

Patent Right	Date	June 11, 2020	Court	Intellectual Property High Court, First Division
	Case number	2019 (Gyo-Ke) 10077		
<p>- A case in which, in the structure of the invention related to the different feature in the patent invention titled "WIDE AND FLAT-BOTTOMED GRAB BUCKET FOR DREDGING", a rubber lid "is opened upward with a rise in an internal pressure even if a shell grips gripped materials in more than a predetermined capacity," but since the Cited Document has no description or suggestion related to the case where the shall grips earth and sand which are gripped materials in more than the predetermined capacity and thus, it was found that a person ordinarily skilled in the art could not have made the invention easily.</p>				

Case type: Rescission of Trial Decision to Maintain

Result: Dismissed

References: Article 29, paragraph (2) of the Patent Act

Related rights, etc.: Invalidation Trial No. 2017-800134 case, Patent No. 3884028

### Summary of the Judgment

1. This case is a suit against trial decision made by the JPO in which Plaintiff made a claim for an invalidation trial of Defendant's patent titled "WIDE FLAT-BOTTOMED GRAB BUCKET FOR DREDGING", but since the decision to maintain was rendered, Plaintiff sought rescission thereof. As reasons for rescission, Plaintiff asserted that determination on inventive step has an error.
2. The judgment held as follows in brief, and dismissed Plaintiff's claim.
  - (1) Common features and different features between Present Invention 1 and the Cited Invention
    - A. In determining the inventive step of an invention, a main cited invention to be compared with the present invention should provide concrete technical ideas based on which determination is made as to whether or not a person ordinarily skilled in the art could have made the present invention easily on the basis of the technical standards at filing. When there is a sub cited invention corresponding to the different feature between the present invention and the main cited invention, and when it is determined whether or not the present invention could have been made easily by applying the sub cited invention to the main cited invention, determination shall be made as to whether there is motivation to lead to the present invention by applying the sub cited invention to the main cited invention by comprehensively considering suggestions in the contents of the main cited invention or the sub cited invention, relevance of the

technical field, commonness in problems, actions/functions, and the like as well as presence/absence of factors obstructing the application, presence/absence of unpredicted remarkable effects, and the like.

In view of such a structure to determine the inventive step, in finding the different features between the present invention and the main cited invention, it is reasonable to find an integral structure as a unit from a viewpoint of solution of the technical problem of the invention, and determination not considering such viewpoints, but finding through subdivision of the different features more than necessary and determination on how easily each of the different features could have been conceived of individually can cause an erroneous result in determination of the inventive step, which is not appropriate.

B. In the different features found in the present decision, at least the structures related to Different Features 4 to 6 are integrated structures directed to solution of the technical problem that deformation or breakage caused by a rise in an internal pressure of the grab bucket is not induced even if a lowering time is reduced by decreasing resistance of the grab bucket itself in the water, and the grab bucket grips the gripped materials in more than a predetermined capacity and thus, Different Features 4 to 6 in this case should have been found as follows.

(Different Feature A)

In Present Invention 1, a "lid body having an opening/closing type rubber lid" mounted on an air vent hole formed on a part of a shell cover "is opened upward so that water is vented upward during lowering in the water with the shell expanded right and left", and it is "also opened upward with a rise in an internal pressure when the shell grips the gripped materials in more than a predetermined capacity" and "closed by an external pressure during movement of the grab bucket under the water", while in the Cited Invention, an "opening-closing type check valve" mounted on an opening for air vent formed on a part of an overhead cover is "opened upward so that the air is vented upward during lowering in the water with the shell expanded to right and left and is closed when the bucket is lifted up on the sea," but it is not clear whether it is "also opened upward with a rise in the internal pressure when the shell grips more than a predetermined capacity of the gripped materials".

(2) Determination on different features

Putting this point aside, even after applicability of the determination of

Different Feature 6 is examined in accordance with the finding of the present decision and the assertion by the parties, ... the determination in the present decision cannot be considered to have an error.

- A. The structure of Present Invention 1 related to Different Feature 6 is such that the rubber lid is "opened upward with a rise in the internal pressure even when the shell grips the gripped materials in more than a predetermined capacity", but the Cited Document has no description or suggestion related to the case that the shell grips earth and sand which are gripped materials in more than a predetermined capacity.
- B. With regard to this point, Plaintiff asserts that deformation/breakage of the shell by the pressure of the gripped materials filled in the shell when the shell grips the gripped materials in more than a capacity is a well-known technical problem in the field of a sealed-type grab bucket, and suppression on the rise of the internal pressure by upward opening of the check valve with the rise in the internal pressure is a well-known solution to the aforementioned technical problem. However, the technical problem and solution as asserted by Plaintiff cannot be found from Exhibits Ko 19 and Ko 36 submitted by Plaintiff, and Plaintiff's assertion that Different Feature 6 between the present invention and the Cited Invention is not a substantial difference, because the aforementioned technical problem and the solution are well known, is not grounded.
- C. Even if Plaintiff's assertion is assumed to assert that, by applying the aforementioned well-known art to the Cited Invention, the structure that the rubber lid is opened upward with a rise in an internal pressure even when the shell grips the gripped materials in more than a predetermined capacity could have been conceived of easily, the technical problem and the solution as asserted by Plaintiff cannot be found from the Exhibits Ko 19 and Ko 36, and it cannot be considered to be well known as described in the aforementioned B. Thus, the aforementioned assertion has no premise, and Plaintiff's assertion on the error in determination of the present decision that Different Feature 6 could not have been conceived of easily has no grounds.
- D. As described above, since Different Feature 6 is a substantial difference and could not have been easily conceived of on the basis of the Cited Invention, Different Feature A is also a substantial difference and could not have been conceived of easily on the basis of the Cited Invention.