

Judgments of Osaka District Court, 26th Civil Division

Date of the Judgment: 2006.11.30

Case Number: 2006 (Wa) No. 3563

Title (Case):

A case wherein the court prohibited the plaintiff from exercising its design right to the disputed design of fittings to support concrete frames by accepting the defendant's defense that the disputed design was invalid because it was identical or similar to a design presented in the plaintiff's product catalog distributed by the plaintiff before the filing of the design application for the disputed design

Summary of the Judgment:

The plaintiff, who owned a design right to the disputed design of fittings to support concrete frames, claimed an injunction and damages against the defendant by arguing that, while the defendant had been engaged in the production and sale of a metal product to support concrete frames, the product had a design similar to the disputed design.

The defendant (1) disputed the alleged similarity of its product's design to the disputed design and (2) submitted the plaintiff's product catalog distributed before the plaintiff's filing of the design application for the disputed design to prove that the disputed design was identical or similar to a design presented in the catalog. The court accepted the defendant's defense described in (2) above and dismissed the plaintiff's claim by holding that the plaintiff was prohibited from exercising the design right against the defendant because the disputed design fell under Article 3, para.1, item 2 or item 3 of the Design Act and therefore should be invalidated by an invalidation trial.

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