

Date	November 18, 2010	Court	Tokyo District Court, 47th Civil Division
Case number	2009 (Wa) 1193		
A case in which the court denied the infringement of a copyright for a design of a chair and upheld claims for injunction and damages based on a violation of the Unfair Competition Prevention Act for the reason that the form of the chair is a well-known indication of the goods or business			

A is a craftwork designer from Norway and created a design (Design) of a chair of which the product name is "Tripp Trapp" (Plaintiff's Products). X1 is a Norwegian company which succeeded and holds rights for A's works. X2 is a Norwegian company which manufactures and sells the Plaintiff's Products. Y is a company engaging in the business of developing, planning, designing, manufacturing, and selling nursery items, toy vehicles for children, and household goods.

X, etc. asserted that Y's act of manufacturing and selling goods that are similar to the Plaintiff's Products (Defendant's Products) constitutes infringement of X1's copyright (right of reproduction or right of adaptation) for the design of the Plaintiff's Products, constitutes infringement of X2's monopolistic right to use copyright for the Plaintiff's Products, and falls under acts of unfair competition (Article 2, paragraph (1), item (i) of the Unfair Competition Prevention Act) of using the form of the Plaintiff's Products, which is the well-known indication of the goods or business of X, etc., and claimed injunction against the manufacturing and sale of the Defendant's Products and damages against Y.

The court first dismissed the claims of X, etc. based on the copyright, ruling that the Design is not subject to protection under the Copyright Act, as it is a design of a practical item and is not recognized as having an artistic nature in its appearance sufficient to identify the Design with pure art or artistic craftwork.

Then, regarding the claims based on the Unfair Competition Prevention Act, the court ruled that said act fell under acts of unfair competition set forth in Article 2, paragraph (1), item (i) of the Unfair Competition Prevention Act, because the form of the Plaintiff's Products was recognized as having become well-known as an indication of X2's goods or business by the time that Y started selling the Defendant's Products at the latest, and the form of the Plaintiff's Products and that of the Defendant's Products are similar to each other, and therefore the act of manufacturing and selling the Defendant's Products is likely to create confusion as to the source. Consequently, the court upheld X2's claim for injunction against the manufacturing and sale of the Defendant's Products and claim for damages (incidentally, the court dismissed X1's

claims, ruling that the form of the Plaintiff's Products is not regarded as an indication of X1's goods or business).