Patent Right	Date	May 20, 2020	Court	Intellectual Property High Court, Second Division
	Case number	2019 (Gyo-Ke) 10116		
- A case in which the invention of the patent application related to an invention titled "ROTARY DRUM-TYPE MAGNETIC SEPARATING DEVICE" is found to have no lack of novelty or inventive step.				

Case type: Rescission of Appeal Decision of Refusal

Result: Granted

References: Article 17-2, paragraph (6), Article 126, paragraph (7), Article 29, paragraph (2) of the Patent Act

Related rights, etc.: Patent Application No. 2014-202824, Appeal against Examiner's Decision of Refusal No. 2018-12494

Summary of the Judgment

1. This case is a lawsuit for rescission of the JPO decision in which the request for the trial for the appeal against the examiner's decision of refusal of the present application invention titled "ROTARY DRUM-TYPE MAGNETIC SEPARATING DEVICE" was not established, and the issue is presence/absence of violation of the independent patentability requirement (lack of novelty, inventive step).
2. The judgment held as follows and rescinded the JPO decision which denied novelty and inventive step of the Present Amended Invention.

(1) Different Features

There are different features between the Present Amended Invention and the Cited Invention; that is, "the Present Amended Invention is such that 'by magnetizing the magnetic body in a used coolant liquid by the second rotary drum, the magnetic bodies are adsorbed to each other and become larger', while it is not known whether or not the magnetic bodies in the Cited Invention are adsorbed to each other and become larger" (Different Feature 1); "the Present Amended Invention 'includes the second rotary drum in which a plurality of magnets are disposed closer to a front side where the used coolant liquid flows in than the first rotary drum, and the used coolant liquid flows from the second rotary drum toward the first rotary drum', whereby it is 'guided to the first rotary drum along the flow of the used coolant liquid' still in a state where the magnetic body scraped by a scraper is still large, while in the Cited Invention, it is not clear whether or not the muddled liquid flows from the magnet drum 25 toward the magnet drum 27, and it is not known whether the iron powders

scraped by the scraper plate 39 are guided from the magnet drum 25 toward the magnet drum 27 along the flow of the muddled liquid still in a state where the iron powders have become large" (Different Feature 2); and "in the Present Amended Invention, a channel for the coolant liquid is formed between the first rotary drum and the bottom member, while in the Cited Invention, it is not known whether or not the channel as above is formed" (Different Feature 3').

(2) Judgment on Different Features

In the Cited Invention, it is not clear whether the flow of the muddled liquid input into the tank 17 through the ejection port 15 flows into the interval between the magnet drum 27 and the scraper plate 39 and guides impurities to the magnet drum 27 along the scraper plate 39; the impurities' movement from the magnet drum 25 to the magnet drum 27 is caused by the liquid sent out along the surface of the scraper plate 39, and the impurities are not necessarily found to be guided by the flow of the muddled liquid; and in a portion on the right side (upper side) of the scraper plate 39 between the magnet drum 25 and the magnet drum 27, it is highly likely that a flow of the muddled liquid from below to above which is a rotating direction of the magnet drum 27 occurs and thus, it is not necessarily found that the flow of the muddled liquid which guides the impurities to the magnet drum 27 along the scraper plate 39 is generated. Therefore, Different Features 2 and 3' are both substantial differences, and it is not found that a person ordinarily skilled in the art could have easily conceived of them.