

Unfair Competition	Date	July 12, 2024	Court	Osaka High Court, 8th Civil Division
	Case number	2024 (Ne) 81		
- A case in which the court determined that both bankbook cases and purses sold by the Defendant fell under goods that imitate the form of the Plaintiff's goods (Article 2, paragraph (1), item (iii) of the Unfair Competition Prevention Act (hereinafter referred to as the "UCP Act")).				

Summary of the Judgment

In this case, the Appellee (the First-instance Plaintiff) argued that the sale of bankbook cases and purses by the Appellant (the First-instance Defendant) constitutes unfair competition as set forth in Article 2, paragraph (1), item (iii) of the UCP Act, and the Appellee claimed against the First-instance Defendant an injunction against the transfer of the Defendant's Goods and disposal thereof based on Article 3 of the UCP Act and claimed compensation for damages based on Article 4 of the UCP Act.

Issues in this case are [i] whether the Defendant's Goods imitate the form of the Plaintiff's Goods (existence of substantial identicalness of the form, existence of dependence) and [ii] the amount of damages to the First-instance Plaintiff.

Like the judgment in prior instance (judgment of the Osaka District Court on December 4, 2023 (2022 (Wa) 3577), website of the Courts in Japan, Vol. 103 of this magazine, page 134), concerning issue [i], this court affirmed the identicalness of the Defendant's Goods to the form of the Plaintiff's Goods and the dependence on the Plaintiff's Goods and determined that the Defendant's Goods imitate the form of the Plaintiff's Goods; and concerning issue [ii], this court found the amount of damages based on Article 5, paragraph (2) of the UCP Act (the confession was established with respect to the sale period of the Defendant's Goods, number of goods sold, and marginal profit, and there is no argument on the grounds of rebuttal of presumption), determined that all the First-instance Plaintiff's claims for injunction and disposal have grounds and that the First-instance Plaintiff's claim for compensation for damage partially has grounds, and dismissed the First-instance Defendant's appeal.