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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" ) is the patent holder of the present patent (JP3169870).  
The appellee, Matsuoka Seisakujo ( "Matsuoka" ) manufactures and sells a sink (name of article: "3StepSink" ), which is hereinafter called "the alleged infringement device" .

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

In the lower court, the judges ruled that the alleged infringement device does not fall into the scope of the present patented invention, and therefore, the demand of Toyo (appellant), which includes the injunction of manufacturing and selling of the alleged infringement device by Matsuoka, and the damages) was dismissed.  
On appeal, appellant (plaintiff) asserted that the alleged infringement device falls into the scope of the present patented invention, and demanded the injunction and the damages.

#### Issue

The issue in this case is whether the alleged infringement device falls into the scope of the present invention, in particular, the device is equipped with Element C1.  
Specifically, the issue is whether Element C1 "the rear side surface forms an inclined surface which extends in a direction toward the back side with movement to the lower side, between said upper step portion and said inner step portion" requires that the whole surface between the upper step portion and the inner step portion forms an inclined surface which extends in a direction toward the back side with movement to the lower side.

#### Holding and reasoning

The Intellectual Property High Court ruled that it is not required in the present patented invention that the whole surface between the upper step portion and the inner step portion forms an inclined surface which extends in a direction toward the back side with movement to the lower side, and therefore the alleged infringement device is equipped with Element C1 of the present patented invention and it falls into the scope of the invention.

The IP High Court showed reasoning for the above-described holding as set forth in the following.  
In the description of the embodiments of the invention, the whole rear side surface between the upper step portion and inner step portion is the inclined surface extending in a direction toward the back side and a vertical portion does not exist. In the specification of the present patent, however, it is described that "the present invention should not be limited to the above-described embodiments, and various modifications can be made" and that "surface 8i located at the rear side of sink 8g does not necessarily form upper inclined surface 8p extending in a direction toward the back side with movement to the lower side between upper step portion 8f and inner step portion 8n via second step portion 8b, the shape of surface 8i is arbitrarily modified, as far as it extends in a direction toward the back side such that the same plate can be put on both upper step portion 8f and inner step portion 8n" . Taking the above description into consideration, the all the shapes of the rear side surface which are able to make the gap at the upper step portion in the front-back direction and the gap at the inner step portion in the same direction equal by applying an inclined surface extending in a direction toward the back side with movement to the lower side, should be covered by the scope of the present invention.