第１８回知的財産翻訳検定＜第１０回和文英訳＞

１級　知財法務実務　標準解答

解答例その１

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The plaintiff argues that one can comprehend that the slant angle of the spiral groove 27 is approximately 20 degrees from Figure 2 in each of the specifications of the basic applications and that it is obvious to a person of ordinary skill in the art based on the figures and the description in the specification that the range between 10 degrees and 30 degrees can be set by adding 10 degrees to or subtracting 10 degrees from the median of 20 degrees.

However, Figure 2 in each of the specifications of the basic applications is, as mentioned above, only a magnified development view of the lower sliding part of the clamp rod, i.e., a patent drawing showing a mode of arrangement of the four guide grooves 26, which is not determined to be a drawing that is illustrated accurately enough to allow one to comprehend dimension values and/or angle values with respect to each guide groove, unlike a design drawing. Therefore, we believe that the specific slant angle of 20 degrees regarding the spiral groove 27 cannot be read from a patent drawing such as the above.

Even if it is possible to read that the specific slant angle of the spiral groove 27 is approximately 20 degrees from Figure 2 above, there is no reason to take the approximate 20 degrees as a median since Figure 2 cannot be understood as a figure indicating the slant angle of the spiral groove as the median. Further, it is not rational to set the approximate 20 degrees as above as a median and then define the range of the slant angle of the spiral groove 27 by setting an upper and lower limit values by adding 10 degrees to or subtracting 10 degrees from the median of 20 degrees.

In summary, it should not be admitted that each specification of the basic applications describes the range of the slant angles defined with the upper limit of 30 degrees and the lower limit of 10 degrees, and therefore that the range definition is obvious to a person of ordinary skill in the art .

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解答例その２

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Through comprehensive consideration of the above, it is obvious before us that the

matters of the present patent invention 1 below are not described in the specifications, etc. of the first to the third basic applications which serve as bases of the priority claim: regarding the above second sliding part 12 supported with the second edge wall 3b by being tightly fit thereto, setting the slant angle A of the above spiral groove 27 within the range between 10 and 30 degrees where the outer peripheral plane of the second sliding part 12 is expanded.

Therefore, regarding application of Articles 29 bis, 29 and 39 of the Patent Act to the present patent invention 1, since the benefit of claiming priority cannot be entertained or the application of the patent invention 1 cannot be deemed to be filed at the time of filing of the prior applications, the reference date of October 2, 2002 is observed as an actual filing date of the application of the present patent 1.

(6) Here, as mentioned in 2-1(4) above, since the fact reveals that product A was manufactured and sold before the reference date of (5) above, the present patent invention 1 should be determined as not being novel because it was publicly exploited and manufactured and sold before filing of the application .

In other words, since the present patent 1 is determined to be invalidated through an administrative appeal for invalidation of patent according to the provisions of Article 123 (1)(ii) and 29(1)(ii) of Patent Act, the plaintiff cannot enforce the patent right on the defendant based on the present patent right 1. Therefore, we determine that the complaint of the plaintiff against the defendant based on the present patent right 1 has no reason without determining the other issues.

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