

Date	May 24, 2018	Court	Intellectual Property High Court, Third Division
Case number	2017(Ne)10033, 2017(Ne)10063		
<p>- A case in which, with regard to an invention titled "method for repairing sliding door device and repaired sliding door device," as the result of expression interpretation different from that in the judgment in prior instance, the device manufactured by and otherwise available from the appellant did not belong to the technical scope of the invention, the judgment in prior instance shall be rescinded, and the court dismissed the claim of the appellee who is the patentee against the appellant.</p>			

References: Article 70 of the Patent Act

Number of related rights, etc.: Patent No. 4839108

Summary of the Judgment

The appellee is the patentee of Patent (Patent No. 4839108) of the invention (the Invention) titled "method for repairing sliding door device and repaired sliding door device" and since the repaired sliding door device (each of the defendant's devices) manufactured and assigned by the appellant belongs to the technical scope of the Invention, the appellee claimed an injunction of manufacture and assignment of each of the defendant's devices as well as compensation during filing, and payment of damages and delay damages for a tort from the appellant. Points at issue are interpretation of constituent features as well as fulfillment of each of the defendant's devices, whether or not the patent right should be invalidated in a trial for invalidation of a patent, existence of the right to claim compensation and the amount, and presence of damages and the amount.

The judgment in prior instance affirmed a part of the claim by the appellee since each of the defendant's devices fulfilled the constituent features of the Invention and the patent right should not be invalidated. With regard to the constituent feature E, "an upper end of the behind wall and an upper end of a lower frame for repair have substantially the same height," this constituent feature can be fully achieved "if the difference in the heights between the upper end of the behind wall and the upper end of the lower frame for repair is considerably smaller than a difference in the heights between the upper end of the lower frame for repair and the upper end of the behind wall when the lower frame for repair is fixed in a state placed on an existing lower frame or a lower-frame base material of the lower frame for repair is directly placed on a guide rail of the existing lower frame and fixed, and even if there is a difference of an approximate height of an interior rail, it can be considered to be "substantially the same height."

In the judgment, with regard to the constituent feature E, "an upper end of the behind wall and an upper end of a lower frame for repair have substantially the same height," the "same height" should be understood most naturally to have a meaning that there is no height difference between the "upper end of the behind wall" and the "upper end of the lower frame for repair" in the state where the "lower frame for repair" is supported by the "mounting assist member" by taking into consideration the description in the description and the prosecution history, and "substantially the same height" should be understood as an expression implying a case where the two do not have perfectly the "same height" due to a dimensional error, a design error, or the like. On the basis of the above, it was judged that none of the defendant's devices fulfilled the constituent feature E and none were contained in the technical scope of the Invention and thus, infringement of the patent right was not found.