

Date	December 16, 2010	Court	Osaka District Court, 26th Civil Division
Case number	2010 (Wa) 4770		
– A case in which the court upheld claims for an injunction and payment of damages made based on a design right for which the name of the article to the design is "long-handled scissors," by ruling that the defendant's design is similar to the design in question.			

Plaintiff P holds a design right (the "Design Right") pertaining to a registered design (Registration No. 955981; the "Design") for which the name of the article to the design is "long-handled scissors" (a type of garden shears). Plaintiff Q was granted the monopolistic non-exclusive license by Plaintiff P. The plaintiffs alleged that the design of the long-handled scissors (the "Defendant's Product") manufactured and sold by the defendant is similar to the Design and the act of manufacturing and selling the Defendant's Product constitutes infringement of the Design Right. Based on this allegation, the plaintiffs filed this action against the defendant to seek an injunction against the manufacturing, sale, etc. of the Defendant's Product and compensation for damages.

The major issue of this case is whether the design (the "Defendant's Design") of the Defendant's Product is similar to the Design.

In this judgment, the court found that the essential features of the Design are the "shape of the blade part as well as the ratio of the length of the fixed coupling part or the handle part in the entire length of the long-handled scissors," in consideration of the form of use of "long-handled scissors," which is the article to the Design, and publicly known designs. The court then ruled as follows: The Defendant's Design is identical to the Design in said essential features; The form of the joint part, which was alleged by the defendant as a difference, was not originally an essential feature and merely gives an impression of a device for slight reinforcement compared to the Design; It thus cannot be regarded as having a great effect on the aesthetic appeal of the Defendant's Design as a whole. Based on this ruling, the court found that the Defendant's Design is similar to the Design, and upheld the plaintiff's claims.