

Patent Right	Date	May 28, 2020	Court	Osaka District Court, 26th Civil Division
	Case number	2018(Wa)4851		
<p>- A case in which the court found patent infringement for part of the products from among the Plaintiff's claims for an injunction against the manufacturing and sale, etc. of clamps and speed control valves based on the patent right related to the patent for the invention titled, "Clamping device," disposal of the products and semi-finished products, and payment of compensation for damages.</p>				

### Summary of the Judgment

In this case, the Plaintiff, who has the patent right related to the patent for the invention titled, "Clamping device," (the "Invention"), alleged that the manufacturing and sale, etc. of the Defendant's products (a swing clamp, link clamp, and speed control valve that can be attached to the former two) constitute an indirect infringement of the patent right in question and made claims for an injunction against the manufacturing, sale, etc. of the Defendant's products, disposal of the Defendant's products and semi-finished products, and payment of compensation for damages based on the tort, etc.

The major issues disputed in this case were: [i] whether there is a literal infringement concerning the swing clamp from among the Defendant's products; [ii] whether there is an infringement under the doctrine of equivalents concerning the link clamp; [iii] whether there is essentiality for solving the problem concerning the speed control valve; and [iv] the amount of damages (the degree of reduction of the estimated amount of damages pursuant to Article 102, paragraph (2) of the Patent Act).

In this judgment, concerning issue [i], the court found literal infringement and indirect infringement. However, concerning issue [ii], the court made a determination concerning the details under which the Plaintiff amended the claims twice, and found that it was construed that the Plaintiff recognized that the structure stated in the claims after the first amendment included both types of clamping equipment, i.e., swing clamp-type and link clamp-type, but the Plaintiff objectively and externally expressed its intention of not having included the link clamp-type clamping equipment in the claims on purpose through the second amendment that the Plaintiff made in response to the notice of grounds for rejection, and that it lacks the 5th requirement of the doctrine of equivalents. Accordingly, the court ruled that an infringement under the doctrine of equivalents was not established.

Concerning issue [iii], the court found as follows: the "flow regulating valve" of the

Invention (the speed control valve of the Defendant's product falls under this) can be said to be a distinguishing component, etc. in the distinguishing technical means that is newly disclosed by the Invention and falls under a component "indispensable for the resolution of the problem by the invention" (Article 101, item (ii) of the Patent Act); although there are circumstances that it is used not only with a swing clamp, but also with a link clamp, etc., there are circumstances where it is highly probable that persons, who are in the scope that cannot be said to be exceptional, from among persons who purchase the "flow regulation valve," may use it for patent infringement and the Defendants have recognized and accepted that fact; and therefore the establishment of an indirect infringement cannot be denied.

Concerning issue [iv], the court found as follows: in consideration of such facts as that the "flow regulation valve" is a distinguishing component, etc. of the Invention, that the Defendants' products include a swing clamp, which is a model other than those to which the speed control valve can be attached, the fact that the speed control valve can be attached is a strong attraction for customers who intend to purchase swing clamps to which a speed control valve can be attached; therefore, the estimated amount of damages based on Article 102, paragraph (2) of the Patent Act may be reduced by up to 20%. Regarding the speed control valve, the court found that the fact that it can be attached to multiple types of devices falls under circumstances to reduce the estimated amount of damages and allocated the estimated amount of damages in accordance with the type of the device and amount of sales.