

## Trial decision

Correction No. 2015-390026

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Demandant

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The case of trial for correction regarding Japanese Patent No. 5611392 has resulted in the following trial decision.

### Conclusion

It is approved to correct the description and scope of claims regarding Japanese Patent No. 5611392 according to the corrected specification and scope of claims attached to the written demand for trial of the case.

### Reason

#### No. 1 History

The application regarding Japanese Patent No. 5611392 was filed on March 1, 2013 as a filing date (internal priority: February 6, 2013), the establishment of patent right was registered on September 12, 2014, and then, a request for the trial of the case was filed on March 23, 2015.

#### No. 2 Objective of request and details of correction

The objective of the request for the trial for correction of the case which is filed on March 23, 2015 is to request to correct the description, scope of claims, or

drawings in Japanese Patent No. 5611392 (hereinafter, referred to as "the subject patent description") as described in the corrected description and scope of claims attached to the written demand for trial of the case; and specifically, to request to correct them as described in Correction 1 and Correction 2 (hereinafter, referred to as "the correction of the case"). (The underlines in the following description indicate corrected portions, which are added by the demandant.)

1. Correction 1

"The scissors according to claim 1, 2, 3, 4, 5, 6, 7 or 8, wherein the crossing angle at the border between the base side area and the tip side area is 18 degrees or more." described in claim 9 of the scope of claims is corrected to "The scissors according to claim 1, 2, 3, 4, 5, 6, 7 or 8, wherein the crossing angle at the border between the base side area and the tip side area is 18 degrees or more, the blade line of one blade piece and the blade line of the other blade piece intersect with each other to the edges on their blade tip sides, and a recessed portion is provided on the blade rear faces."

2. Correction 2

"As a specific configuration to make the load required for cutting approximately constant regardless of the cutting point in the tip side area without enlarging the load extremely, it can be cited that the crossing angle at the border between the base side area and the tip side area is 18 degrees or more." described in paragraph [0015] of the description is corrected to "As a specific configuration to make the load required for cutting approximately constant regardless of the cutting point in the tip side area without enlarging the load extremely, it can be cited that the crossing angle at the border between the base side area and the tip side area is 18 degrees or more. In addition, the blade line of one blade piece and the blade line of the other blade piece may intersect with each other to the edges on their blade tip sides, and a recessed portion may be provided on the blade rear faces."

No. 3 Judgment on the body

1. Purpose of correction

(1) Correction 1

Correction 1 adds the description of "the blade line of one blade piece and the blade line of the other blade piece intersect with each other to the edges on their blade tip sides, and a recessed portion is provided on the blade rear faces" to the "scissors" of the invention described in claim 9 before correction; and thus Correction 1 is

intended to restrict the scope of claims as provided in item (i) of the proviso to paragraph (1) in Article 126 of the Patent Act.

(2) Correction 2

Correction 2 is intended to provide consistency between the description in the scope of claims and the detailed description of the invention, in accordance with correction related to Correction 1.

Thus, Correction 2 is made for clarification of an ambiguous statement under item (iii) of the proviso to paragraph (1) in Article 126 of the Patent Act.

2. Whether or not the correction is within the scope of the matters disclosed in the description, scope of claims, or drawings attached to the application

(1) Correction 1

As for a correction of "the blade line of one blade piece and the blade line of the other blade piece intersect with each other to the edges on their blade tip sides" in Correction 1, paragraph [0007] of the subject patent description describes "... and a tip side area is provided, ... the tip side area being adjacent to a tip side of the base side area and extending to the edge on the blade tip side and such that the crossing angle remains approximately constant or increases as the cutting point goes away from the pivot through the cutting operation." Also, paragraph [0036] of the description describes "the configuration is able to be made preferably in which even the neighborhood of the blade tips 31e and 32e can be used for the purpose of cutting corrugated cardboards, plastic sheets, plastic packing bands, and so on." In addition, in FIGS. 2 and 7, it can be perceived that the blade line of one blade piece and the blade line of the other blade piece intersect with each other to the edges on their blade tip sides. Furthermore, paragraph [0018] of the description describes as the effect of the invention "The present invention is able to meet a demand for easily cutting corrugated cardboards, plastic sheets, plastic packing bands, and so on without enlarging necessary load to cut in neighborhood of tips of blades while maintaining the conventional characteristic of scissors, that is, a crossing angle on base sides of the blades becomes large similarly to the conventional scissors." In view of the fact that the invention aims at improving the cutting performance from the blade base to blade tip, the correction of "the blade line of one blade piece and the blade line of the other blade piece intersect with each other to the edges on their blade tip sides" in Correction 1 is recognized as a correction within the scope of the matters disclosed in the description, scope of claims, or drawings attached to the application.

As for a correction of "a recessed portion is provided on the blade rear faces" in Correction 1, paragraph [0058] of the subject patent description describes "Moreover, though the blade rear faces according to the above first and second embodiments are flat, a recessed portion or a step portion may be provided on a blade rear face so as to prevent occurrence of the problem that an adhesive adheres to a neighborhood or the edge line of the blade in cutting sheets, like paper, to which the adhesive is applied. ...." In Figure 11, it can be perceived that a recessed portion is provided on the blade rear faces; and thus, the correction of " a recessed portion is provided on the blade rear faces" in Correction 1 is recognized as a correction within the scope of the matters disclosed in the description, scope of claims, or drawings attached to the application.

Therefore, Correction 1 is a correction within the scope of the matters disclosed in the description, scope of claims, or drawings attached to the application; and complies with Article 126 (5) of the Patent Act.

(2) Correction 2

Correction 2 is intended to provide consistency between the description in the scope of claims and the detailed description of the invention, in accordance with correction related to Correction 1. For the same reason as described in 2. (1) above, Correction 2 is a correction within the scope of the matters disclosed in the description, scope of claims, or drawings attached to the application; and complies with Article 126 (5) of the Patent Act.

3. Whether or not the correction substantially enlarges or alters the scope of claims

(1) Correction 1

Correction 1 adds the matters specifying the invention to the description in claim 9 and thus does not change its category, target, and purpose. Therefore, the correction does not substantially enlarge or alter the scope of claims and complies with Article 126 (6) of the Patent Act.

(2) Correction 2

Correction 2 is intended to provide consistency between the description in the scope of claims and the detailed description of the invention, in accordance with correction related to Correction 1. For the same reason as described in 3. (1) above,

Correction 2 does not substantially enlarge or alter the scope of claims and complies with Article 126 (6) of the Patent Act.

4. Whether or not the corrected invention is independently patentable at the time of filing of the patent application

As described above, the correction in Correction 1 is for the purpose of restricting the scope of claims and thus, the invention specified by the matters described in claim 9 after the correction of the case (hereinafter, referred to as "the corrected invention of the case 9") must be able to be patented independently at the time of filing of the patent application.

In Exhibit A No. 1 (Utility Model Registration Publication No. 3151253) in the written demand for trial of the case, paragraph [0005] of the description describes, as a problem to be solved, "In this device, an excellent universal scissors are provided that can easily perform, without changing to other scissors, not only linear cutting but also curvilinear cutting at will for both inside-corner and outside-corner of handedness irrespective of the directivities of a cutting direction in a desired curving direction and at a desired curvature degree by a pair of opposed cutting blades of a convex arc shape; and in addition, can perform linear cutting and curvilinear cutting at will by attaching linear blades to the rear portions of the cutting blades of the convex arc shape." On this point, Exhibit A No. 1 does not aim at improving the cutting performance from the blade base to blade tip. And in addition, in Figure 2 of the same, it cannot be perceived that the blade line of one blade piece and the blade line of the other blade piece intersect with each other to the edges on their blade tip sides. Then, it is construed that Exhibit A No. 1 does not have a configuration of "the blade line of one blade piece and the blade line of the other blade piece intersect with each other to the edges on their blade tip sides."

Furthermore, it is construed that Exhibit A No. 1, Exhibit A No. 2 (Japanese Utility Model Publication No. H1-25556), and Exhibit A No. 3 (Japanese Utility Model Publication No. S63-10145) in the written demand for trial of the case do not have a configuration of "a recessed portion is provided on the blade rear faces."

Therefore, it is not construed that the corrected invention of the case 9 can be easily made on the basis of the Exhibit A No. 1 to Exhibit A No. 3; and any other reasons are not found for the corrected invention of the case 9 being unable to be independently patented at the time of filing of the patent application. Hence, Correction 1 complies with Article 126 (7) of the Patent Act.

#### No. 4 Conclusion

Therefore, the correction of the case is for the purposes provided in item (i) or (iii) of the proviso to paragraph (1) in Article 126 of the Patent Act and complies with paragraphs (5) to (7) of Article 126.

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

May 13, 2015

Chief administrative judge: NISHIMURA, Yasuhide

Administrative judge: HARA, Taizo

Administrative judge: WATANABE, Makoto