

Guidelines on the Call for Opinions

This is to notify that it was decided to seek from the general public submission of written opinions in the following manner with regard to the following case that is pending at 1st Division of the Intellectual Property High Court.

Submitted written opinions will become materials to be referred to by the court in making a judgment only after they are then submitted by the parties to the case as evidence (the parties to the case may not submit some of the written opinions as evidence). Please note that written opinions submitted by the parties to the case as evidence, in principle, become subject to inspection and copying under Article 91 of the Code of Civil Procedure.

1. Case number, etc.

1st Division, Intellectual Property High Court

2022 (Ne) 10046, Appeal case of seeking an injunction, etc. based on patent infringement

(Prior court: Tokyo District Court; 2019 (Wa) 25152)

Appellant: DWANGO Co., Ltd.

Appellee: FC2, INC.

Appellee: Homepage System, Inc.

2. Summary of the case

As described in the attachment.

The original decision is available on the website of the Court in Japan.(Japanese only)

(URL:https://www.courts.go.jp/app/files/hanrei_jp/124/091124_hanrei.pdf)

3. Subject matters

- 1 In terms of a “system” invention comprising a server and a plurality of terminal devices as components, when the server is provided and exists outside Japan, may it constitute “producing” as a working act of the invention (Article 2(3)i of the Patent Act)?
- 2 If it may constitute “producing” in the question 1 above, what requirements should be met to constitute “producing”?

4. Place and method, etc. of submission of written opinions

Please send one original set of written opinions to the following address by mail. Please prepare written opinions in Japanese or English. If you prepare written opinions in a language other than Japanese or English, please attach a Japanese or English translation thereof.

Incidentally, expenses for preparation, submission, etc. of written opinions are to be borne by the person who submits the written opinions.

The Intellectual Property High Court is moving to a new office on October 11, 2022, so please submit opinions to the address below according to the submission date.

Until October 10

1st Division, Intellectual Property High Court
Kasumigaseki 1-1-4, Chiyoda-ku, Tokyo 100-8933

After October 11

1st Division, Intellectual Property High Court
Nakameguro 2-4-1, Meguro-ku, Tokyo 153-8537

5. Format of written opinions

Please write opinions horizontally on A4 paper.

The title of written opinions is to be "Opinions," and please make sure to write the case number and the name of the person, organization, etc. who prepared the written opinions (please use the attached format as a reference).

6. Period for the call for opinions

From September 30, 2022 to November 30, 2022

7. Contact

1st Division, Intellectual Property High Court

Until October 7

Telephone: 03-3581-1724

After October 11

Telephone: 03-5721-3112