

Date	October 26, 2016	Court	Intellectual Property High Court, Fourth Division
Case number	2016 (Gyo-Ke) 10009		
– A case in which, with regard to a patented invention titled "humidifier," the court rescinded a JPO decision that invalidated the patent, on the grounds that the JPO erred in determining that a person ordinarily skilled in the art could have easily arrived at the patented invention based on the cited invention.			

References: Article 29, paragraph (2) of the Patent Act

Numbers of related rights, etc.: Invalidation Trial No. 2014-800202 (the "Trial"), Patent No. 4666516 (the "Patent"), Publication of Unexamined Patent Application No. 2006-71145 ("Cited Invention 1")

### Summary of the Judgment

In this case, the plaintiff sought rescission of a JPO decision that invalidated the Patent with regard to the inventions stated in Claims 1 to 3 of the Patent (collectively the "Invention").

In summary, the reasons for the JPO decision are that a person ordinarily skilled in the art could have easily made the Invention based on the invention disclosed in Cited Document 1 (the "cited invention") and the technical matter disclosed in Cited Document 2, and therefore the Invention is unpatentable under Article 29, paragraph (2) of the Patent Act.

In this judgment, the court, holding as summarized below, rescinded the JPO decision on the grounds that the JPO erred in determining whether a person ordinarily skilled in the art could have easily arrived at Invention 1 in relation to Difference 1 (in Invention 1, the tray water level sensor detects that the water level reaches the "level of water shortage" and the control part "keeps the fan rotating until a predetermined period of time passes when it receives a detection output from the tray water level sensor during the operation of humidification with the fan rotating," whereas in the cited invention, the contact point at the first reference position of float switch 14 is turned off when "the level of the water surface is lower than the first reference position H1," and CPU 10 "stops fan 20 via steam generation circuit 18 when the level of the water surface at tank insertion part 41 is lower than the first reference position H1").

(1) In the cited invention, the "water level detected at the first reference position H1" is the level of the liquid surface that is the reference level for determining the shortage of the amount of liquid in the liquid container, and it is the lowest position (level) of the liquid surface necessary for the humidifying part to properly generate humidified air, which means that the humidifying part is stopped when the level of the liquid surface

(water level) is detected to be lower than that.

(2)... "a certain water level" referred to in Cited Document 2 can be regarded as a water level below which the humidifying function can still properly operate to generate humidified air, and can be construed to be set on the assumption that the operation of the humidifying function is continued even after the water level is detected to be below that.

(3) Based on these grounds,... "a certain water level" referred to in Cited Document 2 obviously differs from the "contact point at the first reference position" of float switch 14 in terms of the nature of the water level (whether or not the humidifying function properly operates at a water level below that and whether the relevant level is set on the assumption that the operation of the humidifying function is continued even at a water level below that). In addition, although the cited invention already has, as part of its structure, the "contact point at the second reference position H2," which has a commonality in terms of said nature, it cannot be said that there is a motivation to replace the "contact point at the first reference position" of float switch 14 in the cited invention with the structure that detects a "certain water level" referred to in Cited Document 2.

(4) Moreover, if the "contact point at the first reference position H1" of float switch 14 in the cited invention is replaced with the technical matter disclosed in Cited Document 2 (detection of a "certain water level" on the assumption that the operation of the humidifying function is continued even after a water level below that is detected), the "contact point at the first reference position H1" of float switch 14 in the cited invention would be a water level that allows the humidifying function to continue operating even when it is detected that the level of the liquid surface is below that, in which case the effect that may be brought about by the structure pertaining to the "contact point at the first reference position H1" of float switch 14 of the cited invention, i.e., automatically stop the operation of the humidifying part to prevent the unnecessary operation of the fan when no liquid remains in the liquid tank, would be undermined.

Considering the above, it should be said that there is a factor that obstructs the replacement of the "contact point at the first reference position H1" of float switch 14 of the cited invention with the structure that detects "a certain water level," which is a technical matter disclosed in Cited Document 2.