

Unfair Competition	Date	July 18, 2024	Court	Tokyo District Court, 40th Civil Division
	Case number	2023 (Wa) 70513		
- A case in which the court ruled that an anonymous person in certain postings is identified as the Plaintiff by persons who are acquainted with or have knowledge of the Plaintiff and determined that the postings defame the Plaintiff.				

### Summary of the Judgment

In this case, the Plaintiff, who operates a karate training hall, alleges that the postings of articles stated in the List of Posted Articles attached to this judgement (hereinafter referred to as the "Postings," and each of the Postings is referred to as "Posting 1," etc. according to the number assigned thereto in the same list) by the Defendant, who also operates a karate training hall, infringe the right of reputation and self-esteem of the Plaintiff and also fall under the act of circulating false allegations that harm the business reputation of the Plaintiff (Article 2, paragraph (1), item (xxi) of the Unfair Competition Prevention Act). Based on this allegation, the Plaintiff demands that the Defendant pay compensation for loss or damage of 3,800,000 yen and delay damages based on Article 709 of the Civil Code and Article 4 of the Unfair Competition Prevention Act.

The major issues of this case were whether the anonymous person is likely to be identified as the Plaintiff and whether the postings are likely to be transmitted.

In this case, the court held as summarized below and determined that it is reasonable to find that Postings 1, 2, 4, and 5 constitute defamation of the Plaintiff as long as they include the content that defames the Plaintiff.

Whether or not an anonymous person in a posting can be identified as the Plaintiff should be determined based on the ordinary care of persons who are acquainted with or have knowledge of the Plaintiff and their way of reading (see 1954 (O) 634, the judgment of the Second Petty Bench of the Supreme Court of July 20, 1956, Minshu Vol. 10, No. 8, at 1059). Where the content of the aforementioned posting by which the aforementioned anonymous person was identified as the Plaintiff decreases the social evaluation of the aforementioned anonymous person, it is reasonable to find that the posting defames the Plaintiff if the aforementioned persons are unspecified or in a large number, or are likely to circulate the posting even if they are specified and in a small number.

When this determination is applied to this case, Postings 1, 2, 4, and 5 only include

the statement that the anonymous person is the "owner of the training hall," the Plaintiff's name is not written in the postings. On the other hand, it is found that the original posting included the statement that the aforementioned "owner of the training hall" is the owner of the training hall to which F had belonged in the past. In that case, based on the ordinary care of persons who are acquainted with the Plaintiff or have knowledge that the Plaintiff is the owner of the training hall to which F had belonged, and on their way of reading, it is reasonable to find that such persons can adequately identify the "owner of the training hall" mentioned in Postings 1, 2, 4, and 5 as the Plaintiff by using the relevant knowledge as a clue. Even if the aforementioned persons are specified and in a small number, it is possible to find that they are likely to circulate the content of the Postings to persons related to karate, taking into account that the content of the Postings casts doubt on the credibility and safety of a specific karate training hall.

For the reasons described above, in this judgment, the court upheld the Plaintiff's claim to the extent of demanding payment of 280,000 yen and delay damages.