

Patent Right	Date	October 22, 2020	Court	Intellectual Property High Court, Third Division
	Case number	2019 (Gyo-Ke) 10126		
- A case in which the JPO decision which affirmed inventive step of the invention was judged to have errors				

Case type: Rescission of Trial Decision to Maintain

Result: Granted

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

Related rights, etc.: Patent No. 5763225

Decision of JPO: Invalidation Trial No. 2019-800010

Summary of the Judgment

1. This case is a suit against a trial decision dismissing the request for a trial for patent invalidation of the invention titled "STEEL SHEET PILE PRESS-FITTING AND WITHDRAWING MACHINE AND STEEL SHEET PILE PRESS-FITTING AND WITHDRAWING CONSTRUCTION METHOD". The JPO decision judged that there were no grounds for invalidation of lack of inventive step in the invention.

2. The judgment held as follows and judged that the JPO decision having affirmed the inventive step had errors.

(1) In view of the common general technical knowledge, there is motivation to have the structure of the Present Invention according to the difference regarding the structure of the Cited Invention according to the difference, and to have the structure as in the Present Invention by applying the well-known art could have been easily conceived of by a person ordinarily skilled in the art. In the present description, other arts for solving the problem of the Cited Invention according to the difference are disclosed as explanation for the conventional art, but it cannot be considered that presence of such art teaches away from configuration as in the Present Invention.

(2) Since similar grounds for invalidation were asserted in the procedure for the present trial and the procedure for the trial in the previous case (Plaintiff was a demandant for an invalidation trial in both cases), conflict with the JPO decision in the previous case or the like could pose a problem. However, primarily cited references of the invalidation reasons asserted in each of the cases are different and moreover, evidences submitted as grounds for the assertion were also different and thus, Plaintiff's assertion of the lack of inventive step in this case does not violate the effect of the JPO decision of the previous case, and there is insufficient evidence to find that the assertion brings up a problem having been already settled so as to violate of the principle of good faith.