

This is a summary of litigation rescinding the trial decision.

1. Facts

The plaintiffs are the holders of a patent of an invention “Ventilator Filter and Production Method Thereof” (hereinafter “present patent”).

The defendant demanded a trial for invalidation against the present patent, and the Patent Office found Claim 1 of the present patent invalid (hereinafter, the finding is referred to as “trial decision”).

The invention recited in Claim 1 (hereinafter, the invention of Claim 1 is referred to as the present invention”) is

“A ventilator filter comprising

a metal filter frame, and

a nonwoven filter material which is bonded to the frame and covers an opening of the frame,

the frame and the filter material being bonded by an aqueous emulsion adhesive that contains a film-forming polymer”.

The trial decision stated that this invention could have been easily made based on the invention of Patent Document 1 (the microfilm of Utility Model Application No. S58-136320; hereinafter “invention A”), the statements in Patent Document 2 (JP H07-188632 A), and the known arts described in Patent Document 3 (JP H11-129645 A), Patent Document 4 (JP S51-48408 A), and Patent Document 5 (JP 2000-12652 A).

The invention A mentioned in the trial decision is basically a filter cover for a ventilation hood which comprises a flange, a wall, a frame at the bottom of the wall, a nonwoven filter set to the frame by an adhesive, and a magnet which are integrally formed by metal foil. According to the findings in the trial decision, the points of agreement and difference between the present invention and the invention A are as follows.

A. Agreements

Both inventions utilize an adhesive for bonding the frame and the filter.

B. Difference (Difference A)

The present invention utilizes an aqueous emulsion adhesive containing a film-forming polymer, whereas the invention A does not.

2. Holding of the Court

The trial decision states that: (1) the problems to be solved by the invention is “separately discarding (or facilitating separate discarding of) the filter frame and the filter material after the use of the ventilation filter”, and this is a well-known problem; (2) Patent Document 2 shows an adhesive which is melted or swollen to peel by an aqueous solution; and (3) a skilled person could have been motivated to use an adhesive which is melted or swollen to solve the above problem, based on Patent Document 2.

The present invention, however, does not aim to solve such a problem, but actually aims to “enable the filter frame and the filter material to be firmly bonded to each other when the ventilation filter is used, but easily separated when discarded after the

use”, and to provide a means of “an aqueous emulsion adhesive containing a film-forming polymer which usually bond the filter frame and the filter material firmly but shows decreased adhesion in water such that the filter frame and the filter material can be separated”. In contrast, the invention A neither teaches nor suggests the problem and the means, and none of Patent Documents 3 to 5 suggests the problem to be solved by the present invention either. That is, the purpose of the present invention is wrongly determined in the trial decision. Also, none of the Patent Documents includes suggestion of applying the invention of Patent Document 2 to the invention A having a different structure from the present invention.

Consequently, the trial decision includes errors in determining the problems to be solved by the present invention, and in determining that the present invention could have been easily made to solve the problems wrongly determined. The trial decision therefore should be rescinded.