Unfair Competition	Date	December 4, 2023	Court	Osaka District Court, 26th Civil Division
	Case number	2022 (Wa) 3577		
- A case in which the court found unfair competition under Article 2, paragraph (1), item (iii) of the Unfair Competition Prevention Act.				

Summary of Judgment

This is a case in which the Plaintiff argued that the Defendant's act of selling bank passbook holders and wallets (hereinafter referred to as the "Defendant's Products") whose shapes are substantially identical to those of bank passbook holders and wallets sold by the Plaintiff (hereinafter referred to as "Plaintiff's Products") falls under unfair competition under Article 2, paragraph (1), item (iii) of the Unfair Competition Prevention Act, and instituted the following claims against the Defendant: [i] an injunction against sale, etc. of the Defendant's Products (Article 3, paragraph (1) of the same Act); [ii] the destruction of the Defendant's Products (paragraph (2) of the same Article); and [iii] compensation for damage (Article 4 of the same Act).

The issues disputed in this case are as follows: [i] whether the Defendant's Products imitate the shapes of the Plaintiff's Products (whether these products are substantially identical in shapes, and whether the Defendant's Products rely on the Plaintiff's Products); and [ii] the amount of damage.

In the judgment, with respect to Issue [i], the court determined that the Plaintiff's Products and the Defendant's Products are substantially identical and that the latter rely on the former, and therefore the latter imitate the shapes of the former. With respect to Issue [ii], the court awarded the damage under Article 5, paragraph (2) of the same Act (the Defendant's admission on the period and quantity of sale as well as marginal profits concerning the Defendant's Products was upheld, and the Defendant did not raise any ground to rebut the presumption under that paragraph), granted the Plaintiff's claim for injunction and claim for destruction, and partially granted the claim for damage.