

Patent Right	Date	November 15, 2024	Court	Tokyo District Court, 29th Civil Division
	Case number	2024 (Wa) 70106		
- A case in which the court found that a non-exclusive license agreement had been cancelled due to the default of obligation.				

Summary of the Judgment

1. This is a lawsuit in which the Plaintiff demanded that the Defendant pay royalties for the period from January to March of 2024 in total amount of six million yen, pursuant to a non-exclusive license agreement to use the patent rights concluded between them (the "Agreement").

The issue disputed in this case was whether or not the Agreement was cancelled.

In this judgment, the court held as follows: even in the case where a non-exclusive license was granted to a third party without prior consent from the patent right holder, it is still possible to obtain the consent from the patent right holder after the conclusion of the license agreement; therefore, even in the case where a person not authorized to grant a non-exclusive license grants a non-exclusive license to a third party, it is not always necessary to repudiate the effect of the agreement between the parties that concluded the agreement; however, the person who granted the non-exclusive license without the authority to grant a non-exclusive license is understood to have an obligation to acquire the authority to grant the non-exclusive license for the non-exclusive licensee pursuant to Articles 559 and 561 of the Civil Code, as such license agreement can be considered as an agreement whose subject-matter is another person's right. In conclusion, the court held that there is a default on the part of the Plaintiff as it did not obtain the consent to grant the non-exclusive license for the Defendant from the joint holders of a part of the patent rights in question, and therefore, the Defendant's allegation that the Agreement was cancelled is found to be well-grounded.