

**Judgments of the Supreme Court, the Third Petty Bench**

**Date of the Judgment: 1975.5.27**

**Case Number: 1975(O)No.54**

**Main Text of the Judgment:**

The jokoku appeal shall be dismissed.

The jokoku appellants shall cover the costs of the jokoku appeal

**Reasons:**

Concerning the grounds of jokoku appeal represented by Iwao Aranaga:

Since Art. 26 of the Law on Utility Models is applied mutatis mutandis to Art. 70 of the Patent Law, a technical scope of utility model shall be set based upon a description of a scope of a claim for registration in a specification attached to an application for the claim for registration: however, it would be permissible to consider the structure, effects, and functions of an item described in other part of the said specification as material to judge the meanings and contents of the description in the said scope concretely and accurately. Moreover, the facts as ascertained by the original instance court concerning the structure, effects, and functions of the registered utility model in question is justifiable in the light of the evidence listed in the judgment of the original instance court (it includes the decision of the District Court as cited) and its explanation. Accordingly, the decision made by the original instance court regarding the technical scope of the said registered utility model is justifiable. There is no illegality in the original judgment that was claimed by the argument and, therefore, said line of argument cannot be accepted.

Thus, in accordance with Articles 401, 95, and 89 of the Code of Administrative Procedure, the justices unanimously ruled as the main text of judgment.

Presiding Judge, Justice TAKATSUJI, Masami

Justice SEKINE, Kosato

Justice AMANO, Buichi

Justice SAKAMOTO, Yoshikatsu

Justice ERIKUCHI, Kiyoo

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