

Patent Right	Date	December 4, 2023	Court	Tokyo District Court, 40th Civil Division
	Case number	2023 (Wa) 70102		
- A case in which the court held that the black oolong tea products sold by the Defendants were not considered to satisfy a constituent feature of the disputed invention which states "the tea leaves from which stems have been removed."				

### Summary of the Judgment

1. This is a case in which the Plaintiff, a holder of a patent concerning a series of inventions relating to half-fermented tea, etc. (Patent No. 6995229; hereinafter referred to as the "Patent"), sought the injunction of manufacturing, etc. of each of the black oolong tea products sold by the Defendants (hereinafter referred to as the "Defendants' Products") and the disposal thereof, pursuant to Article 100, paragraphs (1) and (2) of the Patent Act, as well as the payment of compensation for damages under Article 709 of the Civil Code and delay damages accrued thereon, on the allegation that the Defendants' Products fall within the technical scope of one of the series of inventions pertaining to the Patent (hereinafter the relevant invention is referred to as the "Invention").

In this judgment summarized below, the court determined that the Defendants' Products are not regarded to satisfy the relevant constituent feature of the Invention.

It is not clear directly from the literal interpretation of the phrase of the constituent feature of the Invention which states, "the tea leaves from which stems have been removed," whether it means that the half-fermented tea leaves pertaining to the Invention do not include stems, or whether it relates to a condition for measuring the weight percentages of polyphenol and other contents of the half-fermented tea leaves including stems. So, when taking into consideration the statement of the description in question (the "Description") in interpreting the meaning of the phrase, it is reasonable to understand that the statement "the tea leaves from which stems have been removed" in the abovementioned constituent feature means that the half-fermented tea leaves pertaining to the Invention do not include stems.

When applying the abovementioned interpretation to this case, it is found that all of the tea leaves pertaining to the Defendants' Products contain a large amount of stems. Therefore, the Defendants' Products cannot be considered to satisfy the constituent feature of the Invention.

In addition, none of the tests performed by the Plaintiff proves that the weight

percentages of polyphenol and other contents of the Defendants' Products were measured after removing stems, and therefore these tests are found to lack the premises for proving that the Defendants' Products satisfy the constituent feature as mentioned above. Moreover, the abovementioned tests performed by the Plaintiff cannot be considered to accurately prove the content weights stated in the abovementioned constituent feature, as no specific conditions for performing the tests have been clearly disclosed. Further, the measuring method used by the Plaintiff is not considered appropriate for proving the content weights as stated in the abovementioned constituent feature, as it is different from the measuring method stated in [0082] in the Description.

Therefore, the Plaintiff's arguments are based on incorrect understanding of the phrase of the constituent feature of the Patent. As the Defendants' Products include a considerable amount of stems, the court cannot accept any of the Plaintiff's arguments.

Based on the above determination, in this judgment, the court dismissed all of the Plaintiff's claims.