Judgments of the Supreme Court, the First Petty Bench
Date of the Judgment: 1984.3.13
Case Number: 1979(Gyo-Tsu)No.134

Main Text of the Judgment:
The jokoku appeal is dismissed.
The Appellant shall bear the costs of the Jokoku appeal.

Reasons:
Concerning the First, Second, and Third Grounds of the Appeal by the Jokoku Appellant's attorneys KOSAKA Shimao and TAKEDA Kazuhiko:

The Patent Law does not permit patentees to file suits directly to annul or declare the invalidity of an issued patent when the patent has reason to be invalid. The Law arranges a trial at the Japan Patent Office (JPO), a process applying from civil procedure law, to invalidate patents. This system has both the petitioner and patentee take part in the trial as the concerned parties and has appeal examiners with expertise and experience decide whether there is a reason for the patent to be considered invalid. In a lawsuit to annul a trial judgment, the Law has the parties argue only on the illegality or errors of the trial judgment. Argument for whether the issued patent is appropriate is restricted, and is permitted indirectly insofar as the legality of the trial. The reason for this lies in whether the patent, having any reason to be invalid, need be discussed in trial regarding the questions of facts and law. The Patent Law also sets annulment lawsuits for the special jurisdiction of the Tokyo High Court, and omits the trial at district courts. This is interpreted if a patent should be invalid or if it has not been discussed sufficiently with the concerned parties in the trial at JPO. Concerning these, the reason why the Patent Law Article 157 2(4) requires the trial to write the reasons for its decision is to indemnify the fairness of the proceedings by guaranteeing the discretion and rationality of the appeal examiners and restraining their arbitrariness; to give expedience to the parties considering whether to file a revoke law suit or not; and to clarify the object being examined in court regarding the appropriateness of the trial. Thus, reasons written in trial decisions are required to show the grounds for the judgment based on the evidenced and approved facts of the trial, unless there is an extenuating circumstance, such that it is obvious for a person having ordinary skill in the pertinent art to conclude that it is common sense or that it is standard in terms of technology.

Applying the given argument to this case, according to the first instance decided legally by the Tokyo High Court, the trial decision decided for the first invention in this patent is invalid on the grounds that it is against Patent Law Article 29 (2) stating as follows:

In the case that the surplus component is used, the component is always an alternative-possible compound, which can be used in the same way as the component shown previously. As for the coloring product, the party cannot prove sufficiently that this coloring product is extremely valuable when a specific component is used. Thus, the patent claim concluded that each of coloring products should be regarded with the same value as the coloring product previously written of.

Comparing this to the rest of the trial decision, these reasons alone show the conclusion that, in the first invention, when a component is used other than cyanogens for the X of diazo component and a component other than acylamino for Y of the coupling component, it is easy to alternate the component with the cited invention that uses cyanogens and acylamino. The argument does not show the grounds off which the trial was decided based on the approved facts proven by evidence. Thus, because, in this case, we cannot find any special reasons to conclude that the coloring products patent is against the act or invalid, we cannot say that the trial explained the reasons sufficiently as required by law. Therefore, the part of the trial decision relating to the first invention is against the law. The judgment in the first instance decided by the Tokyo High Court, which is the same as our decision, should be approved because it is appropriate.

Furthermore, according to the first instance judgment decided legally, the trial decision stated that the second invention of the patent is against the Patent Law and should be invalid drawing from the same reason given for the first invention of the patent. All that is explained is that there are no special technical meanings to differentiate between the first invention and second invention. This being said, the part of the trial decision about invalidity of the second invention of the patent is also illegal because it lacks appropriate reasoning. Therefore, since Tokyo High Court arrived at the same decision as us, the High Court decision should be approved because it is appropriate. There is no illegality in the opinion, and we cannot accept the appelant's argument.

Concerning the number Two of the Third Grounds of the Appeal:

A decision not showing the appropriate evidence should not be reasoned by the jokoku appeal to be appropriate unless a lack of evidence affects the decision (Supreme Court, the Third Chamber, 1976.10. 25, Case Number 1976 (O) Number 1323, Saiban-syu Minji, No.122 Page 135). Considering the report and the grounds for the first instance decision, we cannot recognize that a lack of the evidence in the first instance affected the final decision, so we cannot take the petitioner's arguments in the first instance decision into consideration.

Therefore, following Administrative Litigation Law Article 7, Civil Procedure Law Article 401, 95, and 89, this Court unanimously finds as the main text of the judgment.

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Presiding Judge, Justice KIDOGUCHI Hisaharu

Justice YOKOI Daizo
Justice ITO Masami
Justice YASUOKA Mitsuhiko