

Patent Right	Date	May 30, 2024	Court	Osaka District Court, 21st Civil Division
	Case number	2021 (Wa) 2873		
- A case in which an action was filed for infringement of patent rights concerning three patents, including one for an invention titled "Depilation device for edible meat chunks," and the court entirely upheld the Plaintiff's claim for an injunction and partially upheld its claim for compensation for damage.				

Summary of the Judgment

This is a case in which the Plaintiff, a holder of a patent right concerning a patent for an invention titled "Depilation device for edible meat chunks" (the "Patent Right" and the "Patent"), filed an action against the Defendant, alleging that the Defendant's acts of manufacturing, sale, etc. of the Defendant's Product which falls within the technical scope of the invention stated in Claims 1 and 2 of the Patent (the "Invention") constitute infringement of the Patent Right. Based on this allegation, the Plaintiff seeks an injunction against the manufacturing, sale, etc. of the Defendant's Product and demands the disposal of the Defendant's Product under Article 100, paragraphs (1) and (2) of the Patent Act, and claims payment of compensation for damage due to tort and delay damages accrued thereon.

The issues of the case are as follows: [i] whether the Defendant's Product falls within the technical scope of the Invention; [ii] whether any damage occurred to the Plaintiff, and the amount of damage; [iii] whether the Plaintiff's claim for compensation for damage has been extinguished by prescription; and [iv] whether an injunction and disposal are necessary.

In this judgment, regarding Issue [i], the court held as follows. With respect to the constituent feature of the depilation device, which is described as "the inner wall of the cylindrical container is formed into a polygonal shape in the planar view," although the Defendant argued that the "polygonal" shape is limited to a shape of convex polygon, the court held that this shape is not limited only to a shape of either convex polygon or concave polygon, and determined that the Defendant's Product (in which the shape of the inner wall of the cylindrical container is concave polygon) satisfies the abovementioned constituent feature. The court found that the Defendant's Product also satisfies the other constituent features, and held that the Defendant's Product falls within the technical scope of the Invention.

Regarding Issue [ii], the court presumed the amount of damage sustained by the

Plaintiff under Article 102, paragraph (2) of the Patent Act, and in consideration of the performance of the Defendant's Product, it found that the presumption is rebutted at the rate of 5%. The Plaintiff argued that its allegations should be found to be true under Article 224, paragraph (3) of the Code of Civil Procedure because of the Defendant's failure to submit the document that it had been ordered to submit by an order to submit the document. However, the court did not accept this argument and determined the amount of marginal profit based on evidence, etc. Regarding issue [iii], the court found that the Plaintiff's claim for compensation for damage has not been extinguished by prescription, and partially upheld this claim.

Regarding Issue [iv], while entirely upholding the Plaintiff's claim for an injunction, the court dismissed its claim for the disposal of the Defendant's Product, holding that while the Defendant's Product seems to be manufactured and sold in response to orders, the Defendant cannot be found to be in possession of the stock, etc. of the Defendant's Product, and therefore there is no need to dispose of the Defendant's Product.