

Judgment rendered on February 20, 2020. Original was received on the same date by the court clerk.

2018 (Wa) 3226, Case of appeal for injunction against patent infringement, etc.

Date of conclusion of oral argument: December 6, 2019

Judgment

Parties to this case: As stated in the Attachment "List of Parties"

Main text

1. All of the Plaintiff's claims shall be dismissed.
2. The Plaintiff shall bear the court costs.

Facts and reasons

No. 1 Claim

1. The Defendant shall not manufacture, sell, export, or offer to sell the massage machine stated in 1. of Attachment "List of Articles."
2. The Defendant shall not manufacture, sell or offer to sell the massage machines stated in 2. through 12. of Attachment "List of Articles."
3. The Defendant shall dispose of the massage machines stated in 1. through 12. of Attachment "List of Articles."
4. The Defendant shall pay to the Plaintiff 1.5 billion yen and the amount accrued thereon at the rate of 5% per annum for the period from April 26, 2018 until the completion of the payment.

No. 2 Outline of the case

In this case, the Plaintiff, who has [i] the patent right related to an invention titled "chair-type treatment apparatus" (Patent No. 4504690; hereinafter the relevant patent right is referred to as "Patent Right A" and the patent related thereto is referred to as "Patent A"); [ii] the patent right related to an invention titled "chair-type massage machine" (Patent No. 5162718; hereinafter the relevant patent right is referred to as "Patent Right B" and the patent related thereto is referred to as "Patent B"); and [iii] the patent right related to an invention titled "chair-type massage machine" (Patent No. 4866978; hereinafter the relevant patent right is referred to as "Patent Right C" and the patent related thereto is referred to as "Patent C"; and Patent Rights A through C are collectively referred to as the "Patent Rights"), alleged, concerning the massage machines stated in 1. through 12. of Attachment "List of Articles" manufactured, sold or otherwise handled by the Defendant (hereinafter the massage machines are referred to as "Defendant's Product 1," etc. in the order of the number in the List of Articles and they are collectively referred to as "Defendant's Products"), that Defendant's Products 1 through 8 fall within the technical scope of an invention related to Claim 1 of Patent

A (hereinafter referred to as "Invention A"), Defendant's Products 1 through 5 and 8 through 12 fall within the technical scope of inventions related to Claims 1 and 2 of Patent B (hereinafter referred to as "Invention B-1," etc. in the order of the number in the patent claims; and they are collectively referred to as "Inventions B"), and Defendant's Products 1 and 2 fall within the technical scope of inventions related to Claims 1 through 5 of Patent C (hereinafter the inventions are referred to as "Invention C-1," etc. in the order of the number of the patent claims; and they are collectively referred to as "Inventions C"), respectively, and the Plaintiff made the following claims.

1. Claims for injunction and disposal

(1) Claims based on Patent Right A

A. Claims for injunction

(A) Claim for injunction against the manufacture, sale, export, and offer to sell of Defendant's Product 1

(B) Claim for injunction against the manufacture, sale, and offer to sell of Defendant's Products 2 through 8

B. Claim for disposal

Claim for disposal of Defendant's Products 1 through 8

(2) Claims based on Patent Right B

A. Claims for injunction

(A) Claim for injunction against the manufacture, sale, export, and offer to sell of Defendant's Product 1

(B) Claim for injunction against the manufacture, sale, and offer to sell of Defendant's Products 2 through 5 and 8 through 12

B. Claim for disposal

Claim for disposal of Defendant's Products 1 through 5 and 8 through 12

(3) Claims based on Patent Right C

A. Claims for injunction

(A) Claim for injunction against the manufacture, sale, export, and offer to sell of Defendant's Product 1

(B) Claim for injunction against the manufacture, sale, and offer to sell of Defendant's Product 2

B. Claim for disposal

Claim for disposal of Defendant's Products 1 and 2

2. Claim for compensation for damages

Claim for payment of 1.5 billion yen, which is part of compensation for damages based on a tort related to infringement of the Patent Rights concerning the manufacture,

sale, etc. of the Defendant's Products by the Defendant and payment of delay damages accrued thereon at the rate of 5% per annum as prescribed by the Civil Code from April 26, 2018 (the day following the day on which the complaint was served) until the completion of the payment.

No. 3 Related to Patent Right A

The facts and reasons for the claims related to Patent Right A filed by the Plaintiff are as stated in Attachment "Facts and Reasons for the Claims Related to Patent Right A."

No. 4 Related to Patent Right B

The facts and reasons for the claims related to Patent Right B filed by the Plaintiff are as stated in Attachment "Facts and Reasons for the Claims related to Patent Right B."

No. 5 Related to Patent Right C

The facts and reasons for the claims related to Patent Right C filed by the Plaintiff are as stated in Attachment "Facts and Reasons for the Claims related to Patent Right C."

No. 6 Conclusion

Consequently, all of the Plaintiff's claims are groundless, and therefore, they are dismissed, and the judgment is rendered as indicated in the main text.

Osaka District Court, 26th Civil Division

Presiding judge: SUGIURA Masaki

Judge: NOGAMI Seiichi

Judge: DAIMON Koichiro

(Attachment)

List of Parties

Plaintiff: Fuji Medical Instruments Mfg. Co., Ltd.

Counsel of the Plaintiff, attorney at law: SHIGETOMI Takamitsu

Counsel of the Plaintiff, attorney at law: FURUSHO Toshiya

Counsel of the Plaintiff, attorney at law: ISHIZU Shinji

Counsel of the Plaintiff, attorney at law: TESHIROGI Kei

Counsel of the Plaintiff, attorney at law: TOMIDA Shiori

Counsel of the Plaintiff, attorney at law: SUGINO Ayaka

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Counsel of the Plaintiff, attorney at law: TSUJIMOTO Yoshitomo

Counsel of the Plaintiff, attorney at law: MATSUDA Satomi

Assistant in court of the Plaintiff, patent attorney: MARUYAMA Hideyuki

Defendant: Family Inada Co., Ltd.

Counsel of the Defendant, attorney at law: MIYAMA Shunji

Counsel of the Defendant, attorney at law: YAGURA Yuta

Counsel of the Defendant, attorney at law: SHIOTA Yoichiro

Counsel of the Defendant, patent attorney: KITAMURA Shuichiro

Counsel of the Defendant, patent attorney: MORI Toshinari

Counsel of the Defendant, patent attorney: HONDA Megumi

(Attachment)

List of Articles

1. Product: INADA DREAMWAVE
Model: HCP-11001
2. Product: Family Medical Chair SOGNO
Model: FMC-10000
3. Product: Family Medical Chair Lupinus
Model: FMC-LPN10000
4. Product: Family Medical Chair Double Engine Universal
Model: FMC-WU100
5. Product: Family Medical Chair 3S Takumi
Model: FMC-S8100
6. Product: Family Inada Chair Yume Robo
Model: FIC-R100
7. Product: Family Medical Chair 3A
Model: FMC-9200
8. Product: Family Medical Chair X.1
Model: FMC-730
9. Product: Family Medical Chair 3S
Model: FMC-S330
10. Product: Family Medical Chair S-Body
Model: FDX-S300
11. Product: Family Medical Chair Necessa
Model: FMC-N230
12. Product: Family Medical Chair Lupinus Light
Model: FMC-LPN9000

(Attachment)

Facts and Reasons for the Claims Related to Patent Right A

No. 1 Basic facts (Facts that are easily found based on the evidence and the entire import of oral arguments; when listing documentary evidence in this judgment, the indication of branch numbers may be omitted when all branch numbers are included.)

1. Patent Right A

Patent No. 4504690

Invention title: Chair-type treatment apparatus

Application date: January 15, 2004

Registration date: April 30, 2010

Claims: As stated in Attachment "Patent Gazette"

The statements in the description and drawings attached to the application for Patent A (hereinafter collectively referred to as "Description A") are as stated in the aforementioned attachment.

2. Division of constituent features

The constituent features of Invention A are divided as stated in Attachment "List of Constituent Features of Invention A."

3. Acts of the Defendant

Out of Defendant's Products 1 through 8, the Defendant has implemented any of the manufacture, sale, export, or offer to sell of Defendant's Product 1 and the manufacture and sale of Defendant's Products 2 through 8 after registration of Patent Right A (however, there are disputes between the parties concerning the start time of the manufacture, sale, etc. of Defendant's Products 1, 3, and 8 and other points).

4. Issues

(1) Issues unique to the claims related to Patent Right A

A. Whether the Defendant's Products fall within the technical scope (Issue 1)

B. Existence of grounds for invalidation (Whether it lacks novelty; Issue 2)

(2) Issues common to the claims related to Patent Rights B and C

Amount of damages (Issue 3)

No. 2 Allegations of the parties related to the issues

1. Issue 1 (Whether Defendant's Products fall within the technical scope)

(Allegation of the Plaintiff)

(1) Structures of Defendant's Products 1 through 8 and fulfillment of constituent features of Invention A

A. Structures of Defendant's Products 1 and 2 are as stated in Attachment "List of Structures of Defendant's Products 1 and 2 (Allegation of the Plaintiff)" (it is not

necessary to consider differences in the structures of Defendant's Products 1 and 2 as long as fulfillment of the constituent features of Invention A is examined).

Structures of Defendant's Products 3, 5 and 8 are as stated in Attachment "List of Structures of Defendant's Products 3, 5 and 8 (Allegation of the Plaintiff)" (it is not necessary to consider differences in the structures of Defendant's Products 3, 5 and 8 as long as fulfillment of the constituent features of Invention A is examined).

Structures of Defendant's Products 4, 6 and 7 are as stated in Attachment "List of Structures of Defendant's Products 4, 6 and 7 (Allegation of the Plaintiff)" (it is not necessary to consider differences in the structures of Defendant's Products 4, 6 and 7 as long as fulfillment of the constituent features of Invention A is examined).

B. Based on the above, the structures of Defendant's Products 1 through 8 fulfill all constituent features of Invention A. Concrete details are as stated in (2) below.

(2) Specific allegations

A. Fulfillment of "hip airbag" (Constituent Features [B] and [E])

(A) Meaning

In the claims related to Invention A, the "hip airbag" is specified as an item "to give a massage to the hips" (Constituent Feature [B]). Therefore, it is sufficient to understand that the "hip airbag" literally means an airbag for massaging the hips. There are no statements and drawings in Description A that suggest the meaning of the "hip airbag" different from the above.

(B) Structures of Defendant's Products 1 through 8

All of Defendant's Products 1 through 8 have a hip airbag for massaging the hips.

(C) Summary

Consequently, all of Defendant's Products 1 through 8 fulfill the "hip airbag" (Constituent Features [B] and [E]).

B. Fulfillment of "waist treatment element" (Constituent Features [C] and [E])

(A) Meaning

The claims related to Invention A have no statements related to whether the "waist treatment element" can be moved, in addition to the statement that the element is provided on the backrest. The same applies to the statements in Description A concerning the problems of Invention A, the means to solve the problems, and the effects of the inventions. In addition, Description A states the problem in cases where a waist airbag is fixed ([0003]). This is only a statement as an example to indicate the problems of Invention A.

Therefore, the "waist treatment element" (Constituent Features [C] and [E]) is only required to be a waist treatment element and does not have to be fixed.

(B) Structures of Defendant's Products 1 through 8

All of Defendant's Products 1 through 8 are provided with waist air bags or kneading balls to give treatment to the waist.

(C) Summary

Consequently, all of Defendant's Products 1 through 8 fulfill the "waist treatment element" (Constituent Features [C] and [E]).

C. Fulfillment of "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist" (Constituent Feature [E])

(A) Meaning

The claims related to Invention A have a statement "by inflating the hip airbag while gradually raising the height of a user's waist" (Constituent Feature [E]); however, the degree of raising the height of a user's waist position and the air supply method are not stipulated.

Concerning a user's waist height position, Description A also has no statement in which the degree of raising the height of a user's waist position and the function and effect of Invention A are related. On the other hand, there are statements concerning the air supply method and timing as a working example; however, they are not limited to the content of said statements.

Based on the above, the phrase "by inflating the hip airbag while gradually raising the height of a user's waist" means that the spatial location of a user's waist gradually changes upward by the inflation of the hip airbag and the degree of changes in a user's waist height position does not matter and there is no limitation on the method of supplying air to the airbag.

(B) Structures of Defendant's Products 1 through 8

a. Defendant's Products 1 and 2

Concerning Defendant's Product 1, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 1 Before and After Activation," before activation of the movement related to Constituent Feature [E], the red laser beam is located around the top of the mark affixed on the waist of a dummy, which is deemed to be a "user," whereas, during activation, the laser beam is located around the bottom of the mark affixed on the dummy's waist. While the waist position is being raised as above, a waist airbag, which corresponds to the waist treatment element, inflates and gives a massage to a user's waist and the surrounding area.

Since Defendant's Product 2 has the same structure as Defendant's Product 1, the

aforementioned movement is activated as is the case with Defendant's Product 1.

b. Defendant's Product 3

Concerning Defendant's Product 3, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 3 Before and After Activation," before activation of the movement related to Constituent Feature [E], the red laser beam is located near the top of the mark affixed on the waist of a dummy, which is deemed to be a "user," whereas, during the activation, the laser beam is located lower than the mark affixed on the dummy's waist. While the waist position is being raised as above, the waist treatment element gives a massage to a user's waist and the surrounding area.

c. Defendant's Product 5

Concerning Defendant's Product 5, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 5 Before and After Activation," before activation of the movement related to Constituent Feature [E], the red laser beam is located at the top of the mark affixed on the waist of a dummy, which is deemed to be a "user," whereas, during activation, the laser beam is located lower than the mark affixed on the dummy's waist. While the waist position is being raised as above, the waist treatment element gives a massage to a user's waist and the surrounding area.

d. Defendant's Product 6

Concerning Defendant's Product 6, as shown in Attachment "Comparison Photographs of the Movement related to Constituent Feature [E] in Defendant's Product 6 Before and After Activation," before activation of the movement related to Constituent Feature [E], the red laser beam is located near the top of the mark affixed on the waist of a dummy, which is deemed to be a "user," whereas, during activation, the laser beam is located at the center of the mark affixed on the dummy's waist. While the waist position is being raised as above, the waist treatment element gives a massage to a user's waist and the surrounding area.

e. Defendant's Product 7

Concerning Defendant's Product 7, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 7 Before and After Activation," before activation of the movement related to Constituent Feature [E], the red laser beam is located above the mark affixed on the waist of a dummy, which is deemed to be a "user," whereas, during activation, the laser beam is located over the mark affixed on the dummy's waist. While the waist position is being raised as above, the waist treatment element gives a massage to a user's waist

and the surrounding area.

f. Defendant's Product 8

Concerning Defendant's Product 8, as shown in Attachment "Comparison Photographs of the Movement related to Constituent Feature [E] in Defendant's Product 8 Before and After Activation," before activation of the movement related to Constituent Feature [E], the red laser beam is located at the top of the mark affixed on the waist of a dummy, which is deemed to be a "user," whereas, during activation, the laser beam is located at the lower part of the mark affixed on the dummy's waist. While the waist position is being raised, the waist treatment element gives a massage to a user's waist and the surrounding area by performing tapping to the waist.

(C) Summary

Consequently, all of Defendant's Products 1 through 8 fulfill "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist" (Constituent Feature [E]).

D. Fulfillment of "the seat unit has at least a hip airbag among a thigh airbag for massaging the thighs and a hip airbag for massaging the hips" (Constituent Features [B])

(A) Meaning

As the claims of Invention A have a statement "has at least a hip airbag," a "a thigh airbag" is not an essential component of Invention A. In addition, the claims only state that the "thigh airbag" has the function to give a massage to the thighs, but there is no statement related to interlocking or simultaneous control with the "hip airbag." Looking at the statements in Description A, it is not scheduled that the "thigh airbag" is controlled simultaneously with the "hip airbag."

Therefore, the "thigh airbag" is not an essential component of Invention A. Even if the "thigh airbag" is provided, the "thigh airbag" is only required to give a massage to the thighs and it is not required that both the "thigh airbag" and "hip airbag" are controlled simultaneously.

(B) Summary

Defendant's Products 1 through 8 contain products that are provided with a thigh airbag (Defendant's Products 1 through 3, 5, and 8) and products that are not provided with a thigh airbag (Defendant's Products 4, 6, and 7). As mentioned in A. above, since all of them are provided with "at least a hip airbag," Defendant's Products 1 through 8 fulfill "the seat unit has at least a hip airbag among a thigh airbag for massaging the thighs and a hip airbag for massaging the hips" (Constituent Features [B]).

(Allegation of the Defendant)

(1) Structures of Defendant's Products 1 through 8 and non-fulfillment of constituent features of Invention A

When examining the fulfillment of constituent features of Invention A, it is necessary to consider differences in the structures of Defendant's Products 1 through 8.

In consideration of the aforementioned points, none of Defendant's Products 1 through 8 fulfill all constituent features of Invention A. Concrete details are as stated in (2) below.

(2) Specific allegations

A. Non-fulfillment of "hip airbag" (Constituent Features [B] and [E])

(A) Meaning

The claims related to Invention A have statements concerning a "hip airbag" such as "a hip airbag for massaging the hips" (Constituent Feature [B]) and "when giving treatment to a user's waist by inflating the hip airbag while gradually raising the height of a user's waist" (Constituent Feature [E]). For this reason, a "hip airbag" is construed to give a massage to the hips and to have the function of gradually raising the height of a user's waist when giving treatment to a user's waist by being inflated.

In addition, according to the statements in Description A, based on the problem that since the waist airbag is fixed on the backrest, a user cannot fully receive a massage to the intended part of his/her waist, Invention A intends to give an effective massage to a user's waist by adjusting the height of a user's waist position by inflating the hip airbag when a user receive a massage to his/her waist.

Based on the above, the "hip airbag" (Constituent Features [B] and [E]) is required to have a structure wherein, when giving treatment to a user's waist, it gives a massage to a user's hips, inflates in the direction to push up a user, and can raise the height of a user's waist position.

(B) Structures of Defendant's Products 1 through 8

a. Defendant's Products 1 and 2

Defendant's Products 1 and 2 have a seat reverse side airbag. Even if the seat reverse side airbag inflates, a user's body is only sandwiched between the seat reverse side airbag and the waist airbag and it does not gradually raise the height of a user's waist position.

b. Defendant's Product 3

Defendant's Product 3 is provided with seat reverse side airbags that are separated to the right and left. Since the right and left seat reverse side airbags inflate one by one, a user's whole-body is not raised even when they inflate. Therefore, the height of a

user's waist position does not change.

c. Defendant's Product 4

Defendant's Product 4 has an airbag on the seat surface to give a massage to the hips. It inflates in a manner to sandwich a user from both sides. Therefore, even if it inflates, the height of a user's waist position is not raised. In addition, since the reclining backrest is flat at the start of a massage course and the direction to push up a user's waist and the direction to push up the seat surface are the same, even if the airbag inflates and pushes up the seat surface, the height of a user's waist position is not pushed up in the direction of the body height.

d. Defendant's Product 5

Defendant's Product 5 is provided with an airbag to give a massage to the hips. Since a user's legs are sandwiched from both sides by the inflation of the leg airbags, even if a user's body is pushed up from the back side of the seat surface, it will be hindered. In addition, Defendant's Product 5 is also provided with seat surface leg airbags. Even if a user's body is pushed up from the back side of the seat surface, it will be hindered as the seat surface leg airbags inflate and sandwich a user's body from both sides. As a result, Defendant's Product 5 does not raise the height of a user's waist position.

e. Defendant's Products 6 and 7

Both Defendant's Products 6 and 7 have airbags on the seat unit separately on the right and left with a distance so that a user's hips are placed between them. Since the right and left airbags inflate separately and independently in a manner to sandwich a user, even if they inflate, they do not raise the height of a user's waist position. In addition, since the reclining backrest is flat at the start of a massage course and the direction to push up a user's waist and the direction to push up the seat surface are the same, even if the airbags inflate and push up the seat surface, the height of a user's waist position is not pushed up in the direction of the body height.

f. Defendant's Product 8

Defendant's Product 8 has airbags separately on the right and left to massage a user's hips. They inflate and deflate separately and independently. In addition, since the reclining backrest is flat at the start of a massage course and the direction to push up a user's waist and the direction to push up the seat surface are the same, even if the airbags inflate and push up the seat surface, the height of a user's waist position is not pushed up in the direction of the body height.

(C) Summary

Consequently, none of Defendant's Products 1 through 8 fulfills the "hip airbag"

(Constituent Features [B] and [E]).

B. Non-fulfillment of "waist treatment element" (Constituent Features [C] and [E])

(A) Meaning

In consideration of the statements in the claims of Invention A, based on the assumption that the "waist treatment element" is located at a fixed position on the backrest and activates, Invention A intends to inflate the hip airbag, gradually raise the height of a user's waist position, change the position of the "waist treatment element" to give a massage to a user's waist, and thereby to give a full massage to the waist and surrounding area while gradually lifting up a user.

In addition, in consideration of the statements in Description A, based on the assumption of the problem that since the waist airbag is fixed on the backrest, a user cannot receive a full massage to the intended part of his/her waist, it is construed that Invention A intends to give a full massage to the user's waist and surrounding area while gradually lifting up a user by adjusting the height of a user's waist position by inflating the hip airbag when he/she receives treatment to his/her waist. Description A also has other statements based on the assumption that the "waist treatment element" is fixed on the backrest ([0012], [0022], [0023], and [FIG.1]).

Based on the above, the "waist treatment element" (Constituent Feature [C] and [E]) refers to the one located at a fixed position on the backrest and the one that can move in the body height direction does not fall under the "waist treatment element."

(B) Structures of Defendant's Products 1 through 8

Defendant's Products 1 and 2 are provided with "airbags" and "kneading balls" as waist treatment elements. The "airbags" do not move up and down; however, the "kneading balls" can move in the body height direction. Defendant's Products 1 and 2 give a massage to the intended parts of a user's waist by matching the position of the "kneading balls" with a user's waist position. Therefore, it is not necessary from the beginning to change the height of a user's waist position by inflating the "hip airbag."

On the other hand, Defendant's Products 3 through 8 are provided with "kneading balls" as waist treatment elements. Since "kneading balls" can be moved in a user's body height direction, it not necessary from the beginning to change the height of a user's waist position by inflating the "hip airbag."

Based on the above, none of Defendant's Products 1 through 8 has the "waist treatment element."

(C) Summary

Consequently, none of Defendant's Products 1 through 8 fulfills the "waist treatment element" (Constituent Features [C] and [E]).

C. Non-fulfillment of "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist" (Constituent Feature [E])

(A) Meaning

a. According to the statements in the claims related to Invention A, the "hip airbag" has a function to gradually raise the height of a user's waist position by being inflated when giving treatment to a user's waist.

In addition, according to the statements of Description A, Invention A is "inflating the hip airbag while gradually raising the height of a user's waist" by gradually supplying compressed air into the hip airbag.

Then, "a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist" does not include a means to switch a solenoid valve, which is to supply air to the hip airbag, from the closed state to fully open state at once and to supply compressed air into the airbag all at once.

b. In addition, according to the statements in Description A, Invention A is required to have a structure wherein a user's waist is gradually raised by the inflation of the hip airbag, while the waist airbag gives a massage evenly to a user's waist, and a user can receive a full massage to the waist and surrounding areas.

Based on the above, "gradually raising the height of a user's waist" means to raise the height of a user's waist to the extent that shows the function and effect of Invention A.

(B) Structures of Defendant's Products 1 through 8

a. All of Defendant's Products 1 through 8 use a two-position, three-way selector solenoid valve, which only opens and closes a solenoid valve, and are not designed to adjust the degree of opening of the valve with the expansion/contraction of the airbags.

b. Reliability of the test results performed by the Plaintiff (Exhibits Ko A1 through A10) will be disputed. In addition, even based on the test results performed by the Plaintiff, changes in the positions of a mark in relation to a laser beam in Defendant's Products 1 through 8 are only to the following extent and no significant changes were seen. Concerning Defendant's Product 4, a test was not performed.

(a) Defendant's Products 1 and 2

There was a change to the extent of 1 mark.

(b) Defendant's Product 3

There was a change to the extent of 1 mark.

(c) Defendant's Product 5

There was a change to the extent of 1.5 marks.

(d) Defendant's Product 6

There was a change to the extent of a quarter or less of 1 mark.

(e) Defendant's Product 7

There was a change to the extent of a half or less of 1 mark.

(f) Defendant's Product 8

There was a change to the extent of 1 mark.

(C) Summary

Consequently, none of Defendant's Products 1 through 8 fulfills "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist." (Constituent Feature [E]).

D. Non-fulfillment of "the seat unit has at least a hip airbag among a thigh airbag for massaging the thighs and a hip airbag for massaging the hips" (Constituent Feature [B])

(A) Meaning

In consideration of the fact that there is a statement in the claims related to Invention A that "... has at least a hip airbag among a thigh airbag for massaging the thighs and a hip airbag for massaging the hips," if a "thigh airbag" is provided, it is required to perform the same movement and mode as the "hip airbag" and to contribute to gradually raising the height of a user's waist position along with the "hip airbag" in addition to only inflating. According to the statements in Description A, it is construed that if a "thigh airbag" is provided, it has to be controlled simultaneously with the "hip airbag."

(B) Structures of Defendant's Products 1 through 3, 5, and 8

The structures of Defendant's Products 1 through 3, 5, and 8, where a "thigh airbag" is provided, are as stated below.

a. Defendant's Products 1 and 2

The inflation and deflation of the 'thigh airbag' of Defendant's Products 1 and 2 have no relationship with the change in a user's waist position that is "gradually raised" in the form of the raising of a user's body by the inflation of the "hip airbag." Rather, the hip airbag and thigh airbag inflate alternately.

b. Defendant's Product 3

The inflation and deflation of the "thigh airbag" of Defendant's Product 3 have no relationship with the change in a user's waist position that is "gradually raised" in the form of the raising of a user's body by the inflation of the "hip airbag."

c. Defendant's Product 5

The inflation and deflation of the "thigh airbag" of Defendant's Product 5 do not

contribute to the change in a user's waist position that is "gradually raised" in the form of the raising of a user's body by the inflation of the "hip airbag."

d. Defendant's Product 8

The inflation and deflation of the "thigh airbag" of Defendant's Product 8 do not contribute to the change in a user's waist position that is "gradually raised" in the form of the raising of a user's body by the inflation of the "hip airbag."

(C) Summary

Consequently, none of Defendant's Products 1 through 3, 5, and 8 fulfills "the seat unit has at least a hip airbag among a thigh airbag for massaging the thighs and a hip airbag for massaging the hips" (Constituent Feature [E]).

2. Issue 2 (Existence of grounds for invalidation [Whether it lacks novelty])

(Allegation of the Defendant)

(1) Whether the primary prior art was publicly known to be worked

The Defendant was selling FMC-350 around December 2002, prior to the filing of an application for Patent A.

(2) Identity of the structures

Based on the Plaintiff's allegation concerning the interpretation of constituent features of Invention A, FMC-350 has all of the structures of Invention A.

(3) Summary

Consequently, Invention A is an invention publicly known to be worked before the application therefor was filed and it lacks novelty (Article 29, paragraph (1), item (ii) of the Patent Act). Based on the above, Invention A should be invalidated by a trial for patent invalidation (Article 123, paragraph (1), item (ii) of said Act). Therefore, the Plaintiff cannot exercise Patent Right A against the Defendant (Article 104-3, paragraph (1) of said Act).

(Allegation of the Plaintiff)

(1) Whether the invention was publicly known to be worked

The fact that FMC-350 had been manufactured and sold before an application for Patent A was filed is not known.

(2) Identity of the structures

Even if FMC-350 was publicly known to be worked before the application for Patent A was filed, it cannot be said that the product in question had structures other than Constituent Features [D] and [F] of Invention A. In addition, the Defendant has not proven that FMC-350 has the structure of Constituent Feature [E] of Invention A.

In any case, FMC-350 does not have all of the structures of Invention A.

(3) Summary

Consequently, Invention A is not an invention publicly known to be worked before the application therefor was filed and it does not lack novelty.

3. Issues 3 (Amount of damages)

(Allegation of the Plaintiff)

The Defendant sold the Defendant's Products for the period from May 2008 until today and gained at least 7.5 billion yen. Therefore, the amount of damages to the Plaintiff is at least 7.5 billion yen (Article 102, paragraph (2) of the Patent Act).

(Allegation of the Defendant)

It is denied or disputed.

No. 3 Judgment of this court

1. Technical meaning of Invention A

According to the statements in Description A, the technical meaning of Invention A is found as follows.

(1) Technical field ([0001])

Invention A relates to a chair-type treatment apparatus, in particular, a chair-type treatment apparatus which is suitable for giving treatment to a user's waist.

(2) Background art ([0002])

The chair-type treatment apparatus includes a seat unit and a backrest attached to the rear part of the seat unit in a reclinable state, and a user can receive treatment in a state of sitting on the chair-type treatment apparatus. In this chair-type treatment apparatus, a seat unit is provided with a thigh airbag for massaging the thighs and a hip airbag for massaging the hips, and a backrest is provided with neck and shoulder airbags for massaging the neck and shoulders, back airbags for massaging the back, and waist airbag for massaging the waist. These airbags are inflated or deflated to give a massage to each body part of a user.

(3) Problem to be solved by the invention ([0003] and [0004])

Prior art has a structure wherein the waist airbag is fixed on the backrest and the height position cannot be adjusted in the up and down direction. For example, when a user with a small body sits, the user's waist position and the waist airbag position do not match and the user receives a massage to a body part different from the waist and cannot fully receive a massage to the intended body part. The problem of Invention A is to provide a chair-type treatment apparatus that can fully give treatment to the waist by massaging.

(4) Means to solve the problem ([0005] and [0006]) and the effects of the invention ([0007]).

In invention A, the structure is adopted so that the height of a user's waist position

can be gradually adjusted, such as when a user with a small body sits in the chair, air is supplied to the hip airbag to inflate it, the user's hips are raised, and thereby the height of the user's waist position is gradually raised.

Thereby, Invention A can give a full massage to a user's waist.

2. Fulfillment of "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist" (Constituent Feature [E]) out of Issue 1 (whether it falls within the technical scope)

(1) Meaning

A. Statements in the claims

The claims related to Invention A have a statement "activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist" (Constituent Feature [E]). Based on the above, it is construed that the "hip airbag" is required to be "gradually raising the height of a user's waist" "when giving treatment to a user's waist."

Even if the "hip airbag" is required to "gradually raise the height of a user's waist," it is not unambiguously clear from the statements in the claims whether the change volume of the height becomes an issue, and if it is an issue, what degree of change volume is necessary.

B. Statements in Description A

Taking into account the statements in Description A, as stated in 1. above, if a user's waist position and the waist airbag position do not match due to the small body of the user, etc., a sufficient massage cannot be given to the user's waist. Accordingly, Invention A intends to gradually raise the height of a user's waist position by inflating the hip airbags and perform other adjustments to give a full massage to a user's waist. In consideration of the aforementioned technical meaning of Invention A, it is construed that in cases where a user's waist position and the waist airbag position do not match, the "hip airbag" is required to "gradually raise the user's waist height position" to the extent of solving the mismatch and giving a full massage to the waist.

C. Therefore, "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist" (Constituent Feature [E]) is construed to mean, concerning the "hip airbag," that, in cases where the position of a user's waist and the position of the waist airbag do not match, a control means of "gradually raising the height of a user's waist" is provided to the extent of solving the mismatch and of giving a full massage to the user's waist.

D. The Plaintiff's allegation

In response to the above, the Plaintiff alleged that it is sufficient for the "hip airbag" to "gradually raise the height of a user's waist" and the degree thereof does not matter.

However, since human body size is different with each person, it is difficult to avoid cases where, when a user sits in the chair-type treatment apparatus, a mismatch occurs in the user's body height direction between the position of the user's waist and the position of the waist airbag, and it is considered that the degree of the mismatch varies. In addition, it is also difficult to avoid cases where there is a mismatch in a user's body height direction between the position of the user's waist and the position of the waist airbag depending on the sitting posture of the user and other statuses when it is used, and the degree of the mismatch varies. Based on the aforementioned circumstances, it is difficult to specify a specific value as a degree to solve the aforementioned mismatch. However, it can be noted from the technical meaning of Invention A that it is necessary to configure a "treatment device for a chair," such as Invention A, in consideration of such circumstances. Based on the above, in Invention A, it is necessary to include the degree of the height when "gradually raising the height of a user's waist position" in its issues. In other words, as stated in C. above, Invention A needs to "gradually raise a user's waist height position" to the extent of solving a mismatch between the position of the user's waist and the position of the waist airbag and giving a full massage to the user's waist.

Consequently, the Plaintiff's allegation in this regard cannot be accepted.

(2) Structures of Defendant's Products 1 through 8

A. According to the evidence (listed in each paragraph) and the entire import of oral arguments, the structures of the hip airbag, etc. in Defendant's Products 1 through 8 are found to be as stated below.

(A) Defendant's Products 1 and 2 (Exhibit Ko 8 and Exhibit Otsu A9)

Hip airbags, which are provided on the top surface of the seat unit, inflate upward, and press the bottom surface of the hips, are provided separately on the right and left. In addition, airbags are also provided on the right and left sides of the seat unit and inflate towards the hips from the right and left directions.

(B) Defendant's Product 3 (Exhibit Ko 9 and Exhibit Otsu A10)

Hip airbags, which are provided on the top surface of the seat unit, inflate upward, and press the bottom surface of the hips, are provided separately on the right and left.

(C) Defendant's Product 4 (Exhibits Otsu A7 and A15)

Hip airbags, which are provided on the inner surface of the treatment board that rises from the top surface of the seat unit, inflate towards the inside by using the lower

end of the treatment board as a support and the treatment board as a back anchor, and sandwich the sides of the hips, are provided separately on the right and left.

(D) Defendant's Product 5 (Exhibits Otsu A11 and A16)

Hip airbags, which are provided on the top surface of the seat unit, inflate upward, and press the bottom surface of the hips, are provided separately on the right and left. For the airbags, it is assumed that the part near the lateral part inflates larger than the part near the center in the right and left directions of the hips, respectively.

(E) Defendant's Product 6 (Exhibit Otsu A12)

Hip airbags, which are provided on the top surface of the seat unit, inflate towards the inside, and sandwich the sides of the hips, are provided separately on the right and left ends of the seat surface unit by slightly creating a space at the center of the seat surface. For the airbags, it is assumed that the part near the lateral part inflates larger than the part near the center of the hips, respectively.

(F) Defendant's Product 7 (Exhibit Ko 14 and Exhibit Otsu A13)

Hip airbags, which are provided on the top surface of the seat unit, inflate towards the inside, and sandwich the sides of the hips, are provided separately on the right and left ends of the seat surface unit by creating a space at the center of the seat surface so that the hips are placed in the center part of the seat surface. For the airbags, it is assumed that the part near the lateral part inflates larger than the part near the center of the hips, respectively, and thereby they "firmly hold the pelvis."

(G) Defendant's Product 8 (Exhibit Otsu A14)

Hip airbags, which are provided on the top surface of the seat unit, inflate upward, and press the bottom surface of the hips, are provided separately on the right and left.

B. Tests related to changes in the position of waist height

According to the evidence (Exhibits Ko A1, A2, A4, and A6 through A10) and the entire import of oral arguments, the Plaintiff performed a test, concerning Defendant's Products 1 through 3, and 5 through 8, where the Plaintiff had a dummy, which is deemed to be a user or a person (hereinafter referred to as the "subject" without distinction), sit in the chair, affixed a sticker (16 mm in diameter) as a mark in a position on the front side of the subject's waist, and illuminated the subject from the front side with the horizontally straight line of a laser beam to confirm changes in the height of the subject's waist position by the inflation of the hip airbag based on the relative change of volume in the up and down direction at each position of the mark and laser beam when the product was activated. The test results are as stated below.

Concerning Defendant's Product 4, the same test results were not submitted as evidence.

(A) Defendant's Product 1

According to the evidence (Exhibits Ko A1 and A2) and the entire import of oral arguments, concerning Defendant's Product 1, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 1 Before and After Activation," it is found that before activation of the movement, the red laser beam was located around the top of the mark affixed on the subject's waist, while during the activation of movement, the red laser beam was located around the bottom of the mark affixed on the subject's waist. Based on the above and the size of the sticker as a mark, the degree of the increase in the height of the subject's waist position by inflation of the hip airbag was approximately 16 mm, as considered advantageously to the Plaintiff at maximum.

(B) Defendant's Product 2

According to the entire import of oral arguments, concerning Defendant's Product 2, it is not found that the height of a user's waist position is raised more than that in Defendant's Product 1, in other words, approximately 16 mm or more, by inflation of the hip airbag.

(C) Defendant's Product 3

According to the evidence (Exhibits Ko A7 and A8) and the entire import of oral arguments, concerning Defendant's Product 3, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 3 Before and After Activation," it is found that before activation of the movement, the red laser beam was located near the top of the mark affixed on the subject's waist, while during the activation of movement, the red laser beam was located below the mark affixed on the subject's waist. Based on the above and the size of the sticker as a mark, the degree of the increase in the height of the subject's waist position by inflation of the hip airbag was approximately 16 mm, as considered advantageously to the Plaintiff at maximum.

(D) Defendant's Product 5

According to the evidence (Exhibits Ko A1 and A4) and the entire import of oral arguments, concerning Defendant's Product 5, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 5 Before and After Activation," it is found that before activation of the movement, the red laser beam was located at the top of the mark affixed on the subject's waist, while during the activation of movement, the red laser beam was located below the mark affixed on the subject's waist. Based on the above and the size of the sticker as a mark, the degree of the increase in the height of the subject's waist position by

inflation of the hip airbag was approximately 32 mm, as considered advantageously to the Plaintiff at maximum.

(E) Defendant's Product 6

According to the evidence (Exhibits Ko A7 and A9) and the entire import of oral arguments, concerning Defendant's Product 6, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 6 Before and After Activation," it is found that before activation of the movement, the red laser beam was located near the top of the mark affixed on the subject's waist, while during the activation of movement, the red laser beam was located around the center of the mark affixed on the subject's waist. Based on the above and the size of the sticker as a mark, the degree of the increase in the height of the subject's waist position by inflation of the hip airbag was found to be approximately 16 mm, as considered advantageously to the Plaintiff at maximum.

(F) Defendant's Product 7

According to the evidence (Exhibits Ko A7 and A10) and the entire import of oral arguments, concerning Defendant's Product 7, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 7 Before and After Activation," it is found that before activation of the movement, the red laser beam was located above the mark affixed on the subject's waist, while during the activation of movement, the red laser beam was over the mark affixed on the subject's waist. Based on the above and the size of the sticker as a mark, the degree of the increase in the height of the subject's waist position by inflation of the hip airbag was found to be approximately 16 mm, as considered advantageously to the Plaintiff at maximum.

(G) Defendant's Product 8

According to the evidence (Exhibit Ko A1 and A6) and the entire import of oral arguments, concerning Defendant's Product 8, as shown in Attachment "Comparison Photographs of the Movement Related to Constituent Feature [E] in Defendant's Product 8 Before and After Activation," it is found that before activation of the movement, the red laser beam was located at the top of the mark affixed on the subject's waist, while during the activation of movement, the red laser beam was located at the bottom of the mark affixed on the subject's waist. Based on the above and the size of the sticker as a mark, the degree of the increase in the height of the subject's waist position by inflation of the hip airbag was found to be approximately 16 mm, as considered advantageously to the Plaintiff at maximum.

C. Review

(A) Defendant's Products 1 and 2

Hip airbags of Defendant's Products 1 and 2 are provided on the top surface of the seat unit, inflate upwards, and press the bottom surface of the hips. Even based on the test results performed by the Plaintiff, the degree of raising the height of a user's waist position is up to approximately 16 mm.

As stated in 1. above, even if a user's waist position and the waist airbag position do not match due to the small body of the user, etc., Invention A intends to gradually raise the height of the user's waist position by inflating the hip airbags and perform other adjustments to give a full massage to the user's waist. Based on the general body size, etc. of human beings, in cases where there is a mismatch between the position of a user's waist and the position of the waist airbag, the degree of the mismatch to be solved in order to give a full massage to the waist is considered to significantly exceed 16 mm.

For this reason, even if the height of a user's waist position was raised by approximately 16 mm by the inflation of the hip airbags of Defendant's Product 1 or 2, it cannot be said that the mismatch between the position of a user's waist and the position of waist airbag is solved.

Consequently, the structures of Defendant's Products 1 and 2 do not fulfill "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist." (Constituent Feature [E]).

(B) Defendant's Product 3

Hip airbags of Defendant's Product 3 are provided on the top surface of the seat unit, inflate upwards, and press the bottom surface of the hips. Even based on the test results performed by the Plaintiff, the degree of raising the height of a user's waist position is up to approximately 16 mm.

Then, in the same way as (A) above, even if the height of a user's waist position was raised by approximately 16 mm by the inflation of the hip airbags of Defendant's Product 3, it cannot be said that the mismatch between the position of a user's waist and the position of waist airbag is solved.

Consequently, the structure of Defendant's Product 3 does not fulfill "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist." (Constituent Feature [E]).

(C) Defendant's Product 4

In Defendant's Product 4, hip airbags, which are provided on the inner surface of

the treatment board that rises from the top surface of the seat unit, inflate towards the inside by using the lower end of the treatment board as a support and the treatment board as a back anchor, and sandwich the sides of the hips, are provided separately on the right and left.

However, there is not sufficient evidence to find the existence and the degree of the raising of a user's waist height position by the inflation of the hip airbags. In addition, in consideration of the aforementioned structure related to the hip airbags of Defendant's Product 4, it is difficult to consider that the height of a user's waist position is raised to the extent of solving the mismatch with the position of the waist airbag by the inflation of the hip airbags.

Consequently, the structure of Defendant's Product 4 does not fulfill "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist." (Constituent Feature [E]).

(D) Defendant's Product 5

In Defendant's Product 5, hip airbags, which are provided on the top surface of the seat unit, inflate upward, and press the bottom surface of the hips, are provided separately on the right and left. For the airbags, it is assumed that the part near the lateral part inflates larger than the part near the center in the right and left directions of the hips, respectively. Actually, according to the test results performed by the Plaintiff, it seems that, in Defendant's Product 5, the degree of the raising of a user's waist position by the inflation of the hip airbags is larger than in the case of other Defendant's Products.

However, Invention A intends to solve the mismatch between the position of a user's waist and the position of the waist airbag, which arises from a user's body size and other individual circumstances, in order to give a full massage to a user's waist. Therefore, the degree of the mismatch to be solved is considered to exceed 32 mm.

For this reason, even if the height of a user's waist position was raised by approximately 32 mm by the inflation of the hip airbags of Defendant's Product 5, it cannot be said that the mismatch between the position of a user's waist and the position of the waist airbag is solved.

Consequently, the structure of Defendant's Product 5 does not fulfill "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist." (Constituent Feature [E]).

(E) Defendant's Product 6

Hip airbags of Defendant's Product 6 are provided on the top surface of the seat unit, inflate towards the inside, and sandwich the sides of the hips. Even based on the test results performed by the Plaintiff, the degree of the raising of a user's waist height position is up to approximately 16 mm.

Then, in the same way as (A) above, even if the height of a user's waist position was raised by approximately 16 mm by the inflation of the hip airbags of Defendant's Product 6, it cannot be said that the mismatch between the position of a user's waist and the position of the waist airbag is solved.

Consequently, the structure of Defendant's Product 6 does not fulfill "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist." (Constituent Feature [E]).

(F) Defendant's Product 7

Hip airbags of Defendant's Product 7 are provided on the top surface of the seat unit, inflate towards the inside, and sandwich the sides of the hips. Even based on the test results performed by the Plaintiff, the degree of the raising of a user's waist height position is up to approximately 16 mm.

Then, in the same way as (A) above, even if the height of a user's waist position was raised by approximately 16 mm by the inflation of the hip airbags of Defendant's Product 7, it cannot be said that the mismatch between the position of a user's waist and the position of the waist airbag is solved.

Consequently, the structure of Defendant's Product 7 does not fulfill "including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist." (Constituent Feature [E]).

(G) Defendant's Product 8

Hip airbags of Defendant's Product 8 are provided on the top surface of the seat unit, inflate upwards, and press the bottom surface of the hips. Even based on the test results performed by the Plaintiff, the degree of the raising of a user's waist height position is up to approximately 16 mm.

Then, in the same way as (A) above, even if the height of a user's waist position was raised by approximately 16 mm by the inflation of the hip airbags of Defendant's Product 8, it cannot be said that the mismatch between the position of a user's waist and the position of the waist airbag is solved.

Consequently, the structure of Defendant's Product 8 does not fulfill "including a control means that activates the waist treatment element when giving treatment to a

user's waist, by inflating the hip airbag while gradually raising the height of a user's waist." (Constituent Feature [E]).

D. The Plaintiff's allegation

In response to the above, the Plaintiff alleged that since Defendant's Products 1 through 8 intend to raise the position of a user's waist by inflating the hip airbags, they fulfill Constituent Feature [E] regardless of the degree of changes in the position.

The aforementioned allegation of the Plaintiff is based on its allegation related to Constituent Feature [E] of Invention A. However, since it lacks the premise, the Plaintiff's allegation in this regard cannot be accepted.

3. Summary

Based on the above, without the need to make determinations on the remaining issues, Defendant's Products 1 through 8 do not fall within the technical scope of Invention A. Consequently, none of the Plaintiff's claims based on the infringement of Patent Right A has grounds.

(Attachment)

Attachments "Patent Gazettes" related to Patent Rights A, B, and C are all omitted.

(Attachment)

List of Constituent Features of Invention A

- A. and D. A chair-type treatment apparatus, which includes a seat unit and a backrest attached to the rear part of the seat unit;
- B. wherein, the seat unit has at least a hip airbag among a thigh airbag for massaging the thighs and a hip airbag for massaging the hips;
- C. wherein the backrest has at least a waist treatment element; and
- E. and F. a chair-type treatment apparatus that is characterized by including a control means that activates the waist treatment element when giving treatment to a user's waist, by inflating the hip airbag while gradually raising the height of a user's waist.

(Attachment)

List of Structures of Defendant's Products 1 and 2 (Allegation of the Plaintiff)

- a. and d. A massage chair, which includes a seat unit and a backrest unit attached to the rear part of the seat unit;
- b. wherein the seat unit has a thigh airbag for massaging the thighs, and hip airbag A for massaging the hips; and
- c. wherein the backrest has a waist airbag;
- e and f. a massage chair that is characterized by including a control means that activates the waist airbag when giving treatment to a user's waist, by inflating hip airbag A while gradually raising the height of a user's waist.

(Attachment)

List of Structures of Defendant's Products 3, 5 and 8 (Allegation of the Plaintiff)

a. and d. A massage chair, which includes a seat unit and a backrest unit attached to the rear part of the seat unit;

b. wherein the seat unit has a thigh airbag for massaging the thighs, and hip airbag A for massaging the hips; and

c. wherein the backrest has kneading balls to give treatment to the back and waist;

e and f. a massage chair that is characterized by including a control means that activates the kneading balls when giving treatment to a user's waist, by inflating hip airbag A while gradually raising the height of a user's waist.

(Attachment)

List of Structures of Defendant's Products 4, 6 and 7 (Allegation of the Plaintiff)

- a. and d. A massage chair, which includes a seat unit and a backrest unit attached to the rear part of the seat unit;
- b. wherein the seat unit has hip airbag B for massaging the hips; and
- c. wherein the backrest has kneading balls to give treatment to the neck, back and waist; and
- e and f. a massage chair that is characterized by including a control means that activates the kneading balls when giving treatment to a user's waist, by inflating hip airbag B while gradually raising the height of a user's waist.