

Design Right	Date	September 21, 2018	Court	Tokyo District Court, 40th Civil Division
	Case number	2017 (Wa) 11295		
- A case in which the court held that the design of a high-pressure oxygen capsule is not similar to the designs of Defendant's products.				

Summary of the Judgment

In the present case, Plaintiff, who holds the design right for a high-pressure oxygen capsule, asserted against Defendants, who are two companies, that the designs of the products manufactured and sold by Defendants are similar to the design for the aforementioned design right, and that the acts of manufacturing and selling the same infringe on the aforementioned design right, thereby making a claim against Defendants for an injunction against the act of infringement, on the basis of Article 37, paragraph (1) of the Design Act, in addition to demanding for an action necessary for preventing infringement on the basis of paragraph (2) of the same Article, and a claim for compensation for damage on the basis of Article 709 of the Civil Code and Article 39, paragraph (2) of the Design Act.

Issues in the present case are [i] whether or not the design for the aforementioned design right ("Design") and the designs of the products of Defendants ("Defendant's Designs") are similar, [ii] invalidation of the registration of the Design, [iii] the amount of damages payable to Plaintiff, and [iv] whether or not the extinctive prescription is applicable.

In the judgment of the present case, with regards to the issue [i], the court found that while the product for the Design and the products of Defendants are similar as article, the essential feature of the Design is the constitution in which the side parts are both partially spherical and transparent so that the bed inside can be seen, and the door is shaped to fit the arc of the transparent body of the capsule so that the bed inside can be seen even when the door is closed; and the court held that the aesthetic impression given by the Design is significantly different from the aesthetic impressions given by Defendants' Designs, in which the side parts are not transparent and are semi-elliptical (shaped like frying pans) and the doors are translucent, so that it cannot be said that the designs are similar. Accordingly, the court dismissed the claims made by Plaintiff.