

Design Right	Date	November 6, 2018	Court	Osaka District Court, 21st Civil Division
	Case number	2016 (Wa) 12791		
- A case in which the court partially approved the Plaintiff's claims, including a claim for an injunction against the manufacture and sale of Defendant's Product based on a design right for a partial design, whose article to the design is "lighting equipment for testing".				

### Summary of the Judgment

The present case is one in which the Plaintiff, who has the design right for a partial design, whose article to the design is "lighting equipment for testing", asserted that the design of the six products which are manufactured and sold by the Defendant are similar to the above partial design, and filed against the Defendant a claim for an injunction against the manufacture and sale of the Defendant's Product, a claim for compensation for damage on the basis of an act of tort of infringement of a design right, and a claim for restitution of unjust enrichment in the amount equivalent to royalties.

In the judgment of the present case, the court first ruled on the defense of invalidity of a design right as asserted by the Defendant, and rejected the Defendant's claim of invalidity entirely.

Next, the court determined whether or not the Partial Design and the design of the Defendant's Product are similar, and determined the important part of the Partial Design by taking into account, in addition to the publicly known designs which were cited by the Defendant in its argument on invalidity, the belief that consumers of lighting equipment for testing, which requires heat dissipation, would focus on how the members are configured or placed in the Partial Design from the perspective of heat dissipation efficiency. As such, the court determined that the Defendant's Product is partially similar in design to the Partial Design, and thus acknowledged that there is infringement of a design right.

As for the amount of damages suffered by the Plaintiff, the court took into account circumstances such as that many of the commonalities between the Partial Design and the design of the Defendant's Product, with respect to which infringement was acknowledged, are configurations which were widely known from before an application for registration of the design of the present case was filed, and that consumers focus mostly on the performance and functions of the lighting equipment for testing per se and are not greatly motivated into purchase by the similarities with the Partial Design. In determination of the amount of damages suffered by the Plaintiff, the court also took into consideration the degree of contribution made by the

Partial Design, and determined that the rate of royalties is not high. In light of these factors, the court partially approved the Plaintiff's claims for compensation for damage and for restitution of unjust enrichment.