Date	December 21, 2017	Court	Intellectual Property High Court, Fourth Division
Case number	2017 (Gyo-Ke) 10058		
– A case in which, regarding the invention titled "run flat tire," the court identified the technical information stated in Cited Document 2 in light of the level of the knowledge of persons ordinarily skilled in the art as of the priority date and found that said invention lacks an inventive step since a person ordinarily skilled in the art could have easily made said invention by applying said technical information to the invention presented in Cited Document 1.			

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

Numbers of related rights, etc.: Patent No. 4818272, Invalidation Trial No. 2015-800144

Summary of the Judgment

Regarding the defendant's patent for the invention titled "run flat tire," the plaintiff filed a request for an invalidation trial. The JPO found that a person ordinarily skilled in the art could not have easily made the invention described in Claim 1 (the "Invention") by applying the technical information stated in Cited Document 2 ("Technology Ko 2") to the invention presented in Cited Document 1 (the "Cited Invention"). The JPO made a decision to dismiss such request for some of the claims. In this judgment, the court found that the Invention lacks an inventive step as follows since a person ordinarily skilled in the art as of the priority date could have easily made said invention by applying Technology Ko 2 to the Cited Invention.

(1) Technology Ko 2

As of the priority date of the patent, from the perspective of the heat release effect of turbulence, a person ordinarily skilled in the art would naturally pay attention to the tread pattern on the tire surface, i.e., the relation between the pitch (p) of the convex portion and the height (h) of the convex portion and the relation between the width of the groove (p - w) and the width of the convex portion (w). Technology Ko 2 is designed to cause turbulence and decrease the temperature by creating concave portions. Thus, it should be said that a person ordinarily skilled in the art would pay attention to the concave portion of Technology Ko 2, i.e., the relation between the pitch (p) of the convex portion and the height (h) of the convex portion and the relation between the width of the groove (p - w) and the width of the convex portion (w).

Therefore, Cited Document 2 can be found to present "Concave Portion 30 that satisfies $5 \leqq p/h \leqq 20$, and $1 \leqq (p-w)/w \leqq 99$" as Technology Ko 2 from the perspective of heat release effects.

(2) Issue of whether a person ordinarily skilled in the art could have easily conceived

of the Invention

There is a sufficient incentive to apply Technology Ko 2 to the Cited Invention.

While the Invention imposes the numerical limits "10.0≦p/h≦20.0 and 4.0≦(p－w)/w≦39.0" to the structure of convex and concave portions, no technical significance can be found in such numerical limitations. Therefore, in the case of the structure of the convex and concave portions created by applying Technology Ko 2 to the Cited Invention, an act of adjusting the parameter within the numerical limitations of the Invention can merely be regarded as an act of optimizing the range of numerical limits. It should be considered to be a design-related matter that would be adjusted, if necessary, by a person ordinarily skilled in the art.