

Date	March 7, 2013	Court	Osaka District Court, 26th Civil Division
Case number	2012 (Wa) 4224		
– A case in which the court found that the design in question for the goods, i.e., a slot machine partition, may not be considered to be similar to the design for the defendant's goods by holding that the two designs were different as a whole in terms of the aesthetic impression visually perceived by consumers.			

This is a case where the plaintiff, which owns a design right (the "Design Right") for the design (the "Design") of the goods, i.e., a slot machine partition, alleged that the design of the defendant's goods, i.e., a slot machine partition manufactured and sold by the defendant, is similar to the Design, and demanded damages and an injunction against the defendant's manufacturing, assignment, etc., of the defendant's goods. There was a consensus that the defendant's goods, i.e., a slot machine partition, may be considered to be identical to the goods pertaining to the Design.

The major issue in this case is the question of similarity between the Design and the design of the defendant's goods (the "defendant's design").

In this judgment, the court found that, from the viewpoint of "consumers" (Article 24, paragraph (2) of the Design Act), the configuration of the anterior part of the partition may be regarded as the main feature of the Design. In consideration of well-known designs as well as the relatively simple structure of the Design, the court found that the difference between the two designs in terms of the main feature is sufficient to cause a difference in aesthetic impression. Furthermore, the court pointed out the existence of a significant difference in addition to said difference in the main feature and found that the Design and the defendant's design are not considered to be similar due to the difference as a whole in terms of the aesthetic impression created in the eyes of consumers. On these grounds, the court dismissed the plaintiff's claims.