

Unfair Competition	Date	February 26, 2024	Court	Tokyo District Court, 40th Civil Division
	Case number	2023 (Wa) 70052		
- A case in which the court determined that the interest in communicating thoughts, opinions, etc. through a video posted on YouTube by the author of said video is not found to be a moral interest.				

Summary of the Judgment

The Plaintiff is a YouTuber posting AI's commentary videos on *Shogi* (Japanese chess) and operates a YouTube channel, "B-Buhibuhi AI Kaisetsu" (hereinafter referred to as the "Plaintiff's Channel"). The Defendant is a stock company distributing and broadcasting mainly *Go* (board game of capturing territory) and *Shogi* content through YouTube and CS.

The Plaintiff has the copyrights for the videos listed in the Attachment to the Judgment, "List of Plaintiff's Videos," (hereinafter referred to as "Plaintiff's Video 1" through "Plaintiff's Video 5" in order of the statement in said List and Plaintiff's Video 1 through Plaintiff's Video 5 are collectively referred to as the "Plaintiff's Videos") that were disclosed on YouTube. The Defendant reported to YouTube that the Plaintiff's Videos infringed the copyright (hereinafter referred to as the "Copyright Infringement Report") and the Plaintiff's Videos were deleted from YouTube.

In this case, the Plaintiff alleged that the Copyright Infringement Report constitutes an act of false allegation as set forth in Article 2, paragraph (1), item (xxi) of the Unfair Competition Prevention Act and infringed the Plaintiff's moral interest, and the Plaintiff demanded that the Defendant pay compensation for damages of 1,831,500 yen and delay damages accrued thereon at the rate of 3% per annum as prescribed in the Civil Code based on Article 4 of the Unfair Competition Prevention Act and Article 709 of the Civil Code.

On the other hand, the Defendant replied that the Defendant would not dispute the argument on infringement in relation to the Unfair Competition Prevention Act and torts (excluding the issue of whether the moral interest related to the Plaintiff's allegation falls under the "legally protected interests" as set forth in Article 709 of the Civil Code).

In this judgment, in light of the fact that the freedom of thought and freedom of expression of authors are basic human rights guaranteed by the Constitution, the court determined that the moral interest related to the Plaintiff's allegation as stated in the judgment of the First Petty Bench of the Supreme Court rendered on July 14, 2005

(2004 (Ju) 930; Minshu Vol. 59, No. 6, p. 1569 (hereinafter referred to as the "Supreme Court Judgment in 2005")) is affirmed, while considering the interest of communication, etc. of the thoughts and opinions, etc. of authors of books that are made available for inspection at public libraries as constituting a legal interest; and that its coverage is limited to cases where officials of public libraries breach their basic obligation and destroyed books through unfair treatment based on their own dogmatic evaluation or personal preference. In addition, the court determined that cases of private libraries and private companies are obviously outside the coverage of the Supreme Court Judgment in 2005 and the Supreme Court Judgment in 2005 is not appropriate for this case where the question is the interest of communication related to videos posted on YouTube, which is a private company.

Based on the above, the court upheld the Plaintiff's demand for the amount of damages based on the violation of the Unfair Competition Prevention Act, to the extent of 18,111 yen and delay damages accrued thereon.