# The TRIPP TRAPP Chair Decision: The Supreme Court's New Standard for Copyright Protection of Mass-Produced Utilitarian Goods

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## I. Introduction

The "TRIPP TRAPP" children's chair ("**TRIPP TRAP**"), which was created in Norway in 1972, is widely known as a long-selling product with cumulative global sales of 14 million units. On April 24, 2026, in a copyright infringement lawsuit litigated in Japan over this chair, the Supreme Court of Japan issued the first ruling establishing the criteria for copyrightability of mass-produced utilitarian goods. This article explains the ruling and its practical implications.

## II. Overview of the Case

Norwegian companies Stokke AS and Peter Opsvik AS (collectively, the "**Plaintiffs**") filed a lawsuit claiming that the design of the product (Figure 1 below) manufactured and sold by the defendant, Noz Co., Ltd. (the "**Defendant**"), was similar to the TRIPP TRAPP product design (Figure 2 below) thereby infringing the Plaintiffs' copyrights. Among other claims, the Plaintiffs sought an injunction against the manufacture and sale of the Defendant's product as well as damages.

**Figure 1: The Defendant's Product**[1]

**Figure 2: TRIPP TRAPP**[2]

1. *Peter Opsvik AS, et al. v. Noz Corp.*, Intellectual Property High Court, Sept. 25, 2024, 2023 (Ne) No. 10111, appeal from the Tokyo District Court, 2021 (Wa) No. 31529, *"List of Defendant's Products,"* at 35, available at https://www.courts.go.jp/assets/hanrei/hanrei-pdf-93391.pdf (in Japanese).
2. *Id., "List of Plaintiffs' Products,"* at 33.

Both the trial court and the appellate court rejected the Plaintiffs' copyright infringement claim. The Supreme Court later dismissed the Plaintiffs' appeal and upheld those decisions.[3]

## III. The Pre-Ruling Landscape: The Long-Standing Issue About the Distinction between Copyright Law and Design Law

The significant attention that this case attracted stems from a long-unresolved issue in Japan's intellectual property legal system.

In Japan, the protection of designs for mass-produced utilitarian goods is primarily governed by the Design Act[4] (the "**Design Act**"). The Design Act applies to any "design," which refers to the shape, pattern, or color, or any combination thereof, of an article (or part thereof), which is aesthetically pleasing in its visual presentation (Design Act, art. 2, para. 1). Design rights arise from the process of application, examination, and registration. The term of protection for design rights is 25 years from the filing date, and the scope of protection of such rights is limited to commercial acts.

By contrast, copyright is protected by the Copyright Act[5] (the "**Copyright Act**"). It arises automatically upon creation with no registration required, lasts, in principle, for 70 years after the author's death, and extends beyond commercial acts. Furthermore, in addition to the economic rights arising from copyright, copyright also gives rise to moral rights (e.g., the right of attribution, the right of integrity, etc.), which cannot be transferred or waived.

The gap between these two legal systems is significant. If the Copyright Act were to be applied broadly to designs of mass-produced utilitarian goods, the need to go through the time and expense of design registration could diminish, potentially undermining the very purpose of the Design Act. There were also concerns about the practical impact on industry, such as the exercise of moral rights obstructing the distribution of products, or competitors being prevented from adopting similar designs long after the expiration of the term of protection of design rights.

These concerns have been raised for some time, but the Copyright Act has no explicit provisions on applied art. While a work of artistic craftsmanship is explicitly included in an "artistic work" (Copyright Act, art. 2, para. 2), there is no provision on mass-produced utilitarian goods. Lower court rulings have also been inconsistent on the question of when mass-produced utilitarian goods could qualify for copyright protection. Thus, the ruling in this case is significant in that the Supreme Court directly confronted this issue for the first time and established a unified standard.

## IV. The Criteria Established by the Supreme Court

### 1. Analytical Framework and General Principles

The Supreme Court set out the following analytical framework.

As a starting point, the Supreme Court held that, in the case of mass-produced utilitarian goods (defined as "goods intended to be mass-produced and put to practical use in everyday life"), even if something constitutes "a creatively produced expression of thought or sentiment," it should not be interpreted as

3. Supreme Court, April 24, 2026, unreported but available at https://www.courts.go.jp/assets/hanrei/hanrei-pdf-95904.pdf (in Japanese).
4. Design Act, Act No. 125 of April 13, 1959, as last amended by Act No. 68 of June 17, 2022.
5. Copyright Act, Act No. 48 of May 6, 1970, as last amended by Act No. 33 of May 26, 2023.

automatically qualifying as a "work" falling within the "artistic domain." [6]

As its rationale, the Supreme Court cited differences between the Design Act and the Copyright Act in terms of their respective subject matter, purpose, requirements, procedures for protection, scope of rights, and duration. The Supreme Court stated that recognizing the broad protection under the Copyright Act in addition to the Design Act for the shapes and other features of mass-produced utilitarian goods could undermine the significance of the Design Act and impede its goal of contributing to the development of industry.

## 2. Specific Criteria for Copyrightability: "Conceptual Distinction" Test

The Supreme Court then established the following standard for when copyright protection may be recognized for mass-produced utilitarian goods:

> Where the shape or other features of all or part of a mass-produced utilitarian good can be **conceptually understood as distinct from the configuration derived from the functions required for its utilitarian purpose, and as a creative expression of thought or sentiment**, then all or part of such good shall qualify as a "work" falling within the "artistic domain" (Copyright Act, art. 2, para. 1).

The ruling provides two illustrative scenarios in which this standard is typically satisfied.

- **First Type (Addition of a Work of Art):** Where the shape of the added portion is unrelated to its function and can be conceptually understood as a painting or sculpture distinct from the configuration derived from its function. For example, where decoration exceeding the level of mere patterns or surface treatment has been added to the surface of a product.

- **Second Type (Shapes Perceivable as a Sculpture, etc.):** Where the shape of all or part of a product, while related to its function, can nonetheless be conceptually understood as a sculpture, etc., distinct from the configuration derived from its function. For example, where the product, as a whole, can be perceived as a sculpture, etc. The Supreme Court emphasized that such shapes are "exceptional" among mass-produced utilitarian goods.

## 3. Application to TRIPP TRAPP

Applying the above criteria to the case at hand, the Supreme Court denied copyright protection.

TRIPP TRAPP is a mass-produced utilitarian good. The Plaintiffs argued, in essence, that the TRIPP TRAPP's creativity lies in the fact that it has two legs rising from the floor in an approximately 66-degree L-shape, with a seat board and footrest board fixed parallel to the floor between the two legs. The Supreme Court, however, held that this feature merely provides grounds for concluding that the arrangement of the legs, seat board, and footrest board—all of which are configurations derived from the function of a children's chair—creates an aesthetically pleasing appearance. The Court concluded that the shape of the TRIPP TRAPP as a whole or in part can only be understood as a configuration derived from its function as a children's chair, and not one that is distinct from that configuration as a creative expression of thought or sentiment.

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6. Under the Copyright Act, a "work" eligible for copyright protection is defined as "a creatively produced expression of thoughts or sentiments that falls within the literary, academic, artistic, or musical domain" (Copyright Act, art. 2, para. 1). In practice, disputes have predominantly focused on whether a given subject matter constitutes "a creatively produced expression of thoughts or sentiments," and it has been rarely at issue whether it falls "within the literary, academic, artistic, or musical domain" because it has been generally assumed that the question of which domain a work falls within was of little significance.

This conclusion is a separate matter from how excellent the TRIPP TRAPP's design may be. The question is not "is it beautiful?" or "is it original?" but rather "does there exist a creative expression that can be conceptually distinct from its function?" Even a world-renowned iconic design cannot receive copyright protection under this standard if its shape is inseparably bound to its function.

## V. Supplementary Opinion by Justice Ojima: A Comparative Law Perspective

Justice Ojima wrote a supplementary opinion that examined the significance of this ruling from a comparative law perspective and provided insightful perspectives.

The Plaintiffs had argued, relying on statutes and judicial practice relating to applied art in the United States and various European countries, that TRIPP TRAPP should also be protected as a copyrighted work. The supplementary opinion responded to this by noting that the Berne Convention leaves the design of the relationship between applied art and industrial design to each member country's legislation, and that in drawing lessons from other countries' systems, it is necessary to consider each country's history, social circumstances, the actual structure of its laws, and the intent of its case law.

Justice Ojima outlined the key differences between Japanese law and the legal systems of the U.S. and Europe:

- **In the United States,** there is an explicit statutory provision regarding the design of a useful article in the U.S. Copyright Act (17 U.S.C § 101) and a body of case law has developed around this provision addressing separability and independent existence. Moreover, moral rights are not broadly recognized in the U.S. Copyright Act in any clearly defined form, and enforcement of rights requires registration with the Copyright Office. These are substantial differences compared to Japanese law.

- **In Europe,** against a backdrop of traditionally strong competitiveness in design and brand industries, EU law provides overlapping protection of product designs through both copyright and design rights, and some countries have systems where design rights can arise even without going through a formal examination. This again reflects a legal framework that is quite different from Japan's.

The supplementary opinion states that, under Japan's legal framework, it is necessary to rationally demarcate the respective scopes of the Copyright Act and the Design Act by carefully weighing the purposes of each law and balancing the interests at stake.

## VI. Practical Implications

The ruling of the Supreme Court offers the following insights for intellectual property strategies of companies involved in product design.

- **Priority of Design Registration:** The Supreme Court has clarified that, in Japan, the primary means of protecting the design of mass-produced utilitarian goods is the Design Act, not the Copyright Act. Companies should be aware that a design enjoying copyright protection in its home country may not receive legal protection in Japan without a registered design right.

- **Possibility of Copyright Protection:** The standard established in this ruling does not categorically exclude mass-produced utilitarian goods from copyright protection. Copyright may still be recognized where independent artistic elements have been added to a product, or where the product's shape can be conceptually understood as a sculpture, etc., distinct from its function. Judgments regarding highly design-

oriented products will continue to be made on a case-by-case basis.

- **Future Developments:** As Justice Ojima acknowledged in his supplementary opinion, the standard established in the ruling was formulated at a high level of abstraction, and its specific application will require the accumulation of lower court precedents. Developments in new case law should be continuously monitored.

## VII. Conclusion

The ruling in the TRIPP TRAPP case is an important landmark in Japan's intellectual property legal system. Its significance lies in the Supreme Court's first establishment of a unified standard for determining whether mass-produced utilitarian goods qualify for copyright protection, a question on which lower courts have previously reached inconsistent conclusions.

The core of that standard is the "conceptual distinction" between the creative expression and the functional configuration of a product. It has been made clear that, under this standard, most shapes and features bound up with function will not receive copyright protection in Japan. When considering the protection of product designs, a rights strategy centered on design registration remains indispensable in Japan.

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