

Patent Right	Date	September 26, 2024	Court	Tokyo District Court, 40th Civil Division
	Case number	2023 (Wa) 70393		
- A case in which the court determined that the "square tube" related to the Defendant's Product does not fall under a "rotating plate-type member" of the Invention.				

Summary of the Judgment

In this case, the Plaintiff, who has the patent right (hereinafter referred to as the "Patent Right" and descriptions and drawings related to the Patent Right are referred to as the "Description") related to the patent (hereinafter referred to as the "Patent"; Patent No. 6494120) for an invention titled "wave housing-type temporary safety barrier," argued against the Defendant that the Defendant's act of manufacturing the products listed in the Attachment to the Judgment "List of the Defendant's Products" (hereinafter referred to as the "Defendant's Products") infringes the Patent Right of the Plaintiff, and demanded an injunction against the manufacturing, etc. and disposal of the Defendant's Products based on Article 100, paragraph (1) and paragraph (2) of the Patent Act.

In the Judgment, the court determined as summarized below and concluded that the "square tube" related to the Defendant's Products does not fall under the "rotating plate-type member" of the Invention.

In [0007] of the Description, it is stated that "The problem to be solved by the present invention is to provide a wave housing-type temporary safety barrier that can reduce the width of wavy members of temporary safety barriers and that can also achieve weight reduction and downsizing, and that improves efficiency in installation and removal operations." Based on the above, the problem to be solved by the inventions in question (the "Inventions") is found as follows: to achieve a reduction in the weight and size of the temporary safety barriers as well as efficient installation and removal operations by decreasing the width of the wavy member of temporary safety barriers. In addition, there are statements in [0009] of the Description that "The rotating plate-type member is thick in the shorter side direction, and therefore, the width in the shorter side direction can be made thinner. This allows the guardrail and the rotating plate-type member to be stored in a laid-down state in the width in the shorter side direction of the web unit that is formed on the upper part of the aforementioned base stand," and in [0050] of the Description that "Rotating plate 4 is a plate and has thickness in the shorter side direction. Rotating plate 4 is placed between fixed plates 3

and 3 and is movable by two rotating shafts. Therefore, guardrail 6 and rotating plate 4 can be stored in a laid-down state in the width in the shorter side direction of web unit 22 that is formed on the upper side of base stand 2. (Omitted) The width in the shorter side direction can be made thinner than supports for the generally used circular tubes or square tubes, as necessary. The present invention can achieve a downsized and light-weighted temporary safety barrier 1 and facilitate efficiency in installation and removal operations."

According to the statements in the Description related to the aforementioned findings, in light of the term "plate-type" related to "rotating plate-type member" as used in the constituent features of the Inventions, the "rotating plate-type member" resolves the problem to be solved by the Inventions by using a plate-type rotating member and by reducing the thickness of the base stand (H-section steel) in the shorter side direction. Therefore, it is reasonable to construe that it is a thin plate-type member and does not include circular tubes or square tubes.

Based on the above, the court dismissed all the Plaintiff's claims.