

Patent Right	Date	January 30, 2020	Court	Tokyo District Court, 46th Civil Division
	Case number	2017 (Wa) 39602		
- A case in which the court dismissed the claims based on patent rights for an invention titled "Exhaust equipment for individual air exhaustion for a table with a cooking part," on the grounds of the violation of the enablement requirement.				

Summary of the Judgment

In this case, the Plaintiff, the holder of two patent rights (the "Patent Rights") for an invention titled "Exhaust equipment for individual air exhaustion for a table with a cooking part," alleges that the manufacturing, sale, etc. of the Defendants' Product by the Defendants infringe these patent rights, and based on this allegation, the Plaintiff seeks an injunction against the manufacturing, etc. of the Defendants' Product and demands the disposal thereof under Article 100, paragraphs (1) and (2) of the Patent Act, and also claims compensation for damages under Article 709 of the Civil Code and Article 102, paragraph (2) of the Patent Act.

In this case, the court held as follows. The invention covered by the Patent Rights has a structure wherein the "suction end is provided in a manner that it faces the cooking part at a height where it can enclose the upper part of the thermal air current rising from the cooking part through the gridiron." In order to work the invention with such structure, in the process of production and use of the exhaustion equipment, it is necessary to arrange the suction end "at a height where it can enclose the upper part of the thermal air current," and it is necessary to be able to detect the upper part of the thermal air current. However, the statement in the description in question cannot be evaluated as being clear and sufficient to enable a person ordinarily skilled in the art to detect the "upper part of the thermal air current" (Article 36, paragraph (4), item (i) of the Patent Act). Holding as such, the court concluded that the Plaintiff may not exercise the Patent Rights pursuant to the provisions of Article 104-3, paragraph (1) of the Patent Act, and dismissed all of the Plaintiff's claims.