

Patent Right	Date	January 17, 2020	Court	Tokyo District Court, 40th Civil Division
	Case number	2017 (Wa) 28189		
- A case in which Plaintiff's claims for injunction of manufacture, use, transfer, and the like of wet wipes, disposal of the product, and compensation for damage on the ground of the patent right of the invention titled "LAMINATED BODY OF SEAL-SHAPED ARTICLE" were dismissed.				

Summary of the Judgment

This case is a case in which Plaintiff having the patent right (Patent No. 3877000) of the invention titled "LAMINATED BODY OF SEAL-SHAPED ARTICLE" asserted that manufacture/sales of the wet wipes (each of Defendant's products) by Defendant infringes Plaintiff's patent right and claimed injunction of manufacture, use, transfer, and the like of each of the Defendant's products, disposal of each of the Defendant's products, and payment of 22,000,000 yen as a part of compensation for damage against Defendant.

The issues of the present case are [i] whether each of the Defendant's products belongs to the technical scope of the Present Invention and the invention after the correction (hereinafter, referred to as the "Present Corrected Invention" and referred to together with the Present Invention as the "Present Invention and the like"); [ii] presence/absence of invalidation reasons for the Present Invention; [iii] establishment of re-defense of correction; [iv] presence/absence of invalidation reasons for the Present Corrected Invention; and [v] Plaintiff's damage after the correction and the amount thereof.

The judgment held that each of the Present Invention and the like is found to be an invention characterized in that [i] it is related to a laminated body of laminated sheet-shaped articles constituted so that wet wipes can be taken out continuously; [ii] the size of a package body is as a conventional one, but problems are to provide a structure in which a sheet-shaped article with a larger size can be laminated and to provide a laminated body of a sheet-shaped article with stable feeling when the package bodies are stacked; [iii] in the sheet-shaped article having a first intermediate piece, a second intermediate piece, and a first folded piece, a second folded piece that is folded back to an upper side in a laminating direction from the first intermediate piece and adjusted so that the first intermediate piece has a desirable width dimension of the laminated body and has a width of 1/2 or less or less than that of the first intermediate piece is provided, and when the sheet-shaped article is laminated in a state folded so as to be symmetrical, a mountain part formed by the first intermediate

piece and the second folded piece of each of the odd numbered (even numbered) sheet-shaped article to be laminated subsequently overlaps with a valley part formed by the first intermediate piece and the second intermediate piece of each of the even numbered (odd numbered) sheet-shaped article so as to form the laminated body of the sheet-shaped article, whereby [iv] the laminated body of the size equal to the conventional one can be formed by the sheet-shaped article of the size larger than the conventional only by an area portion of the second folded piece, and a thick part is formed by a portion in which the second folded piece is provided, and an effect that stable feeling can be improved when the laminated bodies are overlapped is obtained. Further, the wording "substantially" referred to in the constituent feature C that "the second intermediate piece folded to a lower side in the laminating direction on a folding line in parallel with one side of the aforementioned sheet-shaped article and formed having a width of substantially 1/2 of the aforementioned first intermediate piece and adjacent to the aforementioned first intermediate piece" and the like, indicates approximation to such a degree that can be considered to be similar to the numerical value, though it does not match the numerical value accurately or completely, and the width of the first intermediate piece of the Present Invention and the like is specified to have a length substantially the same as the width of the laminated body, but if the length of the second intermediate piece and that of the first folded piece with substantially the same width are made smaller than half of the width of the first intermediate piece, even if the second folded piece is provided, the size of the entire sheet-shaped article becomes smaller than the conventional one by that portion, and the effect in [iv] cannot be obtained by solving the problem in the aforementioned [ii]. On the other hand, if the width of the second intermediate piece is made longer than half of that of the first intermediate piece, the second intermediate pieces overlap each other at center parts, and the entire bulky state becomes unstable and hinders solution to the problem and thus, in order to exert the desired effect, it is desirable that the width of the second intermediate piece is made closer to half of the first intermediate piece as much as possible within a range not exceeding that. Thus, even if the wording "substantially 1/2" referred to in the constituent feature C does not require an accurate half, the numerical value is supposed to be approximate to this as much as possible, and even by examining various errors, stretchability, and the like of the sheet-shaped article, it was considered to be reasonable to understand that, if the width of deviation from half of the first intermediate piece is not within a range of approximately 10%, it does not fall under "substantially half". And according to the measurement result of each of the Defendant's products, in view of an average ratio of

the width of the second intermediate piece to half of the width of the first intermediate piece in the entirety of each of the Defendant's products, the rate of those with the ratio within the range of 90 to 100%, and distribution thereof and the like, it is not found that each of the Defendant's products fulfills the constituent feature C, and all the claims by Plaintiff were dismissed.