects in urban space in postmodern buildings by pursuing an optimal combination of well-planned sophisticated details and the highly advanced craftsmanship through an effort to elevate the beautiful symmetric shapes and functional beauty to the level of art. Since the Design Drawings have originality and can be created only by a designer who has sufficient knowledge and skills as well as the design concept mentioned above, the Design Drawings should be regarded as copyrightable.

(omitted)

Reasons

(omitted)

1. Copyrightability of the Design Drawing

(1) According to Exhibits Ko 2 to 22 mentioned above and the entire import of oral argument, it can be found as follows. Among the Design Drawings, Exhibits Ko 2 to 18 show plan views and elevation views of smoking stands, dust boxes, umbrella stands, and plant boxes (some drawings contain cross-section views showing mortar-like internal containers) with the dimensions. "I series" (Exhibits Ko 2 to 9) consists of smoking stands, dust boxes, umbrella stands, and plant boxes that basically have a cylindrical shape. Those products have a round shape when expressed in a plan view and a rectangular shape when expressed in an elevation view. "R series" (Exhibits Ko 10 to 21) consists of smoking stands, dust boxes, plant boxes, and umbrella stands that basically have a cylindrical shape with a rounded upper edge or with rounded upper and

lower edges. Those products have a round shape when expressed in a plan view and a rectangular shape with arc-shaped upper corners when expressed in an elevation view. Among the Design Drawings, Exhibits Ko 19 to 21 are detailed drawings of lowest-grade R-series type smoking stands and dust boxes, whereas Exhibit Ko 22 is a detailed drawing of V-series dust boxes. Each of those detailed drawings contains a real-size elevation view on one side and a cross-section view on the other, indicating the dimensions, R sizes, materials and the positions to put the nuts. It can be found that the Design Drawings were produced not by using a special technique of expression but by using an ordinary drafting technique.

(2) As found above, the Design Drawings were produced in response to Daichi's request in order to manufacture industrially mass-produced goods such as smoking stands and dust boxes. The Design Drawings specifically expressed the structure and design of those goods in detail by using an ordinary drafting technique in order to enable Daichi's factories or subcontractors in charge of manufacturing processes to produce goods in accordance with the intentions of the plaintiff, which designed those goods, and Daichi, which placed an order for those goods. The design drawings of industrial products are usually produced in accordance with shared rules that can be understood by any persons who have received basic training. As a result, there is no room to find originality in the expressions used therein per se. The Design Drawings can also be considered to be such ordinary design drawings. The expressions used therein cannot be found to have originality or creativeness. The specific designs of fixtures that can be perceived from the Design Drawings can be regarded as thoughts or ideas that are expressed through the Design Drawings. If any persons try to express those specific designs in drawings in an ordinary manner, they would unavoidably produce similar drawings containing figures consisting of straight lines, curved lines, etc. actually expressed in the Design Drawings, auxiliary lines, dimensions, numerical values, and notes concerning materials, etc. These figures consisting of straight lines, curved lines, etc. actually expressed in the Design Drawings, auxiliary lines, dimensions, numerical values, and notes concerning materials, etc. are inseparable from the specific designs of fixtures, i.e., the thoughts expressed in the drawings. In consideration of the nature of the Design Drawings mentioned above and the fact that the fixtures expressed in the Design Drawings themselves should be considered not as copyrightable works, but as mass-produced useful articles, the Design Drawings cannot be found to be copyrightable although those fixtures embody ideas of designs.

2. As described above, since the Design Drawings cannot be found to be copyrightable, the claims made based on the right of reproduction, the right of reformulation, and the

right to authorize exploitation are all groundless.

(omitted)

VII. Conclusion

Therefore, without needing to examine any other factors, the plaintiff's claims shall be found to be groundless and shall be dismissed. Article 89 of the Code of Civil Procedure shall apply to the payment of court costs. In conclusion, the judgment shall be rendered in the form of the main text.

Tokyo District Court

Presiding judge: NISHIDA Yoshiaki, Judge: TAKABE Makiko, Judge: IKEDA
Nobuhiko

(attachment omitted)