

## Compensation for Patent Infringement

A distributor of juicers had a patent right (or exclusive license) on a special type of juicer, and discovered that a household appliance manufacturer was selling another kind of juicer that potentially infringed on the distributor's patent right. The distributor brought litigation against the manufacturer seeking an injunction on sales of the manufacturer's juicer, among other remedies.

This case was unique in that the manufacturer's juicer didn't actually fall within the scope of the distributor's patent claim. The manufacturer had apparently based its juicer design on the essence of the distributor's patent, but changed a minor portion of its design to avoid directly copying and infringing the patent. Consequently, the question of patent infringement in the litigation hinged on whether the "Doctrine of Equivalence" could be applied to this case. The "Doctrine of Equivalence" is an idea that allows a court to hold a party liable for patent infringement where an infringing device or process does not literally fall within the scope of the patent claim, but that infringing device or process is nevertheless substantially equivalent to the literal description of the patented invention.

KLO was engaged to represent the distributor. It is not easy to convince the court to apply the "Doctrine of Equivalence" because it's an unusual exception to orthodox patent rights – particularly in Japan. KLO put extensive efforts into showing that the essential parts of the invention were the same. The court ultimately ruled in favor of our client, the distributor, for the reasons we had argued, and ordered the manufacturer to stop selling their juicer and compensate the distributor for all damages suffered.

Locations in which this case decision was published or cited:

- The Invention (Gekkan Hatsumei) December 2016 issue p. 37
- Japanese Court Website: [http://www.courts.go.jp/app/hanrei\\_jp/detail7?id=85990](http://www.courts.go.jp/app/hanrei_jp/detail7?id=85990)