

Patent Right	Date	September 16, 2020	Court	Tokyo District Court, 40th Civil Division
	Case number	2019 (Gyo-U) 536		
- A case in which the court dismissed both of the Plaintiff's claims, holding, inter alia, that a "legitimate reason" prescribed in Article 184-4, paragraph (4) of the Patent Act cannot be found.				

Summary of the Judgment

In this case, the Plaintiff, which filed an international patent application in a foreign language for an invention titled "Binding molecules specific for il-21 and uses thereof," alleges that it is illegal for the JPO Commissioner to have dismissed the Plaintiff's procedure regarding the national documents by deeming the Plaintiff's failure to submit a translation of the description, etc. within the time limit for submitting national documents to be the withdrawal of that international application (the "International Application") under Article 184-4, paragraph (3) of the Patent Act, despite the existence of a "legitimate reason" prescribed in paragraph (4) of the same Article, and accordingly, the Plaintiff seeks the rescission of the JPO's decision to dismiss that procedure regarding the national documents (the "Decision of Dismissal"). The Plaintiff also seeks the rescission of the determination made by the JPO Commissioner (the "Determination") that dismissed the Plaintiff's request for an administrative review regarding the Decision of Dismissal, alleging that the Determination is illegal due to the lack of reasons that should have been stated in the supplementary note.

The issues of the case are as follows: [i] whether there is a "legitimate reason" prescribed in Article 184-4, paragraph (4) of the Patent Act (whether the Decision of Dismissal is illegal); and [ii] whether the Determination lacks reasons that should have been stated in the supplementary note (whether the Determination is illegal).

In this judgment, the court first determined on Issue [i] as follows: it cannot be found that the procedure for the International Application to enter into the national phase had been commissioned to a law firm, and even if it had been thus commissioned, the lawyer of the law firm cannot be found to have taken due care to avoid failing to meet the time limit for the procedure for the International Application to enter into the national phase; therefore, it cannot be said that there is a "legitimate reason" prescribed in Article 184-4, paragraph (4) of the Patent Act.

Regarding Issue [ii], the court determined that the Determination cannot be found to be illegal due to the lack of reasons that should have been stated in the supplementary

note. In conclusion, the court dismissed both of the Plaintiff's claims.