

Date	December 25, 2014	Court	Tokyo District Court, 46th Civil Division
Case number	2013 (Wa) 10151		
– A case in which the court accepted an allegation of usurpation in relation to a patent right for an invention titled "liquid crystal display device" and dismissed the plaintiff's claim for damages.			

Summary of the Judgment

The plaintiff, who holds a patent right (the "Patent Right") for an invention titled "liquid crystal display device" (the "Invention"), alleged that the defendant's manufacturing and sale of the defendant's product constitutes infringement of the Patent Right. Based on this allegation, the plaintiff filed this action to seek payment of damages based on infringement of the Patent Right. The defendant disputes over the fulfillment by the defendant's product of the constituent features of the Invention and the existence of infringement of the Patent Right. In addition, as a defense, the defendant alleged invalidation of the patent in question (the "Patent") based on usurpation, or invalidation of the Patent based on violation of the provisions on an enlarged earlier application (Article 29-2 of the Patent Act) or the lack of an inventive step, as well as abuse of rights.

In this judgment, the court held as follows and accepted the defendant's allegation concerning the issue of the invalidation of the Patent based on usurpation out of the aforementioned issues in dispute. The court then determined that the plaintiff's claim should be dismissed.

The plaintiff alleges that its representative conceived of the Invention based on a publication pertaining to another patent application filed by Hitachi, Ltd. by improving the invention described in the publication. If this is the case, the plaintiff's representative had technical capabilities that are at least comparable to those of persons ordinarily skilled in the art in relation to the improved points (structure of the electrode pattern, flexion angle of the pixel electrode, flexion of the video signal wiring, and flexion and color guarantee of the black mask). However, the plaintiff's representative had no experience in technically studying technologies relating to liquid crystal display devices or engaging in the business of developing technology or manufacturing parts, etc. Therefore, the plaintiff's representative absolutely cannot be recognized as having had technical capabilities that are comparable to those of persons ordinarily skilled in the art in relation to liquid crystal display devices as of the filing date in question (the "Filing Date"). There is no other way but to say that it is unnatural to consider that the plaintiff's representative as such completed the Invention by

attending academic meetings and by looking through the aforementioned publication as well as related papers, magazines, and newspapers. On the other hand, an acquaintance of the plaintiff's representative is recognized as having been well-versed in technologies, manufacturing methods, etc. relating to liquid crystal display devices and having at least the same level of knowledge and experience as persons ordinarily skilled in the art as of the Filing Date. In addition, the whole description in question, including the drawings, was prepared by the aforementioned acquaintance. In light of these circumstances, the plaintiff's representative cannot be considered to have conceived of the structure of the Invention, and it is reasonable to recognize the aforementioned acquaintance as a person who has conceived of at least the structure of part of the Invention. Therefore, the Patent involves a ground for invalidation as a patent that was granted in relation to a patent application field by a person who does not have the right to obtain a patent for an invention. Consequently, the plaintiff is considered to be unable to exercise rights against the defendant based on the Patent Right.