

Copyright	Date	June 13, 2024	Court	Osaka District Court, 26th Civil Division
	Case number	2024 (Wa) 1651		
<p>- A case wherein the court granted the Plaintiff's claim against the Defendant, a rental server provider used by a user who uploaded the Plaintiff's copyrighted photographs of entertainers on a so-called curation site, seeking the disclosure of information on the user, by holding that the act of using the relevant photographs constitutes infringement of the Plaintiff's right of reproduction and right to transmit to the public and does not fall under a quotation.</p>				

Summary of Judgment

The Plaintiff (a company) has acquired from the representative of the Plaintiff, who is a professional photographer, copyright in photographs taken by the representative. An unidentified user of a service of the Defendant, a rental server provider, uploaded the photographs of entertainers taken by the representative of the Plaintiff on a so-called curation site without modification. The Plaintiff sought the disclosure of the sender identification information pertaining to the unidentified user in accordance with Article 5, paragraph (1) of the Act on the Limitation of Liability of Specified Telecommunications Service Providers for Damages and the Right to Demand Disclosure of Sender Identification Information, based on the allegation that its copyright (right of reproduction and right to transmit to the public) was infringed by the unidentified user and that the information is necessary for instituting claims, including a claim for compensation for damage, against the unidentified user.

In the judgement, the court held that the photographs are copyright works as they reflect the unique character of the representative of the Plaintiff as a professional photographer in light of their compositions and other elements, and that the use thereof without modification constitutes infringement of the right of reproduction and right to transmit to the public of the Plaintiff that acquired the copyright in the photographs from the representative of the Plaintiff. Based on these findings, the court concluded that the content of the articles on the so-called curation site was not a legitimate quotation as it is not for the purpose of criticizing the photographs and no source was indicated. As a result, the court granted the Plaintiff's claim in its entirety, finding that the Plaintiff's copyright was obviously infringed and the Plaintiff had legitimate reason to request the disclosure of the sender identification information for the purpose of instituting claims, including a claim for compensation for damage.