

Date	January 23, 2014	Court	Tokyo District Court
Case number	2013 (Wa) 12233		47th Civil Division
<p>– A case in which the court dismissed the plaintiff's claims based on its design right for a design affixed to an article, "package for disc packaging" (the article to the design), to seek an injunction against the import and sale of the defendant's products, demand the disposal of these products, and seek damages.</p>			

In this case, the plaintiff, which holds a design right for a design affixed to an article, "package for disc packaging" (the article to the design) (Design Registration No. 1308670), alleged that the defendant's import and sale of cases for disc packaging (the Defendant's Products) constitute infringement of the plaintiff's design right, and the plaintiff sought an injunction to suspend the import and sale of the Defendant's Products, demanded the disposal of the same, and sought damages. The major issue of the case was whether or not the design of the Defendant's Products (the Defendant's Design) is similar to the design for which the plaintiff holds design registration (the "Registered Design").

The court dismissed the plaintiff's claims, holding as follows. The consumers for the Registered Design, i.e. disc manufacturers, would pay attention to the shape of the flat surface which appears when the lid is closed or opened. While taking into consideration the nature, purpose of use, and manner of use of a package for disc packaging as well as the structure of a publicly known design, the features of the Registered Design are the shapes of the flat surface which appear when the lid is closed or opened, and in particular, the belt-like concave portion formed at the upper end of the surface of the lid which appears when the lid is closed, the oval line placed at the center of the concave portion, and the four raised ridge-like supports placed at the lower part of the inside of the base which appear when the lid is opened. Among the differences between the Registered Design and the Defendant's Design, a big difference exists in terms of the features of the Registered Design, in that, when the lid is opened, the Registered Design has four raised ridge-like supports at the lower part of the inside of the base, whereas the Defendant's Design has a belt-like concave portion at the upper end of the inside of the base and a string-like concave portion at the lower end of the inside of the base, as well as six raised ridge-like supports placed in a circle, three on the upper side and three on the lower side, on the outer circumference surrounding the hook placed at the center of the area between said two concave portions. Because of these differences, both the Registered Design and the Defendant's Design, considered in their entirety, give different aesthetic impressions to people who

see them, and the common features of these designs do not surpass the differences in aesthetic impressions that the differences between them give to people who see them, and therefore the Defendant's Design cannot be found to be similar to the Registered Design.