受験番号：14IPL003

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PAC Case

Tokyo Intellectual Property High Court
Case No. H23 (Ne) 10031
January 31, 2012

(Plaintiff-appellants: Nakata
Yasuda Seisakusho)
(Defendant-appellees: Carbo-tec
Carbo-tec Hida
Yamashita Mokuzai
Seiki)

FACTS

This is an appeal from the Tokyo District Court, seeking money damages and injunctive relief.
Plaintiff-appellants Nakata and Yasuda Seisakusho jointly own Japanese Patent No. 3364065 issued October 25, 2012 (“the ‘065 patent”) for an invention titled “Carbonization Method” .

The invention involves a method of manufacturing powdered activated carbon or powdered activated charcoal (PAC).

Nakata and Yasuda Seisakusho sued the above appellees, asserting that the above appellees’ method infringed upon Nakata’s 065 patent.

DISPOSITION IN THE LOWER COURTS AND ARGUMENTS ON APPEAL

Nakata requests the decision of the lower court to be vacated and sought for an injunction on the manufacture and sale of two (2) articles and monetary damages of approximately 1.6 hundred million yen. Nakata further argues that Hida intentionally infringed on the 065 patent by buying carbon products from Carbo-tec to manufacture and sell as ceramic pots to Yamashita Mokuzai who also intentionally infringed on the 065 patent by buying these products from Hida.

The district court ruled that appellees’ method of the ceramic charcoal manufacturing method did not infringe Nakata’s 065 patent and did not belong to the same technical field as the 065 patent. Furthermore, the lower court there was no intentional infringement as Hida only grinded the ceramic charcoal and sold it. Also that Seiki bought from Yamashita Mokuzai only and not ceramic charcoal from Hida.

Nakata filed for amendments to the claims of the 065 patent and appealed.

ISSUE

The question is whether or not the appellees’ method satisfies element B (coating the combustible material by mixing it with an inorganic binder containing bentonite) and element D (the inorganic coating retards oxidation of the combustible material as it burns to carbonize the material at the discharge side) of Nakata’s 065 patent. Nakata argues that the results from the experiments respectively conducted by Professor A and Nagano Engineering Center (NEC) satisfy Element A while the process in Carbotec’s manual satisfies Element D.

The second question is whether or not the appellees intentionally infringed upon the 065 patent.

HOLDING AND REASONING

The invention according to the ‘065 patent has the following elements:
A combustible material or a material containing a combustible material,
B coating the combustible material by mixing it with an inorganic binder containing bentonite,
C feeding the combustible material into a cylindrical oven open to the air through an intake at one end of the oven and conveying it to a discharge at the other end of the oven, and igniting the material from the direction opposite the conveyance direction to dry the material at the intake side, and
D the inorganic coating retards oxidation of the combustible material as it burns, to carbonize the material at the discharge side.
Elements A and C are not in dispute.

In regards to Element B, the court stated the experiment conducted by Professor A did not include photos, hence in the Professor’s experiment with with a bentonite coated wood chip and non-coated wood chip, the results after burning in a kiln could not clearly be proven to be carbides or ashes. Furthermore, many conditions with respect to heating in the experiment largely differentiated with the appellees’ method.

With respect to NEC's observations via microscope of the surface of the wood chip after burning, the court ruled this was merely an observation of a portion of an experiment sample that greatly differs with the materials produced by appellee's method and does not put into consideration the size of the bentonite particles, etc. and cannot establish the condition of the coating.

In regards to Element D, the court stated it is not clear that the gas released from burning inside the furnace has any relationship as to the whether the inorganic coating retards oxidation. According to Carbotec's website, the furnace used is a low oxygen furnace and Carbotec's representative further states as the deposited side has little oxygen, pyrolysis is carried out and charcoal is released, hence differing from the convention method. Hence, carbonization may still be carried out even if the charcoal is not coated.

The court upheld the decision of the lower court with regard to the appellee's alleged intentional infringement of the 065 patent, and that there was no basis for the appellant's appeal.