

## ***Toyo Kitchen and Living v. Matsuoka Seisakujo***

**IP High Court (January 31, 2011)**

### **Factual Background**

This is a patent infringement case, on appeal from the district court.

The appellant, Toyo Kitchen and Living (“Toyo”), who was the plaintiff in the lower court, holds patent number 3169870 (JP-3169870-B; “the ‘870 patent”) directed to a kitchen sink.

The sink described in the ‘870 patent has upper and middle ribs formed in opposed front and rear sides of the sink that are configured to support an identical shelf or plate across the sink. The rear wall of the sink tapers down and away, i.e., toward the rear of the sink, in the area between the upper and middle ribs (“the tapered rear wall element”). This configuration accommodates large utensils and foods without enlarging the top opening of the sink.

The appellee, Matsuoka Seisakujo (“Matsuoka”), the defendant in the lower court, manufactures a kitchen sink (the “3 Step Sink”) and a kitchen sink unit.

Toyo sued Matsuoka, asserting that Matsuoka’s 3 Step Sink and the kitchen sink unit infringed its ‘870 patent.

### **Disposition in the lower court and arguments on appeal**

Toyo sought an injunction on the manufacture, sale, and exhibiting for sale of both Matsuoka’s 3 Step Sink and kitchen sink unit, and money damages of almost 30 million yen. Matsuoka countered that the 3 Step Sink did not belong to the same technical field as the ‘870 patent. Matsuoka further argued that the kitchen sink unit did infringe the patent but that Toyo deserved only 18,000 yen in damages.

The district court ruled that Matsuoka’s 3 Step Sink did not infringe Toyo’s ‘870 patent but that the kitchen sink unit did, and awarded Toyo damages of 18,000 yen plus interest. Toyo appealed.

Claim 1 of the ‘870 patent contains the following limitation:

“wherein the rear wall surface, between the upper rib and the middle rib, tapers rearward towards the bottom [of the sink]”

On appeal, Matsuoka argued that its 3 Step Sink did not infringe because the rear wall of the sink was not a continuously slanted but included a vertical portion, and thus did not meet this tapered rear wall element of the ‘870 patent. Matsuoka further

argued that, even if there were a tapered rear wall in its sink, that portion was below the middle rib, not between the upper and middle ribs as claimed in the '870 patent.

### **Issue**

The question is whether or not Matsuoka's sink satisfies the tapered rear wall element of claim 1 of the '870 patent. The answer depends on how the claim term "tapered" is interpreted. That is, does "tapered" mean a continuous slant, or can it include a vertical section?

### **Holding and reasoning**

In one embodiment described in the '870 patent, the rear wall between the upper and middle ribs tapers continuously toward the rear of the sink, and therefore excludes vertical sections. However, the specification also states that the invention is not limited to such a configuration and may be any shape provided that the board can be laid across the sink between the upper and middle ribs. Therefore, the IP high court ruled that the tapered rear wall does not require a continuous, unbroken outward slant but may include vertical sections therein.

In this case, Matsuoka's 3 Step Sink has ribs integrally formed with the walls of the sink, and the rear wall tapers down and away. Also, the rear wall continues to taper down and away below the middle rib, thus maintaining the same front-to-back distance between the upper ribs as between the middle ribs, as in the '870 patent.

(The court declined to accept Matsuoka's interpretation that the ribs function as shelf bearings and therefore are not wall surfaces.)