

TRIAL DECISION

Invalidation No. 2012-800126

Tokyo, Japan

Demandant

MITSUBISHI ELECTRIC CORPORATION

Tokyo, Japan

Patent Attorney

TAKAHASHI, Shogo

Tokyo, Japan

Patent Attorney

INABA, Tadahiko

Tokyo, Japan

Patent Attorney

YUYAMA, Takayuki

Tokyo, Japan

Patent Attorney

INOUE, Misato

Tokyo, Japan

Attorney

KONDO, Keiji

Tokyo, Japan

Attorney

MAEDA, Masaki

Tokyo, Japan

Demandee
CORPORATION

TOSHIBA CONSUMER ELECTRONICS HOLDINGS

Tokyo, Japan

Attorney

TAKAHASHI, Yuichiro

Tokyo, Japan

Attorney

KITAJIMA, Shiho

Tokyo, Japan

Attorney

KANAI, Hideyuki

Tokyo, Japan

Patent Attorney

OGAWA, Yasunori

Tokyo, Japan

Demandee

TOSHIBA HOME APPLIANCES CORPORATION

Tokyo, Japan

Attorney TAKAHASHI, Yuichiro

Tokyo, Japan

Attorney KITAJIMA, Shiho

Tokyo, Japan

Attorney KANAI, Hideyuki

Tokyo, Japan

Patent Attorney OGAWA, Yasunori

The case of trial regarding the invalidation of Japanese Patent No. 3290336, entitled "Dehydration Tub of Washing Machine" between the parties above has resulted in the following trial decision:

Conclusion

The appeal of the case was groundless.

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

Reason

No. 1 History of the procedures

1. The application of the invention according to Claims 1 to 7 of Patent No. 3290336 of the

case (hereinafter referred to as the "the patent invention") was filed on July 20, 1995 and the establishment of the patent right of the invention was registered on March 22, 2002.

2. A demand for trial for invalidation of the patent relating to Claims 1 to 7 was made by Mitsubishi Electric on February 20, 2009 (Invalidation No. 2009-800040), and a trial decision (hereinafter, referred to as "the previous trial decision") that the demand for trial was groundless was made on November 5, 2009. Against this, a suit against the trial decision made by the JPO was filed, and a court decision that the plaintiff's claim shall be dismissed (2009 (Gyo-Ke) No. 10403, rendition of decision on August 31, 2010, hereinafter, referred to as "the previous decision") was made at the Intellectual Property High Court, and then the previous trial decision became final and binding.

3. The demandant, Mitsubishi Electric, demanded a trial for patent invalidation of this case on August 21, 2012.

4. The demandees, Toshiba Consumer Electronics Holdings Corporation and Toshiba Home Appliances Corporation, submitted a written reply on November 5, 2012.

5. The body notified the parties of the matters to be examined on December 10, 2012.

6. The demandant submitted an oral proceedings statement brief on January 24, 2013.

7. The demandees submitted an oral proceedings statement brief on January 24, 2013.

8. The first oral proceeding was held on February 8, 2013.

No. 2 The patent invention

Descriptions in Claims 1 to 7 of the case are as follows:

[Claim 1] A dehydration tub of a washing machine comprising: a trunk part formed by cylindrically bending a metal plate and joining both end parts thereof; a bottom plate coupled to a lower edge part of the trunk part; and a balance ring attached an upper end part of the trunk part; wherein, there is provided a filter member which covers a joining part of the trunk part from the inside with the overall length of the filter member and has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate.

[Claim 2] The dehydration tub of a washing machine of Claim 1, wherein the joining part of the trunk part is formed by caulking and a concave part is formed on the filter member so as to fit in a convex shape at the inside of the caulk-joining part.

[Claim 3] The dehydration tub of a washing machine of Claim 1, wherein the joining part of the trunk part is formed by caulking and a concave part is formed in the caulk-joining part of the trunk part for the convex part of the filter member, allowing them to be loosely fit.

[Claim 4] The dehydration tub of a washing machine of Claim 1, wherein the joining part of the trunk part is formed by caulking and a concave part is formed in a part throughout the caulk-joining part and the entire filter member is loosely fit to the concave part.

[Claim 5] The dehydration tub of a washing machine of Claim 1, wherein the joining part of the trunk part is formed by caulking and an inner portion of the caulked-joining part is flattened.

[Claim 6] The dehydration tub of a washing machine of Claim 1, wherein the joining part of the trunk part is formed by butt welding.

[Claim 7] The dehydration tub of a washing machine of Claim 1, wherein the filter member is secured with screws at both sides thereof across the joining part of the trunk part.

No. 3 The demandant's allegation

The demandant alleges that the patent regarding the invention according to Claims 1 to 7 of the case was granted on the patent application that does not satisfy the requirement of "the invention for which a patent is sought is clear" prescribed in Article 36(6)(ii) of the Patent Act and therefore it falls under Article 123(1)(iv) and should be invalidated; and submitted Evidence A No. 1 as means of proof.

Evidence A No. 1 Brief (6) submitted to Tokyo District Court by the plaintiffs (the demandees of the case) on January 6, 2012 in the case claiming damages, etc. of the patent (CASE CLAIMING DAMAGES, ETC., Case No. wa-22692 (2011), etc.)

In addition, as specific reasons therefor, the demandant alleges roughly as follows.

1. Regarding the description itself of Claim 1

In Claim 1, "has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate" exists as configuration E; however, this configuration is not technically clear as described below.

If the upper-limit dimensions or judgment criteria for "a gap of dimensions sufficiently smaller" are not clear, the range thereof cannot be grasped; however, there is no description regarding the upper-limit dimensions in Claim 1.

In addition, if the lower-limit dimensions or the judgment criteria for recognition of "a gap ... left" are not clear, the range thereof cannot be grasped; however, there is no description regarding the lower-limit in Claim 1.

The description of "has a gap of dimensions sufficiently smaller than the overall length thereof left ..." in configuration E is an expression having ambiguity in terms of requiring both the upper and lower limits, even in comparison with examples of "the ambiguous expression" in Examination Guidelines.

The Examination Guidelines describe, "Where the statement of a claim is unclear by itself, an examiner shall examine whether a term in the claim is defined or explained in the description or drawings, and determine whether such definition or explanation, if any, makes (the statement of) the claim clear by interpreting the term in the claim considering the common general knowledge as of the filing."; and therefore, a case where the description and the description of drawings are considered will also be examined.

2. In consideration of the description and the description of drawings

As for the upper limit for a gap of sufficiently small dimensions, according to the descriptions in paragraphs [0009] and [0016] of the description, the maximum dimensions that satisfy the two requirements, (1) the joining part in the gap is behind the balance ring 17 or filter member 18 and invisible to the user and (2) laundry never comes in contact with the joining part in the gap, correspond to the upper limit.

As for the lower limit for a gap of sufficiently small dimensions, according to the

descriptions in paragraphs [0006] and [0018] of the description, although such a gap as being generated by thermal contraction of the filter member 18 causes laundry to get caught therein and therefore does not correspond to the gap in the patent invention, a gap which is wider than that and is such that laundry does not get caught therein even in a state where the filter member 18 is not thermal-contracted corresponds to the lower-limit dimensions.

(1) Regarding the point that the joining part in the gap is behind the balance ring 17 or filter member 18 and invisible to the user

A. There is no objection, generally in designing home appliances such as washing machines, to: targeting a normal usage of a user of average physique; not limiting to the viewpoint E in FIG. 1 in consideration of the viewpoint at the time when the user assumes a forward inclining posture standing in front of the washing machine in order to take out laundry; and being supposed to understand that the dehydration tub can stop at various positions and so the joining part is to enter a blind spot of the balance ring 17 from the viewpoint of the user regardless of the position at which the dehydration tub stops.

However, reference is made to the scope of claims so as to clarify the common features and different features in comparing the patent invention with prior arts, becoming a judgment criterion for whether or not a specific target belongs to the technical range of the patent invention; and therefore it must be objectively and uniformly understandable.

Among persons skilled in the art, there is not common recognition of "a normal usage for a user of average physique" and even if JIS and other criteria/standards are referred to, it is impossible to uniformly define the details thereof; and the scope of claims lacks clarity.

B. If a gap exists, the joining part is surely visible by looking in the gap, and therefore, it must be judged whether it is visible from the viewpoint E of a user based on reasonable reasons.

However, the height position of the dehydration tub 1 is determined after mounting on the washing machine and the height position of the dehydration tub 1 takes various values such as 920-1015 mm. In addition, the installation condition can be floor direct installation or watertight pan installation, and a watertight pan can have a flat installation surface or have four high corners where the legs of the washing machine are placed, and

further, installation by raising may be required. Thus, the height position of the dehydration tub can vary,

the dehydration tub 1 rotates and the position where the filter member 18 stops can vary,

and the viewpoint can vary depending on the physique and posture of a user; that is, whether the user is tall or short, a distance from the washing machine, or whether the user is leaning forward or standing up straight;

and accordingly, even though the viewpoint E is described in FIG. 1, the position of the viewpoint E cannot be technically determined and thus, the upper limit of the dimensions of the gap cannot be determined.

C. Regarding FIG. 1

The viewpoint E drawn in FIG. 1 of the case merely explains the reason why blind spots D1 and D2 are generated, and FIG. 1 does not necessarily reflect the actual dimensions. In addition, it is obvious that parts being blind spots in FIG. 1 are of the same dimensions as the filter member 18 and such large gap is not included. Therefore, in FIG. 1, the upper limit for the gap of sufficiently small dimensions cannot be determined.

In addition, the viewpoint E in FIG. 1 indicates the relative position to the joining point of the dehydration tub 1. However, since the dehydration tub 1 rotates and stops at various positions and the viewpoint E relative to the washing machine does not move, it should be indicated that the gap enters blind spots no matter where the joining part is. However, the description does not include any description of that and the determination of the viewpoint E is impossible. Since the viewpoint E in FIG. 1 explains the reason why the blind spot D1 is generated and does not indicate a concrete viewpoint, there is no criterion for determining the position of the viewpoint, and therefore, the gap of such sufficiently small dimensions that the joining part enters a blind spot of the balance ring 17 regardless of the position at which the dehydration tub 1 stops cannot be objectively and uniformly defined.

D. The viewpoint E cannot be unambiguously defined and therefore, it is reasonable to

interpret the "gap of sufficiently small dimensions" by considering that the gap L1 enters the blind spot D1 even when the viewpoint is changed to anywhere in the range where the lower end of the balance ring 17 is visible.

However, first, the height of a viewpoint when the lower end of the balance ring 17 enters the blind spot of an edge in front of the washing machine is lower compared with that of the viewpoint E in FIG. 1, and whether or not the above interpretation is correct cannot be determined, and it cannot be said to be clear.

Second, the patent invention is "a dehydration tub of a washing machine," not a washing machine, and it is necessary to be able to define "a gap of sufficiently small dimensions" as a configuration of the dehydration tub 1. However, although the lower end of the balance ring 17 enters the blind spot of the edge of the washing machine, the gap varies depending on washing machines and cannot be defined as a configuration of the dehydration tub 1.

As described above, considering that the gap of the joining part is behind the balance ring 17 and becomes invisible, "a gap of sufficiently small dimensions" cannot be objectively and uniformly defined and this expression lacks clarity.

(2) Regarding the point that laundry is stopped by each pair of the balance ring 17 and filter base 19, and the filter base 19 and bottom plate 14 while keeping a distance from the joining part in the gap, to be kept from contact with the joining part

The dimensions of a gap, in which even if part of the laundry enters the gap, it does not enter so deeply as to come in contact with the joining part, are different for each kind of laundry, as kinds of laundry differ in thickness and hardness; common sense of a person skilled in the art in determining which kind of laundry should be used as a criterion for judgment; and the upper limit of dimensions in which laundry does not come into contact with the joining part cannot be determined.

The upper edge of the filter base 19 inclines, and if this inclination is different, the effect of not causing contact should be different even when the size of the gap L1 is identical.

As described above, since judgment cannot be made only on the basis of dimensions, other configurations must be considered; however, the description does not describe which configuration is to be the criterion; and the judgment also cannot be made on the basis of technical common sense of a person skilled in the art.

In addition, if there is no criterion for judging the presence or absence of "the effect of allowing laundry to be stopped," the judgment is impossible.

Further, paragraphs [0009], [0016], and [0029] in the description of the patent, describe that laundry can be prevented from coming into contact with the joining part by the filter member 18, and "less contact is made" is not based on the statements of the description.

As described above, even if the principle of allowing laundry not to contact the joining part by stopping the laundry due to projection above and below the gap can be understood, "a gap of sufficiently small dimensions" cannot be objectively and unambiguously defined and this expression lacks clarity.

(3) Regarding the point that even when thermal contraction occurs, gaps, which are originally provided, just become wider and laundry never gets caught in them, differently from slight gaps which are generated between a conventional pumping path forming member and a balance ring 17 and bottom plate 14

A gap in which a handkerchief of a thickness of 1 mm will not get caught but a blanket of a thickness of 4 mm will get caught can exist and whether or not a situation where laundry gets caught occurs varies depending on the thickness of the laundry. In addition, a common sense of a person skilled in the art in determining which kind of laundry should be used as a criterion for judgment does not exist; and the lower limit of the dimensions of the gap cannot be determined.

Even if there is a kind of laundry which should be a criterion, it cannot be considered as common sense of a person skilled in the art to determine how many millimeters the gap should be so as to prevent the laundry from getting caught in the gap.

In addition, the size of a gap generated due to a difference in thermal expansion coefficient can be calculated as approximately 0.8 mm by a person skilled in the art;

however, the existence of the problem of causing laundry to get caught in the gap cannot be understood. Even if it can be understood, there is no description and ground for estimation in the description about how much the gap should be widened so as to prevent laundry from getting caught; and the dimensions of the gap in the patent invention cannot be understood.

Further, even if it is found that it is necessary to expand the gap to 2 mm in width, it contracts to 1.2 mm when warm water is used; then, assuming that it is 2 mm when warm water is used, it becomes 2.8 mm when at 5°C and a handkerchief may come in contact with the joining part. Thus, it is not easy to determine the size of the gap after such trials and errors.

Even if only a handkerchief is assumed, some doubt arises as to whether or not a determined gap causes problems with a blanket. In addition, if a gap is formed based on the assumption of a blanket, a doubt occurs as to whether "a sufficiently small gap" is obtained when a handkerchief is assumed.

3. Summary

The patent invention presents a solution of providing a gap for solving the problem of causing laundry to get caught on the one hand and a solution of providing a gap of sufficiently small dimensions for solving the problem of causing laundry to come into contact with a joining part on the other hand.

As for the gap, it is construed as "a gap which is larger than a gap generated due to a difference in thermal expansion coefficient, does not cause laundry to get caught therein, and is preliminarily and artificially provided with a certain degree of size"; and as for the gap of sufficiently small dimensions, even if it can be approved as a general theory that "it only exhibits such an effect as stopping laundry due to protrusions above and below the gap and the dimensions of such a gap can be assumed by a person skilled in the art," the thickness and hardness of laundry are not uniform and it cannot be said that descriptions in the scope of claims of the patent are clear.

Since the configuration of the invention cannot be objectively and unambiguously understood, the description in the scope of claims of the patent does not fall under the provisions of Article 36(6) (ii) of the Patent Act.

Accordingly, since "has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate" in Claim 1 is "an ambiguous expression" and even in consideration of descriptions in the description and drawings, the scope of the invention is unclear, and since Claims 2 to 7 depend on Claim 1, the patent has been granted on a patent application not complying with the requirement of "an invention for which a patent is sought is clear."

No. 4 The demandees's allegation

Demandees allege that the reason for invalidation argued by the demandant does not exist and submitted Evidence B No. 1 and B No. 2 as means of proof.

Evidence B No. 1 Trial decision Invalidation No. 2009-800040

Evidence B No. 2 Decision 2009 (Gyo-Ke) No. 10403

In addition, as specific reasons therefor, the demandees allege roughly as follows.

In both of the finding of the claimed invention in the previous trial decision (Evidence B No. 1) relating to the patent and the judgment in the previous decision (Evidence B No. 2), "a gap of dimensions sufficiently smaller than the overall length thereof" means one that (1) is behind the balance ring 17 or filter member 18 and becomes invisible and (2) is formed in such a size as not to cause laundry to get caught. The fact that such finding of the claimed invention is allowed indicates that there is no lack of clarity in the invention described in Claim 1.

As for the upper limit, in consideration of the description, it can be easily understood that the joining part in the gap is behind the balance ring 17 or filter member 18 and becomes invisible; and to find the upper limit is possible.

Also, as for the lower limit, the patent invention is made so that a gap, which previously did not exist (paragraph [0005]), is allowed to exist; and such an expression as "has a gap ... left" is made so as to exclude a slight gap generated due to a difference in

thermal expansion coefficient which is an example in which a gap does not exist.

In consideration of the statements of the description, it can be understood that the gap is formed in such a size as not to cause laundry to get caught and it is possible to grasp the lower limit.

No. 5 Judgment by the body

1. In the scope of claims, a necessary matter to specify an invention for which a patent is sought, which is a technical idea utilizing a law of nature, is described; and its description must be one for which the invention for which a patent is sought as described in the detailed description of the invention and must be one that complies with the requirement that the invention for which a patent is sought is clear.

That is, for an invention which is to be described in the scope of claims and is a technical idea using a law of nature, it is necessary to determine a matter necessary to achieve the objective and effects of a patent invention; and it is only necessary to make description to such an extent as to clarify the technical idea.

In addition, for purposes of construing the meaning and contents of the matter to specify the invention and the technical meaning of it, not only descriptions of claims but also descriptions of the description and drawings and technical common sense at the filing of the application are considered.

2. In Claim 1 of the case, "has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate" is described, and the term "gap" itself is clear; however, the above description indicates for the "gap" its relative size in relation to the filter member and indicates its position in relation to the balance ring, bottom plate, and filter member. Therefore, the technical significance of the "gap" of the patent invention cannot be unambiguously understood only by the descriptions of the scope of claims, and if the detailed description of the description and the description of drawings are not considered, the technical significance cannot be understood. Then, based on the detailed description of the description and the description of drawings, examination will be made in consideration of the technical significance of the

"gap" in relation of the problem, means for solving the problem, and working effect of the invention according to Claim 1 (hereinafter referred to as "the patent invention").

In the description, the following is described regarding the patent invention.

In order to solve "problems in which ... the joining part of the trunk part is visible to a user looking in the dehydration tub and the appearance is not good; in addition, if the joint at the trunk part is made by caulking, laundry is apt to be caught in due to an inward projection of the caulking; on the other hand, if the joint at the trunk part is made by welding, the joining part becomes discolored and conspicuous; further, on the joining part formed by this welding, even if the metal plate is a stainless steel sheet, rust is easily formed; and if laundry is rubbed at the rusted part, rust is stuck to the laundry" (paragraph [0004] of the description);

conventionally, "one in which the joining part of the trunk part is covered from its inside by the pumping path forming member is provided. This pumping path forming member is for forming a pumping path for introducing water in the dehydration tub from the bottom to the balance ring part by a pumping action of an agitator and discharging it, and is mounted overall from the bottom plate to the balance ring with no gap" (paragraph [0005] of the description);

however, problems are found in which "the pumping path forming member is generally made of plastic and its thermal expansion coefficient is different from that of the trunk part of the dehydration tub made of a metal plate. Therefore, the thermal contraction amount of the pumping path forming member especially in a cooled state is larger than that of the trunk part of the dehydration tub; and this results in generating gaps between the member and the balance ring at the upper part and between the member and the bottom plate at the lower part, thereby causing laundry to get caught in those gaps and to be damaged. In addition, the upper part of the pumping path forming member is fit to the balance ring and the lower part is fit to the bottom plate, and due to the necessity of those fitting, there arises a problem in which the assemblability is not good" (paragraph [0006] of the description),

and then, the invention is made "to provide a dehydration tub of a washing machine that not only can make the joining part of the trunk part invisible and prevent laundry from coming into contact with the joining part, but also can achieve it especially without causing laundry to get caught and deteriorating assemblability" (paragraph [0007] of the description); that is, it is for "allowing the joining part of the trunk part to be invisible and preventing laundry

from coming into contact with the joining part" as before and also for "preventing laundry from getting caught" and "preventing deterioration of the assemblability";

and in order to achieve the objective, "there is provided a filter member which covers a joining part of the trunk part from the inside with the overall length of the filter member and has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate" ([Claim 1]).

That is, instead of a pumping path forming member which is mounted overall from the bottom plate to the balance ring with no gap, the upper part of which is fit to the balance ring, and the lower part of which is fit to the bottom plate, there is used a filter member which covers a joining part of the trunk part from the inside with its overall length and "has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate."

In addition, according to the matter in the above Claim 1 of "there is provided a filter member which covers a joining part of the trunk part from the inside with the overall length of the filter member and has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate," not only "allows the joining part of the trunk part to be directly invisible by the filter member and shields the joining part from laundry," but also "between the balance ring and filter member, this joining part is behind the balance ring and invisible, and between the filter member and the bottom plate, this joining part is behind the filter member and becomes invisible." (Paragraph [0009] of the description)

Further, "laundry is stopped by each pair of the balance ring and filter member, and the filter member and bottom plate, being kept from contact with the joining part each between them." (Paragraph [0009] of the description)

"In addition, even when the filter member is thermal-shrunk, as a gap is originally provided between this filter member and the balance ring or between this filter member and the bottom plate, it just causes the gap to expand and does not cause laundry to get caught in it." "Further, the filter member can be assembled irrespective of the balance ring and bottom plate." (Paragraph [0010] of the description)

(1) Regarding the point that the joining part in the gap is behind the balance ring 17 or filter

member 18 (a blind spot) and becomes invisible

As described above, the patent invention is, first, such that the filter member 18 "covers a joining part of the trunk part from the inside with the overall length of the filter member and has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate," and thereby "allows the joining part of the trunk part to be 'directly' invisible by the filter member and shields the joining part from laundry." In addition, it can be said that even though there is such a gap left between the filter member and the balance ring 17 or bottom plate 14, the gap is formed to be such "a gap of dimensions sufficiently smaller than the overall length thereof" so as to hide the joining part of the gap behind the balance ring 17 or filter member 18 (a blind spot) and to make it invisible, thereby allowing parts of the joining part of the trunk part which cannot be "directly" hidden by the filter member 18 to be practically invisible; and its technical idea is clear.

That is, regarding the point that the joining part in the gap is behind the balance ring 17 or filter member 18 (a blind spot) and becomes invisible, it can be said that it has such an effect that for a conventional pumping path forming member which is mounted overall from the bottom plate 14 to the balance ring 17 with no gap, a problem thereof is solved by providing gaps, and a defect of causing the joining part to be visible due to the gaps is reduced to such a degree as not to cause practical problems.

Regarding the viewpoint, it is normal that home appliances such as washing machines are designed targeted for a normal usage (posture) of a user of average physique.

Paragraph [0016] of the description describes "In a configuration made as described above, the joining part 12 of the trunk part 13 of the dehydration tub 1 is made directly invisible by the filter base 19 (filter member 8) that covers it and is shielded from laundry. In addition to this, between the balance ring 17 and filter base 19, this part of the joining part 12 is behind the balance ring 17 (a blind spot D1) and invisible with respect to the viewpoint E (refer to FIG. 1) of a user looking in the dehydration tub 1, and between the filter member 17 and bottom plate 14, this part of the joining part 12 is behind the filter member 17 (a blind spot D2) and becomes invisible."

Although it can be said that a washing machine can be used by persons of various

physiques, a user of an average physique is assumed in designing a washing machine; and such a physique can be assumed by a person skilled in the art.

The demandant alleges that there is no common recognition of "a normal usage of a user of an average physique" and even if JIS and other criteria/standards are referred to, it is impossible to uniformly define specific details thereof; however, even if a specific physique is not presented in JIS and other criteria/standards, in consideration of taking out laundry from the dehydration tub, it is a normal thing to be done that an average physique for a user who uses the washing machine is assumed so as to make it possible; and a person skilled in the art can assume such an average user.

In addition, as for the usage (posture), "the viewpoint E of a user looking in the dehydration tub 1" is described; when taking out clothing from the dehydration tub, a user normally leans forward standing in front of the washing machine.

Then, it can be said that "the viewpoint E of a user looking in the dehydration tub 1" in a washing machine having a dehydration tub for which such a usage is assumed can also be assumed.

To be sure, the dehydration tub 1 is mounted on a washing machine, and although the height position of the dehydration tub 1 can differ depending on the type of a washing machine, the above normal usage is assumed in this case, too; and it can be said that such "dimensions sufficiently smaller than the overall length thereof" as to hide the joining part behind the balance ring 17 or filter member 18 (a blind spot) and make it invisible to "the viewpoint E of a user looking in the dehydration tub 1" can be assumed.

In addition, although the height of a washing machine itself can also differ depending on an installation condition, both floor direct installation and watertight pan installation are just well-known installation methods and for either of them, a normal washing machine is designed so that the user takes out clothing from the dehydration tub 1 in the posture of leaning forward as described above; and such "dimensions sufficiently smaller than the overall length thereof" as to make the gap invisible to the user can be assumed.

Further, the dehydration tub 1 rotates and the filter member 18 stops at various positions; however, at any position, such "dimensions sufficiently smaller than the overall

length thereof" as to make the gap invisible to a viewpoint in the above normal usage in which a user stands in front of a washing machine and leans forward; that is, a viewpoint over the dehydration tub 1, can be assumed by a person skilled in the art.

Therefore, as for the "gap," the position of "the viewpoint E of a user looking in the dehydration tub 1" can be assumed; and such "a dimension sufficiently smaller than the overall length thereof" as to hide the joining part behind the balance ring 17 or filter member 18 (a blind spot) and make it invisible to the viewpoint E in the description of "has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate" is clear.

Even if FIG. 1 does not reflect actual dimensions, FIG. 1 explains the reasons for generating blind spots D1 and D2 and the description describes a relationship between the blind spots and dimensions of the gap; and a technical significance of hiding the joining part in the gap behind the balance ring 1 or filter member 18 (a blind spot) and making it invisible is clear.

The demandant alleges that since a viewpoint cannot be uniquely defined, it is reasonable to interpret the "gap of sufficiently small dimensions" by considering that the gap L1 enters the blind spot D1 even when the viewpoint is changed to anywhere in the range where the lower end of the balance ring 17 is visible, but even so, the height of a viewpoint in which the lower end of the balance ring 17 enters the blind spot of an edge in front of the washing machine is lower as compared with the viewpoint E in FIG. 1 and the height position of the viewpoint is not clear. However, the viewpoint is "the viewpoint E of a user looking in the dehydration tub 1" and as described above, a user of an average physique stands in front of the washing machine and leans forward when taking out clothing from the dehydration tub 1; therefore, the height of a viewpoint in which the lower end of the balance ring 17 enters the blind spot of the edge in front of the washing machine, which is alleged by the demandant, is the lowest position where the lower end of the balance ring 17 is visible; and it cannot be said to be a normal "viewpoint E of a user looking in the dehydration tub 1." Thus, the allegation cannot be adopted.

Further, the demandant alleges that the patent invention is "a dehydration tub of a washing machine," not a washing machine; and it is necessary to be able to define "a gap of sufficiently small dimensions" as a configuration of the dehydration tub 1; however, the patent invention is a dehydration tub 1 that is assumed to be used for a washing machine as "a dehydration tub of a washing machine," and even if "a sufficiently small gap" is defined in relation to a washing machine used, it cannot be said that this makes the invention considered to be unclear.

The demandant also alleges that "a gap of sufficiently small dimensions" cannot be objectively and uniformly defined and is not clear. However, as described above, the dehydration tub 1 is originally one that is to be mounted on a washing machine, and based on that, it is designed targeted for a normal usage (posture) of a user of an average physique; therefore, a viewpoint can be determined based on all of them and "a gap of sufficiently small dimensions" can be assumed. Thus, it cannot be said that the patent invention is not clear.

(2) Regarding the point that laundry is stopped by each pair of the balance ring 17 and filter base 19, and the filter base 19 and bottom plate 14 while keeping a distance from the joining part in the gap, to be kept from contact with the joining part

Since, in the patent invention, it is considered that laundry conventionally gets caught even in a gap which is generated due to a difference in thermal expansion coefficient, the patent invention is predicated on the existence of a possibility of causing contact even in a gap of such small dimensions.

In addition, it is considered that the gap is not one which is generated due to a difference in thermal expansion coefficient, but a gap that is as large as to solve the problem as compared with a conventional example; that is, there is formed a gap which is larger than the gap generated due to thermal expansion coefficient, does not cause laundry to get caught therein, and is preliminarily and artificially provided with a certain degree of size; and it can be said that there is a possibility of causing laundry to come into contact with such a gap in which laundry does not get caught.

In addition, the filter member 18 "covers a joining part of the trunk part from the inside with the overall length of the filter member and has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate," and thereby "allows the joining part of the trunk part to be 'directly' invisible by the filter member and shields the joining part from laundry;" and even if there is such a gap left between the filter member and the balance ring or bottom plate, "a gap of dimensions sufficiently smaller than the overall length thereof left" is formed, so that "laundry is stopped by each pair of the balance ring and filter member, and the filter member and bottom plate, thereby being kept from contact with the joining part between them" (paragraph [0009] of the description),

"laundry is stopped by each pair of the balance ring 17 and filter base 19, and the filter base 19 and bottom plate 14, thereby being kept from contact with the joining part 12 between them." (Paragraph [0016] of the description); that is, laundry is stopped by those protrusion shapes and does not come in contact with the joining part in the gap.

By taking the above assumption of the patent invention into consideration, it can be said that "the joining part of the trunk part" can be "shield(ed) ... from laundry" "'directly' ... by the filter member," and also for gaps which cannot be directly shielded, they are formed to be "a gap of dimensions sufficiently smaller than the overall length thereof," so that laundry is stopped by the protrusion shapes of the balance ring 17, filter base 19, and bottom plate 14, not coming into contact with the joining part in the gaps; that is, such effects are exhibited that a defect due to providing gaps is reduced, less contact is made, and contact is difficult to occur.

Therefore, it can be said that although "a gap of dimensions sufficiently smaller than the overall length thereof" that exhibits such effects can be assumed by a person skilled in the art, its technical idea is clear.

The demandant alleges that "laundry can be prevented from coming into contact with the joining part" is stated in the description and "less contact is made" is not based on the statement of the description. However, it can be said that the patent invention uses the filter member 18 which covers a joining part of the trunk part from the inside with its overall length, instead of the conventional pumping path forming member which is mounted overall from the bottom plate 14 to the balance ring 17 with no gap, so that "the

joining part of the trunk part" can be "directly" "shield(ed) ... from laundry" "by the filter member," and in addition, "has a gap of dimensions sufficiently smaller than the overall length thereof left between the filter member and the balance ring or bottom plate," so that in order to reduce a defect due to providing gaps, such effects are exhibited that the above (1) joining part in the gap is behind the balance ring 17 or filter member 18 (a blind spot) and becomes invisible and less contact is made; and it cannot be said that the dimensions must be limited ones in which laundry as a criterion never comes into contact with the joining part in the gap. Although the dimensions are such that less contact will be made and contact will be difficult to occur, it can be said that its technical idea is clear in terms of a gap of such dimensions.

The judgment of the previous decision, "In addition, the sizes of a gap between the balance ring and filter member and a gap between the filter member and bottom plate must be within such a size as to allow laundry to be stopped by the balance ring and filter member and by the filter member and bottom plate so that the laundry never comes into contact with the joining part that is seen in the gaps; therefore, the gaps must be small in this respect, too." explains that the "gap" is as large as not to cause laundry to come into contact with the joining part so as to explain that introduction of the matters specifying the invention is made within the matters described in the scope or claims or drawings; and "as large as not to cause laundry to come into contact with the joining part" does not indicate that contact never occurs in the dimensions but just indicates the degree of the size of the dimensions of the "gap."

In addition, the demandant alleges that since there is no common sense of a person skilled in the art in determining which kind of laundry is to be a criterion and there is also no criterion by which to judge whether or not an effect of stopping laundry is obtained, the dimensions cannot be specified for the feature of not allowing laundry to come into contact. However, as described above, it can be said that the effect of making less contact is exhibited and "a gap of dimensions sufficiently smaller than the overall length thereof" that can exhibit such an effect can be assumed by a person skilled in the art.

Further, the demandant alleges that since the upper edge of the filter base 19 inclines, judgment cannot be made only by the dimensions and also, since other configurations to be considered are not stated in the description, judgment cannot be made.

However, it is just exhibits an effect of causing laundry to make less contact and "a gap of dimensions sufficiently smaller than the overall length thereof" that can exhibit such an effect can also be assumed by a person skilled in the art; and its technical idea is clear.

(3) Regarding the point that even when thermal contraction occurs, gaps, which are originally provided, just become wider and laundry never gets caught in them differently from slight gaps which are generated between a conventional pumping path forming member and a balance ring 17 and bottom plate 14

The patent invention is made to solve the problem in which laundry gets caught in a gap generated due to a difference in thermal expansion coefficient, to be damaged; and therefore, it is enough to form a gap that is as large as to solve the problem as compared with a conventional example; that is, a gap which is larger than the gap generated due to thermal expansion coefficient, does not cause laundry to get caught therein, and is preliminarily and artificially provided with a certain degree of size.

Accordingly, a person skilled in the art can understand the technical significance of "a gap of dimensions sufficiently smaller than the overall length thereof," and its technical idea is clear.

The demandant alleges that although a gap due to a difference in thermal expansion coefficient can be easily calculated by a person skilled in the art, there is no common sense of a person skilled in the art for determining which kind of laundry is to be a criterion and even when laundry as a criterion is determined, how many millimeters the gap should be cannot be easily assumed.

However, it is enough to form a gap which is larger than the gap generated due to thermal expansion coefficient, does not cause laundry to get caught therein, and is preliminarily and artificially provided with a certain degree of size; and therefore, it is not necessary to target all kinds of laundry and also it is not necessary to determine laundry as a criterion and determine dimensions so as never to cause the laundry to get caught.

It is enough to form a gap which is larger than the conventional gap generated due to thermal expansion coefficient, has the probability of not causing laundry to get caught

therein, and is preliminarily and artificially provided with a certain degree of size, and such a gap can be assumed by a person skilled in the art.

(4) Summary

As described above, it cannot be said that the invention according to Claim 1 does not meet the requirement that the invention for which a patent is sought is clear.

3. Regarding Claims 2 to 7

As described in the above 1 and 2, it cannot be said that the invention according to Claim 1 does not meet the requirement that the invention for which a patent is sought is clear; and therefore, regarding the invention according to Claims 2 to 7 which are dependent on Claim 1, it similarly cannot be said that the invention is not clear and it also cannot be said that the inventions according to Claims 2 to 7 do not meet the requirement that the invention for which a patent is sought is clear.

No. 6 Closing

As described above, the allegation and the means of proof of the demandant cannot invalidate the patent of the invention according to Claims 1 to 7 of the patent.

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

Therefore, the trial decision shall be made as described in the conclusion.

March 19, 2013

Chief administrative judge: HIRAGAMI, Etsuji

Administrative judge: MORIKAWA, Mototsugu

Administrative judge: YAMAZAKI, Katsushi