

Unfair Competition	Date	October 31, 2024	Court	Osaka District Court, 26th Civil Division
	Case number	2023 (Wa) 2681 (principal action) 2024 (Wa) 585 (counterclaim)		
- A case in which the court did not find the establishment of general torts on the grounds of wrongful acquisition of trade information.				

Summary of the Judgment

In the principal action in this case, X (1) made the claim against the Defendants (Y1 is a former employee; Y2 is the spouse of Y1; Y3 is a company where Y2 is the representative director) to seek compensation for damages based on the joint tort on the assumption that Y1's wrongful acquisition of X's trade information and Y1's competitive acts, etc. during Y1's time in office and after retirement fall under torts, and selectively, (2) made the claim against the Defendants to seek compensation for damages on the assumption that the aforementioned acts of Y1 fall under non-performance and the infringement of claims is established with Y2 and Y3.

In the counterclaim in this case, Y3 made the claim against the Plaintiff to seek compensation for damages based on Article 709 of the Civil Code on the assumption that a petition for an order for provisional seizure of claims filed by the Plaintiff prior to filing the principal action (the right to be preserved is part of the claim in the principal action) is illegal.

The issues in the principal action are [i] existence of non-performance; [ii] existence of claim infringement; [iii] existence of joint tort; and [iv] amount of damages. The issues in the counterclaim are [v] illegality of the petition for an order for provisional seizure and existence of the Plaintiff's negligence; and [vi] amount of damages.

In this judgment, concerning the principal action, as to Issue [i], the court found the establishment of violation of obligation not to compete during Y1's time in office but did not find other non-performance (violation of confidentiality and violation of obligation not to compete after Y1's retirement, etc.); as to Issue [ii], the court did not find that Y2 and Y3 infringed X's claim against Y1 not to compete; and as to Issue [iii], the court denied the establishment of the joint tort. As to Issue [iv], X did not argue or prove damages that have a corresponding causal relationship with Y1's non-performance and Article 248 of the Code of Civil Procedure cannot be applied. As to Issue [v], the court denied X's negligence when filing the petition for an order for

provisional seizure. In conclusion, the court dismissed the claims in both the principal action and the counterclaim.