

Date	September 10, 2009	Court	Osaka District Court, 26th Civil Division
Case number	2008 (Wa) 5712		
A case in which the court dismissed the plaintiff's claim for damages based on a patent right and a design right for a golf ball			

1. In this case, the plaintiff who has a patent right and a design right for a golf ball (the Patent Right and the Design Right) sought return of unjust enrichment and damages in tort, alleging that the golf balls which the defendant sells infringe these rights.

2. The major issue of this case is whether the Patent Right and the Design Right have any reason for invalidation. Incidentally, the defendant filed a request for a trial for invalidation for both rights. However, the Japan Patent Office rendered a decision to invalidate both rights during the period from the conclusion of oral argument on this case to the rendition of a judgment thereon.

3. The court determined that the Patent Right had a reason for invalidation in that it had a defective statement in the description. However, as both parties concerned agreed, in the aforementioned case of the request for a trial for invalidation, to deem that this defective statement has been resolved, the court also judged the novelty/inventive step of the relevant invention, and denied the inventive step of the invention pertaining to the Patent Right (a golf ball which is characterized by partitioning the surface of the ball into multiple areas with virtual compartment lines, arranging hexagonal dimples densely on the virtual compartment lines and in each area in the manner that dimples are aligned while keeping 0.0-mm-wide lands between the sides of the dimples, and keeping the total area of the lands 20% or less of the virtual surface area of the ball), ruling that making the width of the lands as narrow as possible so as to minimize the total area of the lands in order to improve the flying distance of a golf ball is prior art and that making the width of the lands 0.0 mm is an extension of said prior art and a person ordinarily skilled in the art thus could easily arrive at that.

In addition, regarding the Design Right, the basic constitution of the design, that is, arranging mainly hexagonal dimples densely on the entire surface of a golf ball in the manner that neighboring dimples mutually share a side which is expressed as a thin line, was stated in a publication distributed before the filing of the relevant application (Cited Design). The court ruled as follows: Making the shape of the dimples hexagonal is a feature that extremely strongly expresses the golf ball's characteristic in terms of its form, and all of the differences in the specific constitution of the design, such as that there is a

small number of pentagonal dimples, the total number of dimples slightly differs, and the specific difference in width for thin lands, which are seen as thin lines, is not clear, do not cause any difference that is visually significant to the aesthetic impression which the basic constitution gives people through vision; therefore, the design is similar to the Cited Design as a whole. Consequently, the court denied the novelty of the design.

Therefore, the court dismissed all of the plaintiff's claims.