

Patent Right	Date	May 27, 2022	Court	Tokyo District Court, 29th Civil Division
	Case number	2020 (Wa) 17423		
- A case in which a claim for damages on the grounds of infringement of the patent right of an invention titled "transferring method of tea branch and leaf, transferring device thereof, and tea reaping machine including the same" was dismissed.				

Summary of the Judgment

This case is a case in which the Plaintiff, who is the patentee of Patent No. 4349999 (the Patent) of an invention titled "transferring method of tea branch and leaf, transferring device thereof, and tea reaping machine including the same" made a claim for payment of damages or unjust enrichment against the Defendant principally on the basis of a tort and alternatively on the basis of the unjust enrichment, by asserting that the products manufactured and sold by the Defendant (each of the Defendant's Products) belong to the technical scope of the invention (each of the Inventions) according to Claims 7 and 13 in the scope of claims of the Patent, and that the Defendant's act described above is applicable to working of each of the Inventions.

Issues of this case are: [i] whether the Defendant's Products belong to the technical scopes of the respective Inventions; [ii] whether invalidation due to lack of novelty or lack of inventive step is found; [iii] whether violation of support requirement is found; [iv] whether agreement on non-exercise of the patent right was established; and [v] the amount of damages and the amount of unjust enrichment.

The judgment decided that the Plaintiff's claim shall be dismissed, by stating that the "pressure wind" in each of the Inventions is an air flow caused to flow inside a transfer duct and includes a rear-surface wind and a front wind, which is a supporting air-blow from in front of a cutting blade, and it is reasonable to interpret that the phrase "only by an action of the pressure wind" as above means that the transfer of the threshed "tea branches and leaves" from the "cutting blade" to a "predetermined position" is realized only by the "action" of the "pressure wind", and if the transfer described above is realized by an action other than the "action" of the "pressure wind", it cannot be found that "only by the action of the pressure wind" is provided. And in each of the Defendant's Products, on the premise of setting to an appropriate height in accordance with a length of the tea branch and leaves plucked by the rotating brush, it is found that the tea branch and leaves threshed by the cutting blade hit the brush rotating at all times during the plucking work and are sent into the transfer duct and then, go through the transfer duct by the pressure wind flowing through the transfer duct and reach the accommodating portion and thus, in each of the Defendant's Products, even though the transfer of the "tea branches and leaves" from the "cutting

blade" to the "predetermined position" is realized by addition of the rotating action of the rotating brush, which is an action other than the "pressure wind", it cannot be found that each of the Defendant's Products includes "only by the action of the pressure wind" and it cannot be found to belong to the technical scopes of the Inventions. The Plaintiff asserted that, according to an experiment conducted by the Plaintiff, there was no significant difference in the plucked amounts between each of the Defendant's Products including the rotating brush and each of the Defendant's Products from which the rotating brush is removed and thus, each of the Defendant's Products can transfer the tea branches and leaves only by the action of the rear-surface wind (pressure wind) without the rotating brush and includes "only by the action of the pressure wind", but according to the aforementioned interpretation of the claims, in order for each of the Defendant's Products to include "only by the action of the pressure wind", it is necessary that an action other than the "action" of the "pressure wind" is not added and thus, the transfer mode itself of the tea branches and leaves in each of the Defendant's Products including the rotating brush should be examined, and it cannot be made clear whether "only by the action of the pressure wind" is included or not by comparing the plucked amount by each of the Defendant's Products including the rotating brush with the plucked amount by each of the Defendant's Products from which this is removed, and the Plaintiff's assertion cannot be adopted.