

Patent Act	Date	November 7, 2024	Court	Osaka District Court, 26th Civil Division
	Case number	2022 (Wa) 9696 and 2022 (Wa)10968		
<p>- A case in which, concerning the patented invention for which the Defendant is a patentee, the court dismissed the Plaintiffs' claim to implement procedures for share transfer registration and to pay compensation for damages based on Article 74, paragraph (1) of the Patent Act or on the research contract agreement between the Plaintiff and the Defendant that was filed based on the allegation that the Defendant filed an application independently [ii] in violation of the obligation of consultation provided for by said agreement, [i] although the Plaintiff Representative and the Plaintiff Director are also inventors.</p>				

Summary of the Judgment

In this case, the Plaintiffs argued that they are entitled to shares in the patent under the name of the Defendant alone (Patent No. 6718561) for the invention titled "Manufacturing method of active GcMAF" (the "Invention"), and sought to implement procedures for share transfer registration, etc.

The Plaintiff and the Defendant concluded a research contract agreement and engaged in research on the Invention. The agreement stated that establishment of the right regarding any invention arising from the research should be determined through consultation, and that if the Plaintiff desired to succeed to the intellectual property rights, all the rights would be transferred in exchange for reasonable consideration. The Plaintiffs alleged that the Plaintiff Representative and the Plaintiff Director are also inventors of the Invention, but that the Defendant violated the obligation of consultation, etc. and filed an application for the Patent under the name of the Defendant alone without prior consent of the Plaintiff. Based on this allegation, the Plaintiffs sought to implement procedures for share transfer registration, etc.

In this judgment, the court denied that the Plaintiff Representative is an inventor since specific involvement in the invention could not be found, but affirmed that the Plaintiff Director is an inventor since the Plaintiff Director is found to have been involved in analysis, etc. However, in consideration of concrete correspondence during the research, the court found as follows: one of the Plaintiffs received information from the Defendant and stated to give up establishment of rights as a patent with the Invention; this does not hinder the Defendant from filing a patent application; and the Plaintiff Director waived the right to receive the patent. In conclusion, the court

dismissed the Plaintiff's claim.