Trial decision

Invalidation No. 2010-800114

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The case of trial regarding the invalidation of Japanese Patent No. 4331782, entitled "Process For Forming Resin Surface, Process For Producing Article Having Mixture Of Recessed Parts Different In Size In Surface, This Article, Process For Producing Glove, And Glove" between the parties above has resulted in the following trial decision:

Conclusion

The patent regarding the invention according to claims 1 to 7 of Japanese Patent No. 4331782 was invalidated.

The costs in connection with the trial shall be borne by the demandee.

Reason

No. 1 History of the procedures

1. The patent application according to Patent. No. 4331782 of the case (Japanese Patent Application No. 2008-78937) was filed on March 25, 2008 (Priority Claim under the provisions of Article 41(1) of the Patent Act: March 30, 2007), and the establishment of the patent right (number of claims: 7) was registered on June 26, 2009.

2. The history of the procedures in the invalidation case is as follows:

(1) The demandant demanded trial for patent invalidation of this case regarding the patent on July 7, 2010.

(2) The demandee submitted written reply on September 28, 2010 (Correction of specification, claims or drawings was not demanded).

(3) The first oral proceeding was held in the presence of the demandant and the demandant's attorney as well as the demandee and the demandee's attorney on February 24, 2011 in the 1st trial court of Japan Patent Office. For this oral proceeding, the demandant submitted oral proceedings statement brief as of February 10, 2011, and the demandee submitted oral proceedings statement brief as of February 10, 2011, respectively, and these documents were stated at the oral proceeding.

Moreover, conclusion of proceeding by the first oral proceeding was notified to both parties.

No. 2 The patent Invention

The inventions according to claims 1 to 7 of Japanese Patent No. 4331782 of the case (hereinafter referred to as "the patent Invention 1" to "the patent Invention 7", respectively) are as specified, as viewed from the claims, the patent specification, and the description of the drawings, in accordance with the matter described in claims 1 to 7 of the claims.

[Claim 1]

A method for forming a resin film surface on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility and having sufficiently practical abrasion resistance, comprising:

forming first recessed portions by allowing at least one of a granular or powdery adhering material to adhere to a surface of an unset resin composition containing air bubbles so that at least a portion of the granular or powdery adhering material bites into the surface and by removing the adhering material after the resin composition is set; and

forming second recessed portions smaller than the first recessed portions in size by allowing some of the air bubbles contained in the unset or set resin composition to open on said surface of the resin composition, wherein

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface;

the resin composition is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber; and

a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less.

[Claim 2]

A method of manufacturing an article with recessed portions different in size randomly formed, having a resin film surface on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility and having sufficiently practical abrasion resistance, comprising:

forming first recessed portions by allowing at least one of a granular or powdery

adhering material to adhere to a surface of an unset resin composition containing air bubbles so that at least a portion of the granular or powdery adhering material bites into the surface and by removing the adhering material after the resin composition is set; and

forming second recessed portions smaller than the first recessed portions in size by allowing some of the air bubbles contained in the unset or set resin composition to open on said surface of the resin composition, wherein

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portions (31) recessed from the resin film (3) surface;

the resin composition is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber; and

a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less.

[Claim 3]

An article with recessed portions different in size randomly formed, having a resin film surface on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility and having sufficiently practical abrasion resistance, comprising:

first recessed portions which are formed by allowing at least one of a granular or powdery adhering material to adhere to a surface of an unset resin composition containing air bubbles so that at least a portion of the granular or powdery adhering material bites into the surface and by removing the adhering material after the resin composition is set; and

second recessed portions which are smaller than the first recessed portions in size and are formed by allowing some of the air bubbles contained in the unset or set resin composition to open on said surface of the resin composition, wherein

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface;

the resin composition is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber; and

a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less.

[Claim 4]

A method of manufacturing gloves on which recessed portions different in size are randomly formed on the surface of a resin film and exerting an anti-slipping effect and flexibility and having sufficiently practical abrasion properties, comprising:

forming a resin film (3) in an unset state is formed of a resin composition containing air bubbles and then, forming first recessed portions (31) by allowing at least one of a granular or powdery adhering material to adhere to the surface of the resin film (3) so that at least a portion of the granular or powdery adhering material bites into the surface and by removing the adhering material after the resin film (3) is set; and

forming second recessed portions (32) smaller than the first recessed portions (31) in size by allowing some of the air bubbles (4) contained in the unset or set resin film (3) to open on said surface of the resin composition, wherein

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface;

the resin composition is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber; and

a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less.

[Claim 5]

A glove on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility and having sufficiently practical abrasion properties, wherein

first recessed portions (31) and second recessed portions (32) smaller than the first recessed portion (31) in size are randomly present on a surface of a resin film (3) containing air bubbles (4);

the first recessed portions (31) are formed by traces on the surface of the resin film (3) after at least one of granular or powdery adhering material adhering to the surface of the resin film (3) so that at least a portion of the adhering material bites into the surface is removed;

the second recessed portions (32) are formed by opening of the air bubbles (4) contained in the resin film (3);

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface

of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface;

the resin film (3) is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber; and

a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less.

[Claim 6]

The glove according to claim 5, further comprising,

underneath the resin film (3) containing air bubbles (4), at least a resin film (2) containing no air bubbles (4).

[Claim 7]

The glove according to claim 5 or 6, wherein

the quantity of air bubbles contained in the resin film (3) constitute 5 to 10 vol%.

No. 3 The demandant's allegation

The demandant demands the decision, "The patent for the inventions according to claims 1 to 7 of Japanese Patent No. 4331782 is invalid. The costs in connection with the trial shall be borne by the demandee", and the reasons for invalidation of the patent alleged by the demandant is, as described in written demand for trial and stated by the demandant in the first oral proceeding, as follows:

○ Reasons for invalidation 1

The patent Inventions 1 to 7 could be easily made by a person skilled in the art based on the Invention described in Evidence A No. 1 and Evidence A No. 3 to A No. 5, and thus, the demandee should not be granted a patent for the inventions in accordance with the provisions of Article 29(2) of the Patent Act (falling under Article 123(1)2 of the Patent Act).

○ Reasons for invalidation 2

The patent Inventions 5 and 6 could be easily made by a person skilled in the art based on the Invention publicly worked in Japan described in Evidence A No. 6 and the Inventions described in Evidence A No. 3 to A No. 5, and thus, the demandee should not be granted a patent for the inventions in accordance with the provisions of Article 29(2) of the Patent Act (falling under Article 123(1)2 of the Patent Act).

<Means of proof>

○ Attached to written demand for trial:

Evidence A No. 1: International Publication No. WO 2005/002375

Evidence A No. 2: National Publication of International Patent Application No. 2007-524771

Evidence A No. 3: Japanese Unexamined Patent Application Publication No. S59-95135

Evidence A No. 4: Japanese Unexamined Patent Application Publication No. 2006-169676

Evidence A No. 5: Microfilm (issued by Japan Patent Office on August 31, 1992) photographing the contents of specification and drawings attached to the application of Japanese Utility Model Application No. 3-3590 (Japanese Unexamined Utility Model Application Publication No. H4-100213)

Evidence A No. 6: Achievement Statement of Test Analysis and the like as of June 1, 2010 (addressed to UNIWORLD Co., Ltd., sample names and the like, Active Grip No. 581RIT06G, prepared by Wakayama Prefecture Industrial Technical Center)

Evidence A No. 7: Japanese Examined Patent Application Publication No. 2639415

Evidence A No. 8: Document describing recorded matters of the closed original patent register of Japanese Patent No. 2639415

○ Attached to oral proceedings statement brief as of February 10, 2011

Evidence A No. 9: Basic Application of Priority (Japanese Patent Application No. 2007-94123) for this application and specification, claims and drawings attached to the application

Evidence A No. 10: Receipt as of August 3, 2009 (addressed to Kawashima, UNIWORLD Co., Ltd. issued by Tian)

The demandee admits validity of all the Evidences in the first oral proceeding.

No. 4 The demandee's allegation

The demandee demands the trial decision, "The trial of the case was groundless. The costs in connection with the trial shall be borne by the demandant" and contradicts the reasons for invalidation of the patent alleged by the demandant by

submitting Evidence B Nos. 1 and 2.

<Means of proof>
○ Attached to written reply

Evidence B No. 1: Outline documents of the record of investigation of the theft case at police station in Shanghai and its Japanese translation (however, date and person of preparation unknown)

○ Attached to oral proceedings statement brief as of February 10, 2011

Evidence B No. 2: Written opinion submitted on August 21, 2008 in the course of examination of the application of this case

The demandant admitted validity of the aforementioned Evidence B No. 2 and Evidence B No. 1 was ignored in the first oral proceeding.

No. 5 Described matter in Evidence A No. 1 and Evidence A No. 3 to A No. 5
(1) Evidence A No. 1

The demandant submitted Evidence A No. 2 as translation of Evidence A No. 1 and the following described matters are substantially based on the description of the corresponding portions in Evidence A No. 2 and the underlined portions were translated by the body.

1a. "1. A process for making a textured surface coated glove, comprising the steps of:
(i) treating a former with a coagulant;
(ii) forming a first layer of latex by dip-coating the former;
(iii) gelling the first layer of latex;
(iv) forming a second layer of latex over the first layer of latex by dip-coating the former;
(v) applying discrete particles to the second layer of latex;
(vi) gelling the second layer of latex;
(vii) dissolving the discrete particles;
(viii) heat curing the formed layers; and
(ix) stripping the cured textured glove from the former.
2. The process of claim 1, wherein the second latex layer is foamed.
...

13. A textured surface glove, comprising:
a first latex layer; and
a second latex layer bonded to the first latex layer, the second latex layer including a plurality of impressions in the shape of discrete particles having a mean particle size after removal of the discrete particles, the impressions having a dense and even distribution substantially over the surface of the second latex layer, wherein
the distribution of the impressions is dependent on the mean particle size.
14. The glove of claim 13, wherein the mean particle size is from about 50 microns to about 2000 microns.
15. The glove of claim 14, wherein the mean particle size is about 400 microns.
16. The glove of claim 13, wherein the second latex layer is nitrile.
17. The glove of claim 13, wherein the second latex layer is foamed." (Claims 1, 2 and 13 to 17)

1b. "It is therefore desirable to have a glove with a textured surface coating that is easily produced in the normal course of glove manufacture. A glove of this type would improve grip, such as wet/oil grip, when introduced to the outside of the glove. When included on the inside of the glove, a textured surface would increase sweat absorption and reduce the degree of direct skin contact hence reducing the clammy feeling against the skin. It is therefore desirable to have a foam material layer with an open cellular structure with a textured surface." (paragraph [0007])

1c. "(Summary of the Invention)
There is provided, in accordance with the principles of the present invention, a glove having a textured surface coating produced by embedding a layer of discrete particles, such as a common salt, into a liquid surface of a dipped latex film, gelling or drying the dipped latex layer, dissolving away the discrete particles to leave a textured surface, thereafter leaching, drying and curing and finally removing the glove from the former. In one embodiment, the present invention may provide a textured surface coating on the outside of the glove to improve wet gripping, on the inside of the glove to improve comfort, or both. In another embodiment, the present invention may also provide a textured surface produced by applying a foam material to a woven, knit or other substrate layer, embedding a layer of discrete particles into the liquid foam material layer, processing the foam layer and dissolving the embedded discrete particles. In another embodiment, the present invention further provides a process by which gloves with textured surface coatings or open celled

foamed surface coatings may be produced." (paragraph [0008])

1d. "(Detailed Description)

The present invention is directed to a glove with a textured surface coating made from either non foamed latex or foamed latex produced by embedding discrete particles in a layer of ungelled latex. The latex layer is ideally gelled on contact with the discrete particles. The process is completed by drying and curing the glove. The discrete particles may be removed from the layer either after gelling or curing by dissolving the particles in a suitable solvent. This process leaves impressions where the discrete particles were embedded, resulting in a textured surface coating that can improve grip, air circulation within the glove with less direct skin contact and a degree of sweat absorption. For example, wet/oil grip is improved in the textured gloves of the present invention. Foam material may be used in place of non-foamed latex to produce the textured surface layer, providing better grip, higher sweat absorption and a flexible layer of insulation." (paragraph [0013])

1e. "After the release agent/coagulant dip is applied, the formers are preferably conveyed to the next station in the production line where the laminate layer is applied to the formers. The laminate layer may be comprised of a latex elastomeric dip, such as natural or synthetic rubber latex such as polyurethane, nitrile or polychloroprene. For example, various combinations and blends of latices can be used. The latices of the present invention optionally can be foamed. One useful nitrile latex is REVENEX 99G43 (Synthomer Ltd., United Kingdom). By varying the selection and composition of the latex material, the laminate layer may be varied to provide different degrees of strength, comfort, flexibility and chemical resistance. In any event, the content of the latex applied to the former will preferably be adjusted to provide protection from cuts and abrasion, liquid repellency and chemical resistance." (paragraph [0019])

1f. "In one embodiment of the invention, the former is dipped to form a first layer of latex. This first layer of latex is then gelled and the former is dipped again to form a second layer of ungelled latex. The viscosity of the foamed or non foamed latex latices of the second layer can range from about 100 cps to about 2000 cps (Brookfield). Discrete particles are then applied to the ungelled second layer of latex by dipping the former into a fluidized bed of discrete particles or other mechanical means of embedding the discrete particles, for example, spraying. The

fluidized bed process utilises the suspension of salt particles (NaCl) in an air stream such that the particles behave in a manner similar to a liquid. The discrete particles are removed by dissolving with an appropriate solvent after the discrete particles have been applied or after gelling or curing of the glove to leave behind a textured surface coating substantially over the surface of the glove. For example, salt particles can be removed from the gelled surface by washing or spraying with water. Viscosity of the latex is one parameter that can be varied to achieve the desired textured effect. Textured non foamed layers provide the optimum durability and wet/oil grip combination." (paragraph [0022])

1g. "In yet another embodiment of the invention, the former is dipped to form a first layer of latex. This first layer of latex is then gelled and the former is dipped a second time in a foamed material to form a second layer. Discrete particles are then applied to the ungelled layer of foamed material by dipping the former into a fluidized bed of discrete particles or other mechanical means, for example, spraying. The discrete particles are dissolved with an appropriate solvent after processing of the glove to leave behind a textured surface coating. This process creates a textured surface foam layer coating that retains an open cellular structure because the discrete particles gel the foam and hence capture the cellular structure. Additionally, the reverse image of the discrete particles is captured in the surface layer following their removal by an appropriate solvent hence leaving a textured surface layer." (paragraph [0024])

1h. "For internal linings of an unsupported glove, a substitute for traditional flocking can be made by using the textured surface against the skin. In this case a soft textured surface can be provided by applying the texture to a foamed latex. A soft feel can also be obtained by texturing a non foamed latex, but a softer low acrylonitrile ("AN") polymer as a non foamed latex is preferred. The textured surface of a foamed latex provides sweat absorption by means of the foam structure as well as providing a low surface contact area to the skin. Air circulation is enhanced, giving a reduced clammy feeling to skin compared to that of smooth rubber." (paragraph [0027])

(2) Evidence A No. 3

3a. "1. Laminate which provides slip resistant surfaces in an environment of grease, oil or water, characterized in that

(a) a base material, the base material being selected from a group consisting of a fibrous non-woven web, a woven web, and a knitted web;
(b) a foamed layer applied to one surface of the laminate; and
(c) the foamed layer has an air content within a range of between approximately 10 to 65%.
2. The laminate according to claim 1, wherein
(a) the foamed layer is selected from a group consisting of polyurethane, polyvinyl chloride, acrylonitrile, natural rubber, synthetic rubber, and a mixture of them.
3. The laminate according to claim 1, wherein
(a) the foamed layer has an air content within a range of between 15 to 30%.
5. A work glove constituted by the laminate according to claim 1." (claims 1 to 3 and 5)

3b. "The present invention relates to a producing method of a laminate useful in the manufacture of wearing apparel, ... for example, and to laminates so produced wherein an anti-slipping or skid resistant gripping surface is required. The laminate includes a porous surface useful as a gripping surface for the work environment, and the method of the invention is such that the gripping surface may be controlled to have a lesser or greater degree of abrasion resistance, as required for the subsequent use of the article involved. ... The foamed surface is applied to the base material. The resulting foam surface is porous as will be understood and has a nature of absorbing oil, water or grease on the surface and provides the gripping surface increased to the skid-resistant surface of the present invention." (page 3, upper right column, last line to lower right column, line 1)

3c. "The material forming the foaming portion of the laminate according to the present invention can be polyurethane, polyvinyl chloride, acrylonitrile, natural rubber or synthetic rubber. This material can be foamed by mechanical means or chemical means. Preferably by the mechanical means, it is foamed to an air content within the range of between approximately 10 to 65%. A preferable range is 15 to 30%. Better abrasion resistance is obtained by using an air content lower than the aforementioned range, while better gripping performance and lower abrasion resistance are obtained by using an air content higher than the aforementioned range." (page 4, lower left column, line 15 to lower right column, line 6)

3d. "One important aspect of the present invention is the fact that the surface can be

renewed by the gripping function. That is, assuming the work glove having the porous gripping surface according to the present invention, once the glove is used for a certain period of time and as a result, it loses the gripping nature, the gripping nature can be renewed by simply squeezing the glove so as to remove oil or grease accumulated in the pores of the glove." (page 4, lower right column, line 13 to the lowest line).

3e. "Example 1

In a container with the capacity of 3l, 3.17 pounds (1.44 kg) of Polyco 2622, latex of polyvinyl chloride ... were put. Gentle mixing was started with a mixer using a low shearing impeller. During the mixing, ... were added to latex. Then, this mixture was mixed with air so as to have density of approximately 0.8 g/cm^3.

The obtained composition containing the air of approximately 20 volume% was knife-coated directly on a knitted and non-napped cotton fabric by setting of a knife of 65 mills (0.17 cm). Then, this laminate was put in an oven at 325°F (163°C) for 20 minutes so as to dry and melt the coated material. Then, a piece was cut out of this material, sewn and formed into a pair of gloves." (page 6, upper left column, line 3 to upper right column, line 15)

(3) Evidence A No. 4

4a. "[Claim 1]

A glove comprising a glove base material made of fiber and a foam layer composed of a thermoplastic resin provided thereon, wherein the foam layer has irregularities formed by heat press on the surface." (Claim 1)

4b. "However, if the thermoplastic resin contains foam, the film strength and the abrasion resistance are reduced although the non-slip effect is improved.

The present invention was made to solve the aforementioned problem and has an object to provide a glove having excellent non-slip effect, film strength, and abrasion resistance by coating with a thermoplastic resin containing foam. (paragraph [0003])

4c. "The foam content can be optionally adjusted from 1% to 300% by stirring the compound using a foaming machine or a home use mixer. The foam content can be measured from specific gravity and it remains almost the same even after molding. When foaming is also mechanically induced not by using a chemical foaming agent alone, the number of foam is increased and many traces of foam (openings) are

formed on the surface of the foam layer, and collapse and fusion of foam are more likely to occur upon heat press. When a glove has many traces of foam on the surface, water or oil present between the glove and the target is taken into the foam traces and removed, and thus the glove has better non-slip properties. When the foam content is 1% to 300%, the glove contains 10 to 130 pieces of foam having an average diameter of 10 μm to 400 μm per 1 cm^2 in the inside and on the surface. It is extremely difficult to produce foam having a diameter of less than 10 μm by mechanical foaming, and when the diameter is greater than 400 μm, the abrasion resistance becomes insufficient." (paragraph [0012])

(4) Evidence A No. 5

5a. "[Claim 1] A glove comprising a fabric having a surface formed of a viscoelastic microporous film.

...

[Claim 4] The glove according to claim 1, wherein the microporous film contains a pore having a maximum diameter of 3 to 250 microns and has a thickness of 0.1 to 4.5 mm and density of 0.01 to 0.6 g/cm^3, the micro pores in a surface layer of the microporous film are open, and a ratio of an area of the open portion occupying the surface of the microporous film is 20% or more." (Claims 1 and 4 of Japanese Utility Model Registration)

5b. "The microporous film in this device is made of the maximum diameter of 3 to 250 microns and preferably of a pore diameter of 20 to 100 microns and preferably has a large number of micro pores penetrating from the front surface to the rear surface of the microporous film." (paragraph [0014])

5c. "The pore constituting the microporous film has a circular shape with a ratio of a long diameter L to a short diameter l of 1.0 to 3.8 or preferably of 1.0 to 3.0 and is preferably a substantially spherical hole with the long diameter L at 180 microns or less or preferably within a range of 10 to 100 microns." (paragraph [0018])

5d. "The surface formed of the microporous film is joined on the inside and/or the outside of a glove so as to produce the glove. ... If the microporous film surface is joined on the outside, favorable close contact with a target having a smooth surface and a non-slip effect can be obtained." (paragraph [0030])

5e. "Example 1

A woven fabric (plain woven) of 85 g/m^2 was produced by using a finished yarn made of 60D/60f polyester and then, this gray fabric was dyed with disperse dyes. On the other hand, 100 parts by weight of polyester-based polyurethane (solid portion: 50%) were mixed with 10 parts by weight of a fat-acid salt based activator as a foaming agent and 3 parts by weight of water-soluble epoxy as a crosslinker, and this mixture was mechanically foamed by a foaming machine.

This was applied on the rear surface of the woven fabric and then, subjected to heat treatment at 120°C × 13 minutes → 158°C × 6.2 minutes so as to obtain a woven fabric to which a microporous film with a forming ratio of 2.9 times and a coating thickness of 2.1 mm was bonded. By using this, a golf glove as illustrated in Fig. 1 was produced with the microporous film side on the outer side.

This glove had extremely favorable close contact with a golf club, excellent feel, and softness, directly transmitted the feeling of the hand, and was difficult to steam and suitable for a golf glove.

It was subjected to washing 15 times, but the performances and elegance were hardly changed.

The open area of the microporous film occupying the whole surface of the microporous film was 30%. Moreover, the maximum diameter of the micro pore was 30 to 80 microns and an adhering force was 1.5 kg/cm." (paragraphs [0033] to [0036])

No. 6 Judgment

1. The patent Invention 1

(1) Invention described in Evidence A No. 1

Evidence A No. 1 discloses, "A process for making a textured surface coated glove, comprising the steps of:

(i) treating a former with a coagulant;

(ii) forming a first layer of latex by dip-coating the former;

(iii) gelling the first layer of latex;

(iv) forming a second layer of latex over the first layer of latex by dip-coating the former;

(v) applying discrete particles to the second layer of latex;

(vi) gelling the second layer of latex;

(vii) dissolving the discrete particles;

(viii) heat curing the formed layers; and

(ix) stripping the cured textured glove from the former." (indicated matter 1a) and also discloses that this second layer of latex is foam body (indicated matter 1a).

Then, "The latices of the present invention optionally can be foamed" (indicated matter 1e), "directed to a glove with a textured surface coating made from either non foamed latex or foamed latex produced by embedding discrete particles in a layer of ungelled latex" and "Foam material may be used in place of non-foamed latex to produce the textured surface layer, providing better grip, higher sweat absorption and a flexible layer of insulation" (indicated matter 1d) and in view of the description, "the foamed or non foamed latex latices of the second layer" (indicated matter 1f), Evidence A No. 1 discloses two modes, that is, when the non foamed latex is used as the second layer of latex and the foamed latex is used.

Moreover, from the description in the indicated matter 1c, "in another embodiment", it is obvious that, "the present invention may also provide a textured surface produced by applying a foam material to a woven, knit or other substrate layer, embedding a layer of discrete particles into the liquid foam material layer, processing the foam layer and dissolving the embedded discrete particles".

In addition, from the description in the indicated matter 1g, it is also obvious that, in "yet another embodiment of the invention", "the former is dipped to form a first layer of latex. This first layer of latex is then gelled and the former is dipped again to form a second layer. Discrete particles are then applied to the ungelled layer of foamed material by dipping the former into a fluidized bed of discrete particles or other mechanical means, for example, spraying. The discrete particles are dissolved with an appropriate solvent after processing of the glove to leave behind a textured surface coating. This process creates a textured surface foam layer coating that retains an open cellular structure because the discrete particles gel the foam and hence capture the cellular structure. Additionally, the reverse image of the discrete particles is captured in the surface layer following their removal by an appropriate solvent."

Then, it can be considered that, in order to form the second layer of latex, a layer of the discrete particles is embedded in the liquid foam material layer, the foam layer is processed and the embedded discrete particles are dissolved, the discrete particles gel the foam body and hence capture the cellular structure, a textured surface foam layer coating that retains the open cellular structure is created, and the reverse image of the discrete particles is captured in the textured surface layer.

The demandee alleges on page 2, 3, 7, 8, and 12 in oral proceedings statement

brief that the demandee questions the translation contents of Evidence A No. 2 as the translation of the term "foam" in Evidence A No. 1, but its specific details, that is, on what portion the demandee specifically questions are not clear. Assuming that the demandee alleges that the recessed portion formed by the first discrete solidified particles is described using the term "foam" in Evidence A No. 1 and the problem is that it is translated as "foam body" in Evidence A No. 2 and that the allegation of the demandee is employed, even if Evidence A No. 1 has a portion where the recessed portion formed by the first discrete solidified particles is described as "foam", that fact cannot be a reason or a ground that the "foam" in all the portions in Evidence A No. 1 should be immediately interpreted as the "recessed portion formed by the first discrete solidified particle". In fact, at a portion according to the indicated matter 1d, for example, the latex forming the second layer is described as "non foamed latex or foamed latex", and to interpret it in the meaning alleged by the demandee should be considered unreasonable but it should be naturally translated and interpreted as "non foamed latex or foamed latex" as described above. Therefore, this allegation by the demandee cannot be accepted.

In view of the above, it can be concluded that Evidence A No. 1 also discloses the mode using the foamed latex as the second latex layer as described above.

Moreover, from the description in the indicated matter 1d, if the foam material produced by embedding the discrete particles in an ungelled latex layer is used instead of the non foamed latex for producing the textured surface layer, it is also obvious that it "provides better grip, higher sweat absorption and a flexible layer of insulation", and from the description in the indicated matter 1a, it is also obvious that the second latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second latex layer, the distribution of the impressions is dependent on the mean particle size, the mean particle size is approximately 400 microns, and the second latex layer is nitrile.

Then, Evidence A No. 1 discloses the following invention (hereinafter referred to as the "Evidence A No. 1 Invention 1"):

"A process for making a textured surface coated glove providing better grip, higher

sweat absorption and a flexible layer of insulation, comprising the steps of:
(i) treating a former with a coagulant;
(ii) forming a first layer of latex by dip-coating the former;
(iii) gelling the first layer of latex;
(iv) forming a second layer of foamed nitrile latex over the first layer of latex by dip-coating the former;
(v) applying discrete particles to the second layer of foamed nitrile latex, and embedding discrete particles in the ungelled latex layer;
(vi) gelling the second layer of foamed nitrile latex;
(vii) dissolving the discrete particles;
(viii) heat curing the formed layers; and
(ix) stripping the cured textured glove from the former, wherein

the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size."

(2) Comparison between the patent Invention 1 and Evidence A No. 1 Invention 1

The wordings in Evidence A No. 1, "grip", "textured surface coating", "second layer of foamed nitrile latex", "discrete particles", "embedding the discrete particles in the ungelled latex layer", "gelling the second layer of latex", "dissolving the discrete particles" correspond to "anti-slipping", "resin film surface", "unset resin composition containing air bubbles", "at least one of granular or powdery adhering material", "at least a portion is allowed to adhere so that it bites into the surface", "setting of the resin composition", and "removal of the adhering material" in the patent Invention 1, respectively.

Moreover, it is obvious that the statement, "the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size" in Evidence A No. 1 Invention 1 corresponds to "formation of the first recessed portion" in the patent Invention 1, and its inner diameter in a numerical value also matches "100 μm to 500

μm" in the patent Invention 1.

Since the foamed nitrile latex is used as the latex material for forming the second layer in Evidence A No. 1 Invention 1, it is found that a large number of air bubbles derived from such foaming are present in the foamed nitrile latex, and since the discrete particles are applied to the surface of the (ungelled) second layer and embedded and gelled and then, the discrete particles are dissolved, it is found that a plurality of impressions, each having a shape of the discrete particle derived from the discrete particles, are provided on the surface of the second foamed nitrile latex layer after that, and there are openings on the surface side of the air bubbles derived from the air bubbles in the latex and generated by gelling and dissolving or heat curing of the discrete particles.

This can be considered to be obvious from the description in the indicated matter 1b, "A glove of this type would improve grip, such as wet/oil grip, when introduced to the outside of the glove. When included on the inside of the glove, a textured surface would increase sweat absorption", from the description in the indicated matter 1d, "Foam material may be used in place of non-foamed latex to produce the textured surface layer, providing better grip, higher sweat absorption and a flexible layer of insulation", and from the description in the indicated matter 1h, "The textured surface of a foamed latex provides sweat absorption by means of the foam structure as well as providing a low surface contact area to the skin".

This also matches the description in the subject matter description, "(4) After setting the resin composition through a drying step, the adhering material is removed thus forming first recessed portions which are adhesion marks (traces) after the removal of adhering material. Thereafter, second recessed portions are also formed.

The mechanism by which the second recessed portions are formed is not clarified completely. However, it is estimated that such second recessed portions are openings which are formed when air bubbles are broken (broken bubble marks) or openings of part of air bubbles which are formed along with the removal of the adhering material which are in contact with the air bubbles from the resin composition. It is also considered that the second recessed portions are formed by other mechanisms. However, even if the above-estimated formation mechanism is incorrect, the evaluation of the present invention is not jeopardized at all by the misunderstanding of the mechanism." (paragraph [0047])

Here, the fact that the size of the air bubbles in the latex is smaller than the mean particle size of the discrete particle of smaller than approximately 400 microns is found to be common general knowledge in this technical field (see the indicated

matter 4c of Evidence A No. 4 and the indicated matters 5a to 5c and 5e of Evidence A No. 5, for example).

Then, "the plurality of impressions, each having a shape of the discrete particle derived from the discrete particles on the surface of the second foamed nitrile latex layer" (hereinafter referred to as a "trace of the discrete particle") and the "opening on the surface side of the air bubbles generated by gelling and dissolving or heat curing of the discrete particles, derived from the air bubbles in the latex" (hereinafter referred to as "air bubble opening") in Evidence A No. 1 Invention 1 correspond to the "first recessed portion" and the "second recessed portion" in the patent Invention 1, respectively, and the air bubble opening is smaller than the trace of the discrete particle and as a result, the recessed portions different in size are randomly formed on the surface of the second foamed nitrile latex layer and moreover, it is obvious that the air bubble openings are naturally formed in a large number on the whole surface of the second foamed nitrile latex layer including the surface of the traces of the discrete particles recessed from the surface of the second foamed nitrile latex layer.

And the "nitrile latex" in Evidence A No. 1 Invention 1 and the "acrylonitrile-butadiene rubber" in the patent Invention 1 mean the same one in this technical field.

Then, both inventions match each other in a point of a "method for forming a resin film surface on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility, comprising:

forming first recessed portions by allowing at least one of a granular or powdery adhering material to adhere to a surface of an unset resin composition containing air bubbles so that at least a portion of the granular or powdery adhering material bites into the surface and by removing the adhering material after the resin composition is set; and

forming second recessed portions smaller than the first recessed portions in size by allowing some of the air bubbles contained in the unset or set resin composition to open on said surface of the resin composition, wherein

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface;

the resin composition is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber" and are different in the

following points:

<The different feature 1>

A point in which the second recessed portion is specified such that "a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less" in the patent Invention 1, but it is not particularly specified in Evidence A No. 1 Invention 1.

<The different feature 2>

A point in which it is specified as "having sufficiently practical abrasion resistance" in the patent Invention 1, but it is not particularly specified in Evidence A No. 1 Invention 1.

(3) Judgment on the different feature 1

Evidence A No. 3 discloses the glove relating to the same technical field as that of Evidence A No. 1 Invention 1 and specifically, the indicated matter 3a discloses, "1. Laminate which provides slip resistant surfaces in an environment of grease, oil or water, characterized in that
(a) a base material, the base material being selected from a group consisting of a fibrous non-woven web, a woven web, and a knitted web;
(b) a foamed layer applied to at last one surface of the laminate; and
(c) the foamed layer has an air content within a range of between approximately 10 to 65%.
2. The laminate according to claim 1, wherein
(a) the foamed layer is selected from a group consisting of polyurethane, polyvinyl chloride, acrylonitrile, natural rubber, synthetic rubber, and a mixture of them.
3. The laminate according to claim 1, wherein
(a) the foamed layer has an air content within a range of between 15 to 30%.
...
5. A work glove constituted by the laminate according to claim 1.", the indicated matter 3b discloses, "The resulting foam surface is porous as will be understood and has a nature of absorbing oil, water or grease on the surface and provides the gripping surface increased to the skid-resistant surface of the present invention", and the indicated matter 3d discloses, "One important aspect of the present invention is the fact that the surface can be renewed by the gripping function. That is, assuming the

work glove having the porous gripping surface according to the present invention, once the glove is used for a certain period of time and as a result, it loses the gripping nature, the gripping nature can be renewed by simply squeezing the glove so as to remove oil or grease accumulated in the pores of the glove", and from these descriptions, it is obvious that the surface of the obtained foam in Evidence A No. 3 is open.

As described in the indicated matter 3c, "The material forming the foaming portion of the laminate according to the present invention can be polyurethane, polyvinyl chloride, acrylonitrile, natural rubber or synthetic rubber. This material can be foamed by mechanical means or chemical means. Preferably by the mechanical means, it is foamed to an air content within the range of between approximately 10 to 65%. A preferable range is 15 to 30%. Better abrasion resistance is obtained by using an air content lower than the aforementioned range, while better gripping performance and lower abrasion resistance are obtained by using an air content higher than the aforementioned range", on the surface of the foam used for the surface of the work glove, as it is described that the air content is within the range of between approximately 10 to 65% or preferably 15 to 30%, and better abrasion resistance is obtained by using an air content lower than this range, while better gripping performance is obtained by using an air content higher than the aforementioned range, it can be considered that optimization of the air content in relation with the effects of the abrasion resistance and the gripping performance is suggested.

This also matches the description in the patent description, "From the results of the above-mentioned test, when the quantity of air bubbles contained in the resin film 3 is 40 vol % or more, the wear resistance is halved or is decreased more compared to a case where the quantity of air bubbles is 30 vol %. Accordingly, it is more preferable to set the quantity of air bubbles to 30 vol % or less. Further, when the quantity of air bubbles contained in the resin film 3 is 5 vol % or more, the friction coefficient is largely changed compared to a case where the quantity of air bubbles is 3 vol %. To take the wear resistance and the gripping property into consideration based on the above-mentioned factors, it is preferable to set the quantity of air bubbles to a value which falls within a range from 5 to 30 vol % in practical use." (paragraph [0104]).

Evidence A No. 4 relates to the same technical field of the glove as Evidence A No. 1 Invention 1, and the indicated matter 4c discloses, "contains ... foam having an average diameter of 10 μm to 400 μm ... in the inside and on the surface. It is

extremely difficult to produce foam having a diameter of less than 10 μm by mechanical foaming, and when the diameter is greater than 400 μm, the abrasion resistance becomes insufficient". Evidence A No. 5 relates to the same technical field of the glove as Evidence A No. 1 Invention 1, and the indicated matter 5c discloses, "The pore constituting the microporous film ... is preferably a substantially spherical hole ... preferably within a range of 10 to 100 microns", discloses, "If the microporous film surface is joined on the outside, favorable close contact with a target having a smooth surface and a non-slip effect can be obtained", and the indicated matter 5e discloses that the maximum diameter of a micro pore of the microporous film of the glove manufactured in Example 1 is 30 to 80 microns.

Then, in Evidence A No. 1 Invention 1, to specify the quantity of air bubbles to 15 to 30% by considering abrasion resistance and the gripping performance effect for the second recessed portion and to specify the length average diameter of the air bubble to 10 to 50 μm by considering the abrasion resistance and the like could be easily made by those skilled in the art from Evidence A No. 3 to A No. 5. The effect achieved by that cannot be regarded as a particularly distinguished feature, either.

The demandee alleges in the oral proceedings statement brief on pages 5, 6, 9, 12, and 13 that "the second recessed portion referred to in the present invention is characterized in that the air bubbles on the outer surface of the glove are not simply broken but an opening portion of the broken air-bubble is formed on the glove outer surface including the inner surface of the first recessed portion having been already formed.

In addition, by limiting the quantity of air bubbles and the length average diameter to certain numerical values, the gripping performance, abrasion resistance, and durability were improved" and moreover, by submitting Evidence B No. 2 and by showing a line graph as Table 4, the demandee alleges that the abrasion resistance and the gripping performance as the work glove can be both realized within a sufficiently practical and preferable range if the quantity of air bubbles is within a range of between 5 and 30 vol%.

However, in Evidence A No. 1 Invention 1, it is found that the second recessed portion forms the opening portion of the broken air bubble on the glove outer surface including the inner surface of the first recessed portion as stated in the invention described in the aforementioned No. 6, 1. (1) Evidence A No. 1. Moreover, the fact that Evidence A No. 3 discloses that the quantity of air bubbles of the foam layer on

the glove outer surface is preferably 15 to 30% and better abrasion resistance is obtained by using the lower air content within this range and better gripping performance is obtained by using the higher air content within this range is as stated in No. 6, 1. (3) Judgment on the different feature 1, and this detail matches the detail of Evidence B No. 2.

In the patent description, too, the influence of the average diameter of the air bubbles contained in the resin film on the abrasion resistance is examined in the paragraphs [0097] to [0101], and also in the paragraphs [0102] to [0105], the influence of the quantity of air bubbles contained in the resin film on the abrasion resistance and the gripping performance is examined, but what influence a relation between the quantity of air bubbles contained in the resin film and the average diameter of the air bubbles is given to the abrasion resistance and the gripping performance is not described at all, and the effect cannot be regarded as a particularly distinguished feature as compared with those described in the aforementioned Evidence A No. 3 to A No. 5.

From the foregoing, the allegation of the demandee that limitation of the quantity of air bubbles and the length average diameter of the second recessed portion exerts a distinguished effect cannot be accepted.

(4) Judgment on different feature 2

As described in (3) Judgment on different feature 1, in Evidence A No. 1 Invention 1, too, the quantity of air bubbles and the length average diameter of the air bubbles of the second recessed portion are set by considering the abrasion resistance and thus, it can be regarded that naturally, the obtained glove has sufficiently practical abrasion resistance.

Therefore, the different feature 2 is not a substantial different feature.

(5) Summary of the patent Invention 1

As described above, the patent Invention 1 could be easily made by those skilled in the art based on the invention described in Evidence A No. 1 and Evidence A No. 3 to A No. 5, and the demandee should not be granted a patent for the patent Invention 1 under the provisions of Article 29(2) of the Patent Act.

2. The patent Invention 2

(1) Invention described in Evidence A No. 1

As described in No. 6, 1. (1) Invention described in Evidence A No. 1, the Evidence A No. 1, Invention 1 is as follows:

"A process for making a textured surface coated glove providing better grip, higher sweat absorption and a flexible layer of insulation, comprising the steps of:

(i) treating a former with a coagulant;

(ii) forming a first layer of latex by dip-coating the former;

(iii) gelling the first layer of latex;

(iv) forming a second layer of foamed nitrile latex over the first layer of latex by dip-coating the former;

(v) applying discrete particles to the second layer of foamed nitrile latex, and embedding the discrete particles in the ungelled latex layer;

(vi) gelling the second layer of foamed nitrile latex;

(vii) dissolving the discrete particles;

(viii) heat curing the formed layers; and

(ix) stripping the cured textured glove from the former, wherein

the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size."

(2) Comparison between the patent Invention 2 and Evidence A No. 1 Invention 1

The "glove" in Evidence A No. 1 Invention 1 corresponds to the "article in the patent Invention 2.

The other points are similar to that described in No. 6, 1. (2) Comparison between the patent Invention 1 and Evidence A No. 1 Invention 1.

Then, both inventions match each other in a point that "A method of manufacturing an article with recessed portions different in size randomly formed, having a resin film surface on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility, comprising:

forming first recessed portions by allowing at least one of a granular or powdery adhering material to adhere to a surface of an unset resin composition containing air bubbles so that at least a portion of the granular or powdery adhering material bites into the surface and by removing the adhering material after the resin composition is set; and

forming second recessed portions smaller than the first recessed portions in size by allowing some of the air bubbles contained in the unset or set resin composition to open on said surface of the resin composition, wherein

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface; and

the resin composition is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber." and are different in the following points:

<The different feature 3>

A point in which the second recessed portion is specified such that "a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less" in the patent Invention 2, but it is not particularly specified in Evidence A No. 1 Invention 1.

<The different feature 4>

A point in which it is specified as "having sufficiently practical abrasion resistance" in the patent Invention 2, but it is not particularly specified in Evidence A No. 1 Invention 1.

(3) Judgment on different feature 3

As described in No. 6, 1. (3) Judgment on different feature 1, in Evidence A No. 1 Invention 1, to specify the quantity of air bubbles to 15 to 30% by considering abrasion resistance and the gripping performance effect for the second recessed portion and to specify the length average diameter of the air bubble to 10 to 50 μm by considering the abrasion resistance and the like could be easily made by those skilled in the art from Evidence A No. 3 to A No. 5. The effect achieved by that cannot be regarded as a particularly distinguished feature, either.

(4) Judgment on different feature 4

As described in the aforementioned (3) Judgment on different feature 3, in Evidence A No. 1 Invention 1, too, the quantity of air bubbles and the length average diameter of the air bubbles of the second recessed portion are set by considering the abrasion resistance and thus, it can be regarded that the obtained glove naturally has

sufficiently practical abrasion resistance.

Therefore, the different feature 4 is not a substantial different feature.

(5) Summary of the patent Invention 2

As described above, the patent Invention 2 could be easily made by those skilled in the art based on the invention described in Evidence A No. 1 and Evidence A No. 3 to A No. 5, and the demandee should not be granted a patent for the patent Invention 2 under the provisions of Article 29(2) of the Patent Act.

3. The patent Invention 3

(1) Invention described in Evidence A No. 1

Evidence A No. 1 discloses, "A textured surface glove, comprising:
a first latex layer; and
a second latex layer bonded to the first latex layer, the second latex layer including a plurality of impressions, each having a shape of the discrete particle having a mean particle size after removal of the discrete particles, the impressions having a dense and even distribution substantially over the surface of the second latex layer, wherein the distribution of the impressions is dependent on the mean particle size." (indicated matter 1a), and this second latex layer is "nitrile" and also is "foamed" (indicated matter 1a). In addition, as described in No. 6, 1. (1) Evidence A No. 1, Evidence A No. 1 discloses the following invention (hereinafter referred to as "Evidence A No. 1 Invention 2"):

"A textured surface coated glove providing better grip, higher sweat absorption and a flexible layer of insulation, made by the process comprising:
(i) treating a former with a coagulant;
(ii) forming a first layer of latex by dip-coating the former;
(iii) gelling the first layer of latex;
(iv) forming a second layer of foamed nitrile latex over the first layer of latex by dip-coating the former;
(v) applying discrete particles to the second layer of foamed nitrile latex, and embedding the discrete particles in the ungelled latex layer;
(vi) gelling the second layer of foamed nitrile latex;
(vii) dissolving the discrete particles;
(viii) heat curing the formed layers; and

(ix) stripping the cured textured glove from the former, wherein

the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size."

(2) Comparison between the patent Invention 3 and Evidence A No. 1 Invention 2

The "glove" in Evidence A No. 1 Invention 2 corresponds to the "article" in the patent Invention 3.

The other points are similar to that described in No. 6, 1. (2) Comparison between the patent Invention 1 and Evidence A No. 1 Invention 1.

Then, both inventions match each other in a point that "An article with recessed portions different in size randomly formed, having a resin film surface on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility, comprising:

first recessed portions formed by allowing at least one of a granular or powdery adhering material to adhere to a surface of an unset resin composition containing air bubbles so that at least a portion of the granular or powdery adhering material bites into the surface and by removing the adhering material after the resin composition is set; and

second recessed portions smaller than the first recessed portions in size formed by allowing some of the air bubbles contained in the unset or set resin composition to open on said surface of the resin composition, wherein

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface; and

the resin composition is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber" and are different in the following points:

<The different feature 5>

A point in which the second recessed portion is specified such that "a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average

diameter of the air bubbles is 50 μm or less" in the patent Invention 3, but it is not particularly specified in Evidence A No. 1 Invention 2.

<The different feature 6>

A point in which it is specified as "having sufficiently practical abrasion resistance" in the patent Invention 3, but it is not particularly specified in Evidence A No. 1 Invention 2.

(3) Judgment on different feature 5

As described in No. 6, 1. (3) Judgment on different feature 1, in Evidence A No. 1 Invention 2, to specify the quantity of air bubbles to 15 to 30% by considering abrasion resistance and the gripping performance effect for the second recessed portion and to specify the length average diameter of the air bubble to 10 to 50 μm by considering the abrasion resistance and the like could be easily made by those skilled in the art from Evidence A No. 3 to A No. 5. The effect achieved by that cannot be regarded as a particularly distinguished feature, either.

(4) Judgment on different feature 6

As described in the aforementioned (3) Judgment on different feature 5, in Evidence A No. 1 Invention 2, too, the quantity of air bubbles and the length average diameter of the air bubbles of the second recessed portion are set by considering the abrasion resistance and thus, it can be regarded that the obtained glove naturally has sufficiently practical abrasion resistance.

Therefore, the different feature 6 is not a substantial different feature.

(5) Summary of the patent Invention 3

As described above, the patent Invention 3 could be easily made by those skilled in the art based on the invention described in Evidence A No. 1 and Evidence A No. 3 to A No. 5, and the demandee should not be granted a patent for the patent Invention 3 under the provisions of Article 29(2) of the Patent Act.

4. The patent Invention 4

(1) Invention described in Evidence A No. 1

As described in No. 6, 1. (1) Invention described in Evidence A No. 1, the Evidence A No. 1, Invention 1 is as follows:

"A process for making a textured surface coated glove providing better grip, higher sweat absorption and a flexible layer of insulation, comprising the steps of:
(i) treating a former with a coagulant;
(ii) forming a first layer of latex by dip-coating the former;
(iii) gelling the first layer of latex;
(iv) forming a second layer of foamed nitrile latex over the first layer of latex by dip-coating the former;
(v) applying discrete particles to the second layer of foamed nitrile latex, and embedding the discrete particles in the ungelled latex layer;
(vi) gelling the second layer of foamed nitrile latex;
(vii) dissolving the discrete particles;
(viii) heat curing the formed layers; and
(ix) stripping the cured textured glove from the former, wherein

the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size."

(2) Comparison between the patent Invention 4 and Evidence A No. 1 Invention 1

Except that the "glove" in Evidence A No. 1 Invention 1 corresponds to the "glove" in the patent Invention 4, the other points are similar to that described in No. 6, 1.

Then, both inventions match each other in a point that "A method of manufacturing a glove on which recessed portions different in size are randomly formed on a resin film and exerting an anti-slipping effect and flexibility, comprising:

forming a resin film (3) in an unset state is formed of a resin composition containing air bubbles and then, forming first recessed portions (31) by allowing at least one of a granular or powdery adhering material to adhere to a surface of the resin film (3) so that at least a portion of the granular or powdery adhering material bites into the surface and by removing the adhering material after the resin film (3) is set; and

forming second recessed portions (32) smaller than the first recessed portions (31) in size by allowing some of the air bubbles (4) contained in the unset or set resin film (3) to open on said surface of the resin composition, wherein

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface; and

the resin composition is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber" and are different in the following points:

<The different feature 7>

A point in which the second recessed portion is specified such that "a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less" in the patent Invention 4, but it is not particularly specified in Evidence A No. 1 Invention 1.

<The different feature 8>

A point in which it is specified as "having sufficiently practical abrasion properties" in patent Invention 4 but it is not particularly specified in Evidence A No. 1 Invention 1.

(3) Judgment on different feature 7

As described in No. 6, 1. (3) Judgment on different feature 1, in Evidence A No. 1 Invention 1, to specify the quantity of air bubbles to 15 to 30% by considering abrasion resistance and the gripping performance effect for the second recessed portion and to specify the length average diameter of the air bubble to 10 to 50 μm by considering the abrasion resistance and the like could be easily made by those skilled in the art from Evidence A No. 3 to A No. 5. The effect achieved by that cannot be regarded as a particularly distinguished feature, either.

(4) Judgment on different feature 8

The wording "having sufficiently practical abrasion properties" is found to be an obvious error of "having sufficiently practical abrasion resistance" and if so, as described in the aforementioned (3) Judgment on different feature 7, in Evidence A No. 1 Invention 1, too, the quantity of air bubbles and the length average diameter of the air bubbles of the second recessed portion are set by considering the abrasion resistance and thus, it can be regarded that the obtained glove naturally has sufficiently practical abrasion resistance.

Therefore, the different feature 8 is not a substantial different feature.

(5) Summary of the patent Invention 4

As described above, the patent Invention 4 could be easily made by those skilled in the art based on the invention described in Evidence A No. 1 and Evidence A No. 3 to A No. 5, and the demandee should not be granted a patent for the patent Invention 4 under the provisions of Article 29(2) of the Patent Act.

5. The patent Invention 5

(1) Invention described in Evidence A No. 1

As described in No. 6, 3. (1) Invention described in Evidence A No. 1, the Evidence A No. 1, Invention 2 is as follows:

"A textured surface coated glove providing better grip, higher sweat absorption and a flexible layer of insulation, made by a process comprising:

(i) treating a former with a coagulant;

(ii) forming a first layer of latex by dip-coating the former;

(iii) gelling the first layer of latex;

(iv) forming a second layer of foamed nitrile latex over the first layer of latex by dip-coating the former;

(v) applying discrete particles to the second layer of foamed nitrile latex, and embedding the discrete particles in the ungelled latex layer;

(vi) gelling the second layer of foamed nitrile latex;

(vii) dissolving the discrete particles;

(viii) heat curing the formed layers; and

(ix) stripping the cured textured glove from the former, wherein

the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size."

(2) Comparison between the patent Invention 5 and Evidence A No. 1 Invention 2

The wordings in Evidence A No. 1 Invention 2, "grip", "textured surface coating", "second layer of foamed nitrile latex", and "discrete particles" correspond to "anti-slipping", "resin film surface", "resin film containing air bubbles", and "granular

or powdery adhering material" in the patent Invention 5, respectively.

Moreover, since the foamed nitrile latex is used as the latex material for forming the second layer in Evidence A No. 1 Invention n2, it is found that a large number of air bubbles derived from such foaming are present in the foamed nitrile latex, and since the discrete particles are applied to the surface of the (ungelled) second layer and embedded and gelled and then, the discrete particles are dissolved, it is found that a plurality of impressions, each having a shape of the discrete particle derived from the discrete particles, are provided on the surface of the second foamed nitrile latex layer after that, and there are openings on the surface side of the air bubbles derived from the air bubbles in the latex and generated by gelling and dissolving or heat curing of the discrete particles.

This can be considered to be obvious from the description in the indicated matter 1b, "A glove of this type would improve grip, such as wet/oil grip, when introduced to the outside of the glove. When included on the inside of the glove, a textured surface would increase sweat absorption", from the description in the indicated matter 1d, "Foam material may be used in place of non-foamed latex to produce the textured surface layer, providing better grip, higher sweat absorption and a flexible layer of insulation", and from the description in the indicated matter 1h, "The textured surface of a foamed latex provides sweat absorption by means of the foam structure as well as providing a low surface contact area to the skin".

This also matches the description in the subject matter description, "(4) After setting the resin composition through a drying step, the adhering material is removed thus forming first recessed portions which are adhesion marks (traces) after the removal of adhering material. Thereafter, second recessed portions are also formed.

The mechanism by which the second recessed portions are formed is not clarified completely. However, it is estimated that such second recessed portions are openings which are formed when air bubbles are broken (broken bubble marks) or openings of part of air bubbles which are formed along with the removal of the adhering material which are in contact with the air bubbles from the resin composition. It is also considered that the second recessed portions are formed by other mechanisms. However, even if the above-estimated formation mechanism is incorrect, the evaluation of the present invention is not jeopardized at all by the misunderstanding of the mechanism." (paragraph [0047])

Here, the fact that the size of the air bubbles in the latex is smaller than the mean particle size of the discrete particle of smaller than approximately 400 microns is found to be common general knowledge in this technical field (see the indicated

matter 4c of Evidence A No. 4 and the indicated matters 5a to 5c and 5e of Evidence A No. 5, for example).

Then, "the plurality of impressions, each having a shape of the discrete particle derived from the discrete particles on the surface of the second foamed nitrile latex layer" (hereinafter referred to as a "trace of the discrete particle") and the "opening on the surface side of the air bubbles generated by gelling and dissolving or heat curing of the discrete particles, derived from the air bubbles in the latex" (hereinafter referred to as "air bubble opening") in Evidence A No. 1 Invention 2 correspond to the "first recessed portion" and the "second recessed portion" in the patent Invention 5, respectively, and the air bubble opening is smaller than the trace of the discrete particle and as a result, the recessed portions different in size are randomly formed on the surface of the second foamed nitrile latex layer and moreover, it is obvious that the air bubble openings are naturally formed in a large number on the entire surface of the second foamed nitrile latex layer including the surface of the traces of the discrete particles recessed from the surface of the second foamed nitrile latex layer.

Moreover, it is obvious that the statement, "the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size" in Evidence A No. 1 Invention 2 corresponds to "the first recessed portions (31) are formed by traces on the surface of the resin film (3) after a granular and/or powdery adhering material having adhering to the surface of the resin film (3) so that at least a portion of the adhering material bites into the surface is removed" in the patent Invention 5, and its inner diameter in a numerical value also matches "100 μm to 500 μm" in the patent Invention 5.

And the "nitrile latex" in Evidence A No. 1 Invention 2 and the "acrylonitrile-butadiene rubber" in the patent Invention 5 mean the same one in this technical field.

Then, both inventions match each other in a point that "A glove on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility, wherein

first recessed portion (31) and second recessed portion (32) smaller than the first recessed portion (31) in size are randomly present on a surface of a resin film (3)

containing air bubbles (4);

the first recessed portions (31) are formed by traces on the surface of the resin film (3) after at least one of a granular or powdery adhering material having adhering to the surface of the resin film (3) so that at least a portion of the adhering material bites into the surface is removed;

the second recessed portions (32) are formed by opening of the air bubbles (4) contained in the resin film (3);

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface; and

the resin film (3) is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber" and are different in the following points:

<The different feature 9>

A point in which the second recessed portion is specified such that "a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less" in the patent Invention 5, but it is not particularly specified in Evidence A No. 1 Invention 2.

<The different feature 10>

A point in which it is specified as "having sufficiently practical abrasion properties" in patent Invention 5 but it is not particularly specified in Evidence A No. 1 Invention 2.

(3) Judgment on different feature 9

As described in No. 6, 1. (3) Judgment on different feature 1, in Evidence A No. 1 Invention 2, to specify the quantity of air bubbles to 15 to 30% by considering abrasion resistance and the gripping performance effect for the second recessed portion and to specify the length average diameter of the air bubble to 10 to 50 μm by considering the abrasion resistance and the like could be easily made by those skilled in the art from Evidence A No. 3 to A No. 5. The effect achieved by that cannot be regarded as a particularly distinguished feature, either.

(4) Judgment on different feature 10

The wording "having sufficiently practical abrasion properties" is found to be an obvious error of "having sufficiently practical abrasion resistance" and if so, as described in the aforementioned (3) Judgment on different feature 9, in Evidence A No. 1 Invention 2, too, the quantity of air bubbles and the length average diameter of the air bubbles of the second recessed portion are set by considering the abrasion resistance and thus, it can be regarded that the obtained naturally glove has sufficiently practical abrasion resistance.

Therefore, the different feature 10 is not a substantial different feature.

(5) Summary of the patent Invention 5

As described above, the patent Invention 5 could be easily made by those skilled in the art based on the invention described in Evidence A No. 1 and Evidence A No. 3 to A No. 5, and the demandee should not be granted a patent for the patent Invention 5 under the provisions of Article 29(2) of the Patent Act.

6. The patent Invention 6

(1) Invention described in Evidence A No. 1

As described in No. 6, 3. (1) Invention described in Evidence A No. 1, the Evidence A No. 1, Invention 2 is as follows:

"A textured surface coated glove providing better grip, higher sweat absorption and a flexible layer of insulation, made by a process comprising:

(i) treating a former with a coagulant;

(ii) forming a first layer of latex by dip-coating the former;

(iii) gelling the first layer of latex;

(iv) forming a second layer of foamed nitrile latex over the first layer of latex by dip-coating the former;

(v) applying discrete particles to the second layer of foamed nitrile latex, and embedding the discrete particles in the ungelled latex layer;

(vi) gelling the second layer of foamed nitrile latex;

(vii) dissolving the discrete particles;

(viii) heat curing the formed layers; and

(ix) stripping the cured textured glove from the former, wherein

the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and

even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size."

(2) Comparison between the patent Invention 6 and Evidence A No. 1 Invention 2

The "first layer of latex" and the "second layer of foamed nitrile latex" in Evidence A No. 1 Invention 2 correspond to the "resin film (2) containing no air bubbles (4)" and the "resin film (3) containing the air bubbles (4)" in the patent Invention 6, respectively, and "forming a second layer of foamed nitrile latex over the first layer of latex" in Evidence A No. 1 Invention 2 corresponds to "underneath the resin film (3) containing air bubbles (4), at least a resin film (2) containing no air bubbles (4)" in the patent Invention 6.

The other points are similar to that described in No. 6, 5. (2) Comparison between the patent Invention 5 and Evidence A No. 1 Invention 2.

Then, both inventions match each other in a point that "A glove on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility, wherein

first recessed portions (31) and second recessed portions (32) smaller than the first recessed portion (31) in size are randomly present on a surface of a resin film (3) containing air bubbles (4);

the first recessed portions (31) are formed by traces on the surface of the resin film (3) after at least one of a granular or powdery adhering material having adhering to the surface of the resin film (3) so that at least a portion of the adhering material bites into the surface is removed;

the second recessed portions (32) are formed by opening of the air bubbles (4) contained in the resin film (3);

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface;

the resin film (3) is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber;

a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less; and

underneath the resin film (3) containing air bubbles (4), at least a resin film (2) containing no air bubbles (4)." and are different in the following points:

<The different feature 11>

A point in which the second recessed portion is specified such that "a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less" in the patent Invention 6, but it is not particularly specified in Evidence A No. 1 Invention 2.

<The different feature 12>

A point in which it is specified as "having sufficiently practical abrasion properties" in the patent Invention 6 but it is not particularly specified in Evidence A No. 1 Invention 2.

(3) Judgment on different feature 11

As described in No. 6, 1. (3) Judgment on different feature 1, in Evidence A No. 1 Invention 2, to specify the quantity of air bubbles to 15 to 30% by considering abrasion resistance and the gripping performance effect for the second recessed portion and to specify the length average diameter of the air bubble to 10 to 50 μm by considering the abrasion resistance and the like could be easily made by those skilled in the art from Evidence A No. 3 to A No. 5. The effect achieved by that cannot be regarded as a particularly distinguished feature, either.

(4) Judgment on different feature 12

The wording "having sufficiently practical abrasion properties" is found to be an obvious error of "having sufficiently practical abrasion resistance" and if so, as described in the aforementioned (3) Judgment on different feature 11, in Evidence A No. 1 Invention 2, too, the quantity of air bubbles and the length average diameter of the air bubbles of the second recessed portion are set by considering the abrasion resistance and thus, it can be regarded that the obtained naturally glove has sufficiently practical abrasion resistance.

Therefore, the different feature 12 is not a substantial different feature.

(5) Summary of the patent Invention 6

As described above, the patent Invention 6 could be easily made by those skilled in the art based on the invention described in Evidence A No. 1 and Evidence A No. 3 to A No. 5, and the demandee should not be granted a patent for the patent Invention 6 under the provisions of Article 29(2) of the Patent Act.

7. The patent Invention 7

(1) Invention described in Evidence A No. 1

As described in No. 6, 3. (1) Invention described in Evidence A No. 1, the Evidence A No. 1, Invention 2 is as follows:

"A textured surface coated glove providing better grip, higher sweat absorption and a flexible layer of insulation, made by a process comprising:
(i) treating a former with a coagulant;
(ii) forming a first layer of latex by dip-coating the former;
(iii) gelling the first layer of latex;
(iv) forming a second layer of foamed nitrile latex over the first layer of latex by dip-coating the former;
(v) applying discrete particles to the second layer of foamed nitrile latex, and embedding the discrete particles in the ungelled latex layer;
(vi) gelling the second layer of foamed nitrile latex;
(vii) dissolving the discrete particles;
(viii) heat curing the formed layers; and
(ix) stripping the cured textured glove from the former, wherein
the second foamed nitrile latex layer includes a plurality of impressions, each having a shape of the discrete particle, having a mean particle size of approximately 400 microns after removal of the discrete particles, the impressions have a dense and even distribution substantially covering the surface of the second foamed nitrile latex layer, and the distribution of the impressions is dependent on the mean particle size."

(2) Comparison between the patent Invention 7 and Evidence A No. 1 Invention 2

When Evidence A No. 1 Invention 2 is compared with the patent Invention 7, it is similar to that described in No. 6, 5. (2) Comparison between the patent Invention 5 and Evidence A No. 1 Invention 2 or in No. 6, 6. (2) Comparison between the patent Invention 6 and Evidence A No. 1 Invention 2.

Then, both inventions match each other in a point that "A glove on which recessed portions different in size are randomly formed and exerting an anti-slipping effect and flexibility, wherein

first recessed portions (31) and second recessed portions (32) smaller than the

first recessed portion (31) in size are randomly present on a surface of a resin film (3) containing air bubbles (4);

the first recessed portions (31) are formed by traces on the surface of the resin film (3) after at least one of a granular or powdery adhering material having adhering to the surface of the resin film (3) so that at least a portion of the adhering material bites into the surface is removed;

the second recessed portions (32) are formed by opening of the air bubbles (4) contained in the resin film (3);

the first recessed portion has an inner diameter of 100 to 500 μm;

the second recessed portions are formed in a large number on the entire surface of the resin film (3) surface including the surface of the first recessed portion (31) recessed from the resin film (3) surface;

the resin film (3) is used by singularly using or combining natural rubber, acrylonitrile-butadiene rubber or chloroprene rubber;

a quantity of air bubbles contained in the formed resin film is 5 to 30 vol% and a length average diameter of the air bubbles is 50 μm or less; and

underneath the resin film (3) containing air bubbles (4), at least a resin film (2) containing no air bubbles (4)." and are different in the following points:

<The different feature 13>

A point in which the second recessed portion is specified such that "a quantity of air bubbles contained in the formed resin film is 5 to 10 vol% and a length average diameter of the air bubbles is 50 μm or less" in the patent Invention 7, but it is not particularly specified in Evidence A No. 1 Invention 2.

<The different feature 14>

A point in which it is specified as "having sufficiently practical abrasion properties" in the patent Invention 7 but it is not particularly specified in Evidence A No. 1 Invention 2.

(3) Judgment on different feature 13

Evidence A No. 4 relates to the same technical field of a glove as that of Evidence A No. 1 Invention 2, and since the indicated matter 4c discloses, "The foam content can be optionally adjusted from 1% to 300% by stirring the compound using a foaming machine or a home use mixer. The foam content can be measured from specific gravity and it remains almost the same even after molding. When foaming

is also mechanically induced not by using a chemical foaming agent alone, the number of foam is increased and many traces of foam (openings) are formed on the surface of the foam layer, and collapse and fusion of foam are more likely to occur upon heat press. When a glove has many traces of foam on the surface, water or oil present between the glove and the target is taken into the foam traces and removed, and thus the glove has better non-slip properties. When the foam content is 1% to 300%, the glove contains 10 to 130 pieces of foam having an average diameter of 10 μm to 400 μm per 1 cm^2 in the inside and on the surface. It is extremely difficult to produce foam having a diameter of less than 10 μm by mechanical foaming, and when the diameter is greater than 400 μm, the abrasion resistance becomes insufficient", it can be noticed that the foam content is only such a thing that can be optionally adjusted from 1% to 300%, and if more traces of foam (openings) are formed on the surface of the glove, water or oil present between the glove and the target is taken and removed, and thus the glove has better non-slip properties. Since the one having the foam content of 1% to 300% and the average diameter of 10 μm to 400 μm is described, how to set the foam content and average diameter within these numerical value ranges can be regarded as such a thing that can be set as appropriate by those skilled in the art by considering abrasion resistance and non-slip properties.

Moreover, Evidence A No. 5 relates to the same technical field of a glove as that of Evidence A No. 1 Invention 2, and since the indicated matter 5c discloses, "The pore constituting the microporous film ... is preferably a substantially spherical hole ... preferably within a range of 10 to 100 microns" and also discloses, "If the microporous film surface is joined on the outside, favorable close contact with a target having a smooth surface and a non-slip effect can be obtained" and the indicated matter 5e discloses that the maximum diameter of the micro pore of the microporous film of a glove produced in Example 1 was 30 to 80 microns.

Then, in Evidence A No. 1 Invention 2, to specify the quantity of air bubbles to 15 to 30% by considering abrasion resistance and the gripping performance effect for the second recessed portion or particularly the abrasion resistance and to specify the length average diameter of the air bubble to 10 to 50 μm by considering the abrasion resistance and the like could be easily made by those skilled in the art from Evidence A No. 4 to A No. 5. The effect achieved by that cannot be regarded as a particularly distinguished feature, either.

(4) Judgment on different feature 14

The wording "having sufficiently practical abrasion properties" is found to be an obvious error of "having sufficiently practical abrasion resistance" and if so, as described in the aforementioned (3) Judgment on different feature 13, in Evidence A No. 1 Invention 2, too, the quantity of air bubbles and the length average diameter of the air bubbles of the second recessed portion are set by considering the abrasion resistance and thus, it can be regarded that the obtained naturally glove has sufficiently practical abrasion resistance.

Therefore, the different feature 14 is not a substantial different feature.

(5) Summary of the patent Invention 7

As described above, the patent Invention 7 could be easily made by those skilled in the art based on the invention described in Evidence A No. 1 and Evidence A No. 4 to A No. 5, and the demandee should not be granted a patent for the patent Invention 7 under the provisions of Article 29(2) of the Patent Act.

No. 7 Conclusion

As described above, the Patent according to the patent Inventions 1 to 7 is granted in breach of Article 29(2) of the Patent Act and falls under Article 123(1)2 of the Patent Act and thus, the reason for invalidation 1 alleged by the demandant can be approved.

Therefore, the patent of the inventions according to claims 1 to 7 should be invalidated without examining the reason for invalidation 2.

The costs in connection with the trial shall be borne by the demandee under the provisions of Article 61 of the Code of Civil Procedure which is applied mutatis mutandis in the provisions of Article 169(2) of the Patent Act.

The trial decision shall be made as described in the conclusion.

March 8, 2011

Chief administrative judge: KOBAYASHI, Hitoshi
Administrative judge: ONODERA, Tsutomu
Administrative judge: MATSUURA, Shinji