

Reduction Gear Case
(Use of a registered design where the essential features of the design are not part of the external appearance of the product does not constitute infringement)

Tokyo High Court
Case H15(Ne)No1119(June 30 2003)

FACTS

The plaintiff owns a design right relating to a reduction gear. The defendant manufactured and sold a motor equipped with a reduction gear (Product A). Subsequently, the defendant manufactured and sold another reduction gear (Product B) which is a shape-modified version of the reduction gear part of Product A. The plaintiff X brought suit against the defendant Y in Tokyo District Court because the design right of this matter is recognized to be infringed by the defendant Y.

DISPOSITION IN THE LOWER COURT

Tokyo District Court found that the reduction gear of the registered design was different from the reduction gear manufactured by the defendant and that the two reduction gears were neither identical nor similar. Even if the reduction gear of the defendant were to be recognized as utilizing the registered design owned by the plaintiff, in this case the defendant does not infringe the design right of the plaintiff because the essential features of the reduction gear cannot be seen from the outside of the product.

ISSUE

If the essential features of a registered design are not recognizable in the external appearance of a product manufactured by a possible infringer, does the product still infringe the plaintiff's design right by using the design?

HOLDING

The Tokyo High Court affirmed the decision of Tokyo District Court, holding that the Design Law protects the external appearance or features of a product but that hidden features that are not externally identifiable do not infringe the design right