Appendix 2

Case No. 2005 (Gyo-ke) 10042 (excerption)

Re: Lawsuit petitioning for revoking the official conclusion related to the withdrawal of the Japanese Patent No. 3327423

Oral argument terminated on October 7, 2005

Chapter 6. Legal judgment pronounced by the Court

Section 1. Reason 1 for the revocation of the Japanese Patent 3327423

Re: Alleged misjudgment on the violation against the provision set forth in the former Article 36(5)(i) of the Patent Act of Japan.

(1) The former Article 36(5) of the Patent Act of Japan provides the following: "The scope of Claims as provided in Article 36(3)(iv) of the Patent Act, shall comply with each of the following items." The Article 36(5)(i) provides that "the invention for which a patent is sought is stated in the detailed description of the invention." Note that the above (i) in the former Article 36(5) of the Patent Act of Japan has been revised into Article 36(6)(i) of the Patent Act of Japan, by the Law Amendment enacted in 1994, by preserving the language as it was. The Article 36(6)(i) of the Patent Act of Japan will be referred to as the "Support requirements" hereinafter.

The Patent System is based on the basic principle to grant a patent right for an invention with the premise to disclose the invention by way of securing monopolistic and exclusive implementation of the corresponding invention for a certain period of time for the patentee so as to encourage the invention and contribute to the development of industries.

With regard to the specification that should be attached to the Application for a patent to be filed by a person who has a right to obtain the patent, primarily, the applicant is required to disclose the technical contents described in the specification of the corresponding invention to the public. Upon establishment of the granted patent rights, the specification is responsible for explicating the technical scope of the patented invention. Hence, in order to grant a patent describing the invention in the Claims, it is quite essential that "A Detailed Description of the Invention" in the specification readily convince a person skilled in the art that existing problems can be solved by the invention. The above-cited support requirements, which are regulated by the former Article 36(5)(i) of the Patent Act of Japan, had restricted the description of the Claims as cited above due to the following reasons. If any invention not described in "A Detailed Description of the Invention" were described in the Claims, it would result in the occurrence of a monopolistic and exclusive right on any invention that has not yet been disclosed. This in turn results in the deprivation of the benefit in the discretional use of the corresponding art from the public. Further, this will eventually retard the industrial development, thereby counteracting the fundamental intent of the patent system.

Hence, a correct judgment should be pronounced based on deliberate examinations with regard

to the following: When examining the contents described in Claims, upon comparison between the claimed invention and the matters described in “A Detailed Description of the Invention,” it is identified whether or not the claimed invention complies with the support requirements provided for the Specification. It is further identified whether or not the claimed invention can coincide with the matters described in “A Detailed Description of the Invention,” where it is also identified whether or not the matters described in “A Detailed Description of the Invention” is within an extent to which a person skilled in the art can perceive that problems cited in the invention can be solved by implementing the invention or whether or not the scope of the claimed invention can convince a person skilled in the art that the problems cited in the specification can be solved by referring to the common general knowledge at the time of filing even when the description or suggestion to the claimed invention is unavailable. Hence, it is appropriate to interpret that the applicant for a patent or the patentee shall be responsible for certifying the presence of the support requirements related to the specification. In this case, the above applicant for a patent corresponds to the Plaintiff who has sued for the revocation of the appeal decision that dismissed the petition for the judgment on the objection against the decision of refusal to grant the patent rights. Further, the above-cited patentee corresponds to the Plaintiff who has sued for the revocation of the trial decision that approved the petition for the judgment for invalidating the patent right in question, or the Defendant for the revocation of the trial decision that did not approve the petition for the judgment for invalidating the patent right in question.

Based on the above viewpoint, the present lawsuit case is examined as described hereinafter.

(2) Contents described in the Claims in the present case

Claim 1 in the present case pertaining to Invention 1, in question, describes a method of producing polyvinylalcohol film (PVA film) for producing a polarizing film by uniaxially stretching a polyvinylalcohol-based raw material film, wherein the polyvinylalcohol-based raw material film has a thickness in the range of 30 to 100 micro-meters and the relationship between the complete dissolution temperature (X) in hot water and the equilibrium swelling degree (Y) thereof is defined by formulas (I) and (II).

Claims 2 and 3 pertaining to Inventions 2 and 3 have respectively been dependent on Claim 1 pertaining to Invention 1, in question.

(3) “A Detailed Description of the Invention” shown in the Specification in question

(3)-A:

The Specification in question contains the following descriptions.

(3)-A-A:

“[Technical Field of the Invention], it is described that “The present invention relates to a

method for manufacturing a polarizing film having excellent durability and polarization performance and manufacturing the film with excellent stability." (Paragraph [0001])"

(3)-A-B:"[Description of Prior Art] In the polyvinylalcohol-based polarizing film, a product dyed with iodine has excellent polarization performance, but the moisture resistance and the heat resistance are poor. Therefore, the degree of polarization is decreased by being exposed to a high-humidity atmosphere or a high-temperature atmosphere, namely, the durability is poor. On the other hand, a product dyed with a dichromatic dye has excellent durability, but the polarization performance is poor. Thus, polyvinylalcohol-based polarizing films have both merits and demerits. Consequently, such a film is actually obliged to be properly used depending on the performances necessary for satisfying end use requirements. Therefore, a polyvinylalcohol-based polarizing film having both excellent polarization performance and excellent durability is very useful and will have an expanded range of uses, if such a film can be developed. Then, in order to solve the above-mentioned problems, the present applicant suggested a method for manufacturing a polarizing film by uniaxially stretching a polyvinylalcohol-based film in at least one of a dyeing process and a boron-compound treatment process. The raw material film is a PVA-based film having a thickness in the range of 30 to 100 micro-meters and a complete dissolution temperature in hot water of 65 to 90°C (Japanese Unexamined Patent Application Publication No. 4-173125). This method can provide a polarizing film whose durability under high-moisture and high-temperature circumstances is improved and whose degree of polarization is not changed by the film being exposed to the atmosphere for a long period of time." (Paragraph [0002] to [0005])

(3)-A-C: "[Problems to be solved by the Invention] However, the present inventors have conducted further studies and have found that the polarizing film obtained by the method disclosed in Japanese Unexamined Patent Application Publication No. 4-173125 actually has excellent durability in high-temperature and high-humidity circumstances, but the polarization performance and the durability performance cannot be stably achieved only by defining the thickness and the complete dissolution temperature in hot water of a polyvinylalcohol-based raw material film. That is to say, unevenness in the degree of polarization is caused by slight fluctuations in manufacturing conditions, and therefore, careful process management is required. Additionally, in the experiments regarding the method according to the above-mentioned patent application publication, a polarizing film is manufactured by being uniaxially stretching to 7.2 times the original size thereof finally. However, it is difficult to precisely control the stretching ratio in the manufacturing process. When the stretching ratio during the manufacturing process is higher than 7.2 times, problems such as breakage of the film and occurrence of fractures may be generated. From this point, the process management should be sufficiently careful. In other words, a raw material film is required to withstand excessive stretching force, which is hard to avoid, during the process of manufacturing a polarizing film, particularly, during the process of stretching the film. Consequently, it is desired to develop a method

for manufacturing an excellent polarizing film having a high polarization performance and durability performance by using a film not susceptible to film breakage even if excessive stretching force is applied, namely, a film that can stand being highly stretched. ”(Paragraph [0006] to [0007])

(3)-A-D: “[Means for solving the problems] Accordingly, the present inventors have conducted intensive studies in order to solve the above-mentioned problems, and, as a result, have found that the above-mentioned object can be achieved by the method below. Thus, the present invention has been accomplished. That is, in a method of manufacturing a polarizing film by uniaxially stretching a polyvinylalcohol-based raw material film, the polyvinylalcohol-based raw material film has a thickness in the range of 30 to 100 micro-meters, preferably has an average degree of polymerization of 2600 or more, and the relationship between the complete dissolution temperature (X) in hot water and the equilibrium swelling degree (Y) thereof is defined by the following expressions:

$Y > -0.0667X + 6.73$ ……. (I)

$X \geqq 65$ ……..…… (II)

wherein X is the complete dissolution temperature (°C) in hot water of a film piece with dimensions of 2 cm X 2 cm; and Y is the equilibrium swelling degree (weight fraction) when a film piece with dimensions of 10 cm X 10 cm is dipped in a constant-temperature water-bath of 20°C for 15 minutes for swelling and then is dried at 105°C for 2 hours and is calculated from the expression of (film weight after dipping)/(film weight after drying); and

the polyvinylalcohol-based raw material film is uniaxially stretched to 1.2 to 2 times the original size thereof in a dyeing treatment process and further to 2 to 6 times the original size thereof in a boron-compound treatment process.” (Paragraph [0008])

(3)-A-E:

“A film having a complete dissolution temperature of 65°C or less is partially dissolved or degraded during the stretching; thus, such a film is inapplicable. On the other hand, a film having a complete dissolution temperature of 90°C or more cannot be sufficiently stretched and readily causes problems during the stretching. In addition, even if the complete dissolution temperature is in the above-mentioned range, a film whose equilibrium swelling degree shown by the expression (I) is outside of the above-mentioned range causes a decrease in the polarization performance and durability performance of the polarizing film and further causes a decrease in the manufacturing stability. Thus, a targeted polarizing film cannot be readily obtained.” (Paragraph [0013])

(3)-A-F: “[Examples] the following experimental results are described, where the contents of the description thereof is summarized as follows:

Initially, the PVA films having a thickness of 80μm and containing the complete dissolution

temperature (X) and the equilibrium swelling degree (Y) with its own values shown in a table cited below were dipped in an aqueous solution containing 0.2 g/L of iodine and 60 g/L of potassium iodide at 30°C for 240 seconds. Simultaneously, the PVA films were uniaxially stretched to 1.2 times the original size. Then, the films were dipped in an aqueous solution containing 60 g/L of boric acid and 30 g/L of potassium iodide for 5 minutes for boric acid treatment and at the same time, were uniaxially stretched to 6 times the original size. After being dried at room temperature for 24 hours, the polarizing films were produced. Next, in order to evaluate the moisture and heat resistances of the generated polarizing films, a temperature of discoloration was measured. Values resulted from the above-cited experiments are shown in the Table cited below. It should be noted that, in examples 1 and 2, no breakage and fractures of the film were observed even when the film was dyed and then was uniaxially stretched to 6.4 times the original size thereof during the boric-acid treatment. On the other hand, comparative examples 1 and 2 respectively generated cracks in the PVA film when the stretching power exceeded six times during the boric-acid treatment."

TABLE

	Example 1	Example 2	Comparative Example 1	Comparative Example 2
Complete dissolution temperature (X) (˚C)	71.6	72.0	74.5	75.3
Equilibrium swelling degree (Y)	2.4	2.2	1.6	1.6
Range of (Y) (Calculated value)	Y>1.95	Y>1.93	Y>1.76	Y>1.71
Temperature of discoloration in water (˚C)	63	62	52	54

(Summary of the description of the paragraph [0020]–[0026])

(3)-A-G: "[Effect of the Invention] In the present invention, a polarizing film having excellent polarization performance and durability performance and polarizing-film manufacturing with highly excellent stability can be achieved by using a polyvinylalcohol-based film having a particular complete dissolution temperature and an equilibrium swelling degree as the raw material film and uniaxially stretching the film in at least the boron-compound treatment process. "(Paragraph [0027])

(3)-B:

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According to the description of the above-identified Specification in question, “A Detailed Description of the Invention” of the Specification in question states that the polarizing film made from conventional PVA film incorporates advantageous and disadvantageous characteristics. Hence, it has long been desired that a novel polarized film made from a novel PVA film with excellent polarization performance and durability be developed as previously described in the preceding paragraphs (3)-A-B and (3)-A-C.

According to the method disclosed in Japanese Unexamined Patent Application Publication No. 4-173125, it is possible to produce such a polarizing film that has improved durability in the high-temperature and highly humid environment without causing the polarization degree to be varied during a long storage period, as previously described in the preceding paragraph (3)-A-B. Nevertheless, it was identified that the method disclosed in the above-cited Publication No. 4-173125 could hardly stabilize the polarization degree and durability. More particularly, the polarization degree became unstable even when a negligible variation occurred in the production condition, and yet, a critical problem was also generated due to severances and cracks in the PVA film when a high stretching power was applied, as described in the preceding paragraph (3)-A-C. Hence, it is recognized that, by adopting the configuration described in Claim 1 shown in the Specification in question, inventors eventually discovered the possibility of producing a polarizing film, which was provided with high-degree polarization performance and durability and durable to the high stretching power as described in the preceding paragraph (3)-A-C/D.

Concretely, it is recognized that an objective polarizing film was produced from the PVA film (example 1) with the complete dissolution temperature (X) in hot water rated at 71.6˚C and the equilibrium swelling degree (Y) rated at 2.4 within a scope expressed by formula (I) and the other PVA film (example 2) having the complete dissolution temperature (X) rated at 72˚C and the equilibrium swelling degree rated at 2.2 within a scope expressed by the formula (I), wherein the resultant PVA films respectively incorporated high durability as rated at 63˚C and 62˚C in terms of the temperature of discoloration in water and also proved to be durable without incurring severances and cracks even when the stretching power was rated at 6.4. On the other hand, it is also recognized that a comparative PVA film (comparative example 1) with the complete dissolution temperature (X) in hot water rated at 74.5˚C and the equilibrium swelling temperature (Y) rated at 1.6 outside the scope expressed by the formula (I) and the other comparative PVA film (comparative example 2) with the complete dissolution temperature (X) in water rated at 75.3˚C and the equilibrium swelling degree (Y) rated at 1.6 outside the scope expressed by the formula (I) were respectively produced. However, it is recognized from the description of the preceding paragraph (3)-A-F that the above comparative examples 1 and 2 merely led to the production of the polarizing films, which proved to be insufficient in durability, by indicating the temperature of discoloration in water to be 52˚C and 54˚C, where comparative examples 1 and 2 were further subject to severances

when the stretching power exceeded six times.

Further, according to the description of the preceding paragraphs (3)-A-D/E, it is recognized that the complete dissolution temperature (X) of the PVA film in hot water and the equilibrium swelling degree (Y) jointly constitute the essential relationship required for satisfying the above formulas (I) and (II) as the indispensable means for solving the problems existing in conventional technologies. Nevertheless, except for the above examples 1 and 2, there is no description supporting that a person skilled in the art can recognize that the above problems could fully be solved because the complete dissolution temperature (X) of the PVA film in hot water and the equilibrium swelling degree (Y) exist in the scope satisfying the above formulas (I) and (II).

(4) Comparison between the invention described in "a Detailed Description of the Invention" and the claimed invention in question

(4)-A:

As explicated in the foregoing Section (1), in order for an invention which a patent is sought to grant a patent right, the applicant is required to describe "a Detailed Description of the Invention" so as to convince a person skilled in the art that the problems related to the claimed invention can be solved properly. Further, as apparent from the description shown in the preceding Section (2), the claimed invention in question constitutes a specific matter defined by a scope expressed by predetermined mathematical formulas using a couple of technical variables (i.e., parameters) specifying the values of physical characteristics. In other words, the above invention in question relates to a so-called parameter invention. In the above invention, in order for the statement of the claims to properly comply with the Support requirements, it is appropriate to interpret that it is required to describe the technical meaning of the relationship between the scope designated by the above mathematical formulas; and the resultant effect (performance) in "a Detailed Description of the Invention" to such an extent that can convince a person skilled in the art at the time of filing even if embodiments were not disclosed. Alternatively, it is also appropriate to interpret that, by considering the common general knowledge at the time of filing, insofar as the above technical meaning is within the scope designated by the corresponding mathematical formulas, it is required to describe embodiments via the disclosure to such an extent that convinces a person skilled in the art that the desired effect (performance) can be secured.

(4)-B:

Hence, after examining whether or not the Specification in question properly comply with the Support requirements cited in the preceding paragraph (4)-A, which is related to the statement of Claim 1 in question, as previously examined in the preceding Section (3), "a Detailed Description of the Invention" in the Specification in question duly stated that the matters described in Claim 1 were adopted as the means for producing the above polarizing film, which was claimed to be capable of

fully solving the problems in the polarizing films made from conventional PVA film and have excellent durability and polarization performance, and yet, being excellent stability during the production process. Nevertheless, it should be pointed out that the Specification in question merely describes a couple of examples that respectively designate effectiveness in the adoption of the above matters by reporting that the above polarizing films having a high degree of durability and capability to endure a high degree of stretching power secured from novel PVA films with specific complete dissolution temperature (X) and specific equilibrium swelling degree (Y), in contrast with a couple of comparative examples that respectively denote the generation of poor-quality polarizing films having insufficient durability and incapability to endure a high degree of stretching power obtained from the PVA films having specific complete dissolution temperature (X) and specific equilibrium swelling degree (Y).

On the other hand, it should be pointed out that there is insufficient evidence in the invention in question to convince a person skilled in the art that the essentials of the invention in question could be plotted at the time of filing in the present case even when concrete examples were not yet disclosed, where the applicant claims that novel polarizing films with the above-cited desirable performance capability could be produced by virtue of the relationship in which the complete dissolution temperature (X) and the equilibrium swelling degree (Y) should respectively be satisfied by the PVA film available for the raw material remain within a scope plotted by the formula (I) expressed as $Y>-0.0667X + 6.73$ and the other formula (II) expressed $X \geqq 65$. Nevertheless, as cited above, there is insufficient evidence to convince a person skilled in the art that the plotting of the above-cited scope was based on the basic formula of the above formula (I) expressed as "$Y = -0.0667X + 6.73$" (hereinafter referred to "the basic formula (I)") and the basic formula of the above formula (II) expressed as "$X = 65^{\circ}C$" (hereinafter referred to "the basic formula (II)") at the time of filing even though the concrete examples were not disclosed.

Further, Chart 1 in the attached document 1 (there is no contest on the contents of Chart 1 between the concerned parties) designates the plotted values of the complete dissolution temperature (X) of the PVA film in hot water and the equilibrium swelling degree (Y) on the XY plane. These values applied to the above examples and comparative examples in relation to axis X, which designates the complete dissolution temperature (X) of the PVA film in a range from 60˚C to 100˚C in conjunction with the axis Y that designates the equilibrium swelling degree (Y) in a range from 1.0 to 3.0, where the above basic formula (I) is represented by an oblique solid line and the basic formula (II) represented by a perpendicular broken line. However, it is apparent that it is practicable to draw a straight line or a curved line based on another formula other than the above-cited oblique solid line representing the basic formula (I) in the XY plane between the above-cited examples 1 and 2 and comparative examples 1 and 2. It is originally apparent that the feasibility to distinguish whether or not the desired effect (performance) can be secured across the

straight line or the curved line as the border on the XY plane can hardly be proved. Hence, it is unrecognizable by merely referring to the above four embodiments that the above oblique solid line precisely corroborates that it corresponds to the border defining of the actual extent to which the desired effect (performance) can be secured.

Based on the above reasons, even when considering the common general knowledge at the time of filing, it is impossible to recognize that (insofar as the complete dissolution temperature (X) of the PVA film in hot water and the equilibrium swelling degree (Y) thereof, existing within the scope on the XY plane plotted on the basis of the above cited oblique solid line denoting the basic formula (I) and also on the basis of the above-cited broken line denoting the basic formula (II)) the feasibility to solve problems in the polarizing film made from any of conventional PVA film by producing the present polarizing film with the above-cited desired performance capability could be corroborated by four of the above-cited embodiments. Further, it is not recognized that the above embodiments were fully described via disclosure thereof within an extent duly convincing a person skilled in the art that the desired effect (performance capability) could be secured within the scope designated by the above formulas upon consideration of the common general knowledge at the time of filing by merely referring to the statement described in “a Detailed Description of the Invention” of the Specification in question. Based on the above reasons, it is not recognizable that the invention pertaining to Claim 1 in the Specification in question duly comply with the Support requirements.

(4)-C:

The Plaintiff maintains that, since the value of the equilibrium swelling degree (Y) is more than 1.0 without exceeding 3.0 at the maximum, whereas the complete dissolution temperature (X) of the PVA film in question in hot water ranges from 65˚C to substantially 90˚C, a practical scope that satisfies the above-cited formulas (I) and (II) does not designate an infinitely expansive scope.

Nevertheless, even though the scope of the values of the complete dissolution temperature (X) and the equilibrium swelling degree (Y) thereof is assumed to be as the one maintained by the Plaintiff, as pointed out in the foregoing description in (4)-B, it is unrecognizable that the basic formula (I) is precisely corroborated by the above-cited four embodiments. Hence, it means denial of the Plaintiff’s maintaining that, based on the above two examples from which an actual effect was confirmed, even any PVA films other than the one used for the above example 1 or 2 can securely generate the above-cited desired effect if the characteristics of these PVA films satisfy the above formulas (I) and (II). Based on the above reasons, the Plaintiff’s maintaining above cannot duly be recognized.

(5) The Plaintiff pleads as followings. By considering the above-cited 10 units of experimental data described in the experimental result certificate and the other four units of experimental data described in the Specification in question, the number of embodiments for conceiving the above-cited formulas (I) and (II) is sufficient, and yet, in order to obtain conclusive evidence that the

PVA film satisfying the above formulas (I) and (II) could exert excellent durability and polarization performance capability, the above experimental data should be regarded as sufficient. Nevertheless, the Decision was officially concluded that, in order to obtain an evaluation that all of the PVA film capable of satisfying the above formulas (I) and (II) could generate excellent effects in polarization performance capability and durability, the number of examples was not sufficiently provided, and yet, even when referring to the statement described in the Specification in question and also considering the common general knowledge in the corresponding technical field, any of the PVA films capable of satisfying the above formulas (I) and (II) could hardly convince that the above excellent effect could be generated without regarding the above-cited experimental result certificate at all by way of solely referring to examples 1 and 2 and comparative examples 1 and 2 described in the Specification in question. The Plaintiff maintains that the above-cited experimental result certificate should have been considered.

(5)-A:

Nevertheless, as described in the foregoing paragraph (4)-A, in the invention in question corresponding to the "so-called parameter invention (invention defined by parameter)," which comprises a particular object specified by an extent designated by predetermined formulas using a couple of technical variables (parameters) designating the values of physical characteristics, by considering the common general knowledge at the time of filing, in order to enable the claimed invention to properly comply with the Support requirements, if the claimed invention remains within the scope designated by predetermined mathematical formulas using parameters (technical variables), the interpreting that embodiments should be described by an extent enabling a person skilled in the art to perceive the feasibility to obtain the desired effect (performance capability) is based on the proper role of the specification by way of disclosing the technical contents of the corresponding invention for which a patent is sought and then clarifying the extent of the patent (technical scope of the patented invention) after granting a patent right. Although it is a matter of course, the above described assertion includes the meaning that the specification is imperatively required to clarify that the scope designated by the corresponding mathematical formulas is not based on supposition, but the scope thereof is supported by the experimental results. Based on this principle, even when considering the common general knowledge at the time of filing, it is conceived to be impractical to expand or generalize the matters described in "a Detailed Description of the Invention" up to the scope of the claimed invention without disclosing embodiments in "a Detailed Description of the Invention" by an extent enabling a person skilled in the art to conceive that problems of the corresponding invention can be solved. Nevertheless, the Plaintiff dared to supplement the matters described in "a Detailed Description of the Invention" by submitting the above experimental data after filing of the Application in question, thereby resulting in the expansion and generalization of the matters described in "a Detailed Description of the Invention" up to the scope of the claimed

invention in question so as to comply with the Support requirements. The above procedure taken by the Plaintiff is contradictory to the intent of the patent system beyond the permissible range.

(5)-B:

Referring to the presented case, the above-cited experimental result certificate was prepared on August 3, 2004, by a member of the Plaintiff's technical staff currently in service with Functional Material Research Group, Central Research Institute, as a manager. The manager in charge clarified that the above PVA film excelled in the polarization performance capability and durability by applying the PVA film that satisfied the above formulas (I) and (II). He also clarified that the above-cited experiments 1–8 and comparative experiments 1–2 were executed during a period ranging from May 18, 1993 to August 25, 1993, prior to the filing of the Application in question. By properly setting the mean polymerization degree, mean saponification degree, drying temperature and drying duration for the PVA films, experiments 1–8 respectively yielded the above-cited PVA films each having the relationship between the complete dissolution temperature (X) of the PVA films in hot water and the equilibrium swelling degree (Y) within the scope of the above formulas (I) and (II). The above research staff member measured the temperature of discoloration of the polarizing films made from the PVA films, and further verified the severability when the polarizing films were uniaxially stretched by 6.4 times during the process for treating the polarizing films with boric acid. Further, by properly setting the above-cited experimental conditions such as the PVA polymerization degree and others, comparative experiments 1-2 respectively yielded comparative samples of the PVA films respectively having the relationship between the complete dissolution temperature (X) of those PVA films in hot water and the equilibrium swelling degree (Y) out of the scope of the above-cited formulas (I) and (II). The above research staff member further measured the temperature of discoloration of the comparative samples of the polarizing films made from the latter PVA films, and further verified the severability of the polarizing films when uniaxially being stretched by 6.4 times and 5.1 times during the process for treating the polarizing film with boric acid. The results from the above experiments were summarized into Fig. 1 in the attached sheet 2. The above experimental result certificate describes that, by applying the PVA film that had the relationship between the complete dissolution temperature (X) of the PVA film in hot water and the equilibrium swelling degree (Y), which satisfied the above formulas (I) and (II), the above research group identified that an improved polarizing film excelled in the polarization performance capability and durability was eventually secured.

(5)-C:

Nevertheless, even when trusting the experimental results described in the above experimental result certificate as is, these experimental data have not been disclosed concretely in the above "a Detailed Description of the Invention." In other words, after the filing of the Application in question, the Plaintiff disclosed the result of measuring the performance characteristics of the

polarizing films made from the improved PVA films each having specific values related to the complete dissolution temperature (X) and the equilibrium swelling degree (Y) without being disclosed concretely in “a Detailed Description of the Invention” shown in the Specification in question, and the relationship determined by the result between the numerical values of the complete dissolution temperature (X) and the equilibrium swelling degree (Y) of the PVA film and the performance characteristics of the polarizing film. Based on the Court’s opinion described in the foregoing paragraph (5)-A, the Plaintiff’s procedure by way of supplementing the matters described in the “a Detailed Description of the Invention” in question with additional descriptions is not allowable. Hence, it is officially judged that the above-cited Plaintiff’s plea cannot be recognized.

(6) As fully described above, it is identified from the matters described in “a Detailed Description of the Invention” and the common general knowledge at the time of filing that the following conditions were not fully reasonably understood by a person skilled in the art. Concretely, it was not conceived by a person skilled in the art that, as practical means for solving problems in the polarizing film made from conventional PVA film and as practical means for producing novel polarizing films having excellent durability and polarization performance characteristics, it was possible that the relationship between the complete dissolution temperature (X) of the PVA film (required for producing the inventive polarizing films) in hot water and the equilibrium swelling degree (Y) thereof could plot the practical scope specified by the formulas (I) and (II). Based on the above reasons, it is not recognizable that “a Detailed Description of the Invention” duly contains the descriptions on the method of producing polarizing films that essentially use the raw material film consisting of the improved PVA film that has the relationship between the complete dissolution temperature (X) of the PVA film in hot water and the equilibrium swelling degree (Y) thereof, where the above relationship practically remains within the scope specified by formulas (I) and (II).

On the other hand, as described in the foregoing Section (2), since Claim 1 in question describes invention 1 pertaining to the method of producing polarizing films respectively using a raw material film consisting of the PVA film with the relationship between the complete dissolution temperature (X) of the PVA film in hot water and the equilibrium swelling degree (Y) thereof, where the above relationship practically remains within the scope specified by formulas (I) and (II), it can only be said that the invention concerned Claim 1 pertaining to the invention 1 and Claims 2 and 3 pertaining to inventions 2 and 3, respectively dependent on the Claim 1, have exceeded the practical scope of the invention described in “a Detailed Description of the Invention” in the Specification in question.

Hence, it is duly judged that the inventions pertaining to Claims 1, 2 and 3 have respectively failed to comply with the Support requirements, thereby violating the provision set forth in the former Article 36(5)(i) of the Patent Act of Japan. Hence, there is no err in the judgment of the

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above Decision that has the same reasons as cited above.