Trial decision

Correction No. 2015-390046

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The case of trial regarding the correction of Japanese Patent No. 3958413 has resulted as follows.

Conclusion

It shall be approved that the description relating to Japanese Patent No. 3958413 is corrected as to each claim, as described in the corrected description attached to the written request for trial of the case.

Reason

No. 1 History of the procedures

The invention according to Claims 1-2 of Japanese Patent No. 3958413 (hereinafter referred to as "the Patent") is based on Japanese Patent Application No. H9-252192 submitted on September 17, 1997, and the establishment of its patent right was registered on May 18, 2007. The trial for the correction was requested on May 18, 2015.

No. 2 Gist of the request for trial

The gist of the request for trial of the case is to correct the description of the Patent (hereinafter the description of the Patent is referred to as "Description attached to the application," especially the scope of claims in the description is referred to as "Scope of claims".) as to each claim, as described in the corrected description attached to the written request for trial of the case.

The contents of correction are described as follows (Underlines are added by the body.).

<Correction A>

As for Claim 1 of the Scope of claims,

"[Claim 1]

A chair having a swinging function including a base and a seat swingably arranged on the base comprising: magnetic-material members supported on the seat; a solenoid which is fixed to the base close to the magnetic-material members in a position different from the positions of the magnetic-material members located when the seat is stopped, and which attracts the magnetic-material members in a swinging direction electromagnetically; and swing control means which controls swinging motion of the seat by exciting the solenoid at a predetermined timing, the magnetic-material members and the solenoid being configured to swing at a distance,

the base including at least two swingable rods which support the seat, the magnetic-material members being formed of two magnetic-material members arranged opposite each other at a predetermined distance, and the solenoid being fixed to the base near an intermediate point between the two magnetic-material members located when the seat is stopped."

should read

"[Claim 1]

A chair having a swinging function including a base and a seat swingably arranged on the base comprising: magnetic-material members supported on the seat; a solenoid which is fixed to the base close to the magnetic-material members in a position different from the positions of the magnetic-material members located when the seat is

stopped, and which attracts the magnetic-material members in a swinging direction electromagnetically; swing control means which controls swinging motion of the seat by exciting the solenoid at a predetermined timing, the magnetic-material members and the solenoid swinging at a distance,

the base including at least two swingable rods spaced from each other in a swinging direction of the seat and supporting the seat at two different points located apart from each other in the swinging direction, the magnetic-material members being formed of two magnetic-material members arranged opposite each other at a predetermined distance, the solenoid being fixed to the base near an intermediate point between the two magnetic-material members located when the seat is stopped,

the solenoid having a through hole along a winding shaft, which is fixed to the base in parallel with the swinging direction of the seat, the two magnetic-material members being fixed to a linear shaft fixed to the seat, and the shaft being inserted in the through hole."

<Correction B>

As for the paragraph [0008] in the Description attached to the application,

"[Solution for the problem to be solved]

Therefore, the invention of the chair having swinging function described in Claim 1 is a chair having swinging function including a base and a seat swingably arranged on the base comprising: magnetic-material members supported on the seat; a solenoid which is fixed to the base close to the magnetic-material members in a position different from the positions of the magnetic-material members located when the seat is stopped, and which attracts the magnetic-material members in a swinging direction electromagnetically; and swing control means which controls swinging motion of the seat by exciting the solenoid at a predetermined timing, the magnetic-material members and the solenoid being configured to swing at a distance, the base including at least two swingable rods which support the seat, the magnetic-material members being formed of two magnetic-material members arranged opposite each other at a predetermined distance, and the solenoid being fixed to the base near an intermediate point between the two magnetic-material members located when the seat is stopped."

should read

"[Solution for the problem to be solved]

Therefore, the invention of the chair having swinging function described in Claim 1 is a chair having a swinging function including a base and a seat swingably arranged on the base comprising: magnetic-material members supported on the seat; a

solenoid which is fixed to the base close to the magnetic-material members in a position different from the positions of the magnetic-material members located when the seat is stopped, and which attracts the magnetic-material members in a swinging direction electromagnetically; and swing control means which controls swinging motion of the seat by exciting the solenoid at a predetermined timing, the magnetic-material members and the solenoid swinging at a distance, the base including at least two swingable rods spaced from each other in a swinging direction of the seat and supporting the seat at two different points located apart from each other in the swinging direction, the magnetic-material members being formed of two magnetic-material members arranged opposite each other at a predetermined distance, and the solenoid being fixed to the base near an intermediate point between the two magnetic-material members located when the seat is stopped,

the solenoid having a through hole along a winding shaft, which is fixed to the base in parallel with the swinging direction of the seat, the two magnetic-material members being fixed to a linear shaft fixed to the seat, and the shaft being inserted in the through hole."

<Correction C>

As for the description in paragraph [0051] in the Description attached to the application,

"[Effect of the invention]

The invention described in Claim 1 can reduce a distance between the magnetic-material members and the solenoid with a simple configuration by arranging the magnetic-material members and the solenoid on a straight line in the swinging direction, improve power load efficiency, minimize noise and vibration by swinging the seat with the magnetic-material members and the solenoid spaced from each other, and improve silence and comfort, while significantly reducing maintenance work."

should read

"[Effect of the invention].

<Correction D>

As for the paragraph [0052] in the Description attached to the application,

"The invention described in Claim 2 can significantly reduce swinging resistance by swinging the seat with a parallel link mechanism, achieve stable swinging motion without impairing swinging function of the seat even when the center of gravity of a user is eccentric on the seat, and provide comfort.

The magnetic-material members are formed of two pieces, so that a shorter swinging amplitude can be set as compared with a case of one magnetic-material member, thereby allowing swinging characteristics to be set in detail."

should read

"The invention described in Claim 1 can reduce a distance between the magnetic-material members and the solenoid with a simple configuration by arranging the magnetic-material members and the solenoid on a straight line in the swinging direction, improve power load efficiency, minimize noise and vibration by swinging the seat with the magnetic-material members and the solenoid spaced from each other, and improve silence and comfort, while significantly reducing maintenance work.

The invention described in Claim 1 can significantly reduce swinging resistance by swinging the seat with a parallel link mechanism, achieve stable swinging motion without impairing swinging function of the seat even when the center of gravity of a user is eccentric on the seat, and provide comfort."

<Correction E>

As for the paragraph [0053] in the Description attached to the application,

"The invention described in Claim 3 swings by means of sliding means which moves horizontally, to move in parallel without vertical motion, thereby reducing the distance between the magnetic-material members and the solenoid, and improving power conversion efficiency."

should read

"The invention described in Claim 2 swings by means of sliding means which moves horizontally, to move in parallel without vertical motion, thereby reducing the distance between the magnetic-material members and the solenoid, and improving power conversion efficiency."

<Correction F>

As for the paragraph [0017] in the Description attached to the application,

"A swing drive mechanism 1 is detachably arranged between a lower side of a seating surface of a seat 2 and a base 5. A swing control apparatus 6, which is swing control means, swings the seat 2 forward and backward. A leg member 4 and the base 5 can be separated easily, and changed freely in combination depending on the intended use.

FIG. 2 and FIG. 3 illustrate a supporting state of the seat 2 and the base 5 as follows.

FIG. 2 illustrates a support-related part of a cross section A-A. Fig. 3 illustrates a pattern diagram of the support-related part seen from a direction B shown in FIG. 1. The seat 2 includes four flanges 2a, 2b arranged in four directions on the lower side of the seating surface and protruding downward. A groove serving as a bearing is formed at a lower end of each of the flanges. In four rod support sections 5a, 5b in the base 5, swinging rods 7a, 7b are pivotally supported in a swingable manner. The flanges 2a, 2b of the seat 2 are suspended on the swinging rods 7a, 7b."

should read

"A swing drive mechanism 1 is detachably arranged between a lower side of a seating surface of a seat 2 and a base 5. A swing control apparatus 6, which is swing control means, swings the seat 2 forward and backward. A leg member 4 and the base 5 can be separated easily, and changed freely in combination depending on the intended use.

FIG. 2 and FIG. 3 illustrate a supporting state of the seat 2 and the base 5 as follows.

FIG. 2 illustrates a support-related part of a cross section A-A. Fig. 3 illustrates a pattern diagram of the support-related part seen from a direction B shown in FIG. 1. The seat 2 includes four flanges 2a, 2b arranged in four directions on the lower side of the seating surface and protruding downward. A groove serving as a bearing is formed at a lower end of each of the flanges. In four rod support sections 5a, 5b in the base 5, swinging rods 7a, 7b are pivotally supported in a swingable manner. The flanges 2a, 2b of the seat 2 are suspended on the swinging rods 7a, 7b."

<Correction G>

As for the paragraph [0034] in the Description attached to the application,

"A plunger is fixed to a shaft of a non-magnetic body. Even when the plunger is a ferromagnetic body having low mechanical strength, it can be reliably fixed without influence on an attraction effect with a simple configuration.

The shaft and the plunger present a linear shape with respect to the swinging direction. As compared with a case of using an arch-shaped iron core, the members do not need to be bent, thereby reducing manufacturing cost."

should read

"A plunger is fixed to a shaft of a non-magnetic body. Even when the plunger is a ferromagnetic body having low mechanical strength, it can be reliably fixed without influence on an attraction effect with a simple configuration.

The shaft and the plunger present a linear shape with respect to the swinging

direction. As compared with a case of using an arch-shaped iron core, the members do not need to be bent, thereby reducing manufacturing cost."

No. 3 Judgment by the body

1 Regarding Articles 126(1), (5) and (6) of the Patent Act

(1) Regarding the correction A

Since the correction A contains a plurality of corrections, each of which relates to different matters specifying the invention, they are separately examined as follows.

A The correction A-1

Regarding the description "two swingable rods spaced from each other in a swinging direction of the seat",

it specifies the positional relation between the two rods, that is, it shows that the two rods are spaced from each other along the swinging direction of the seat. Thus, it falls under restriction of the scope of claims and the purpose of the correction A-1 meets the matters described in the proviso (i) to Articles 126(1).

Paragraph [0018] in the Description attached to the application includes the description, "The seat 2 and the base 5 form a parallel link mechanism configured to support the seat 2 by the two swinging rods 7a, 7b on the side of the base 5. When the swinging rods 7a, 7b swing around the rod support sections 5a, 5b, the seat 2 ... can be swung." FIG. 3 to FIG. 6 illustrate that the swinging rods 7a, 7b engage and support the seat 2 in the flanges 2a, 2b of the seat 2 in positions separated in the swinging direction of the seat.

Thus, the swinging rods 7a, 7b forming the parallel link mechanism are separated from each other in the swinging direction which is the same as the swinging direction of the seat. The matters limited in the corrections 1-1 are based on the description and drawings attached to the application, and do not introduce a new technical matter in a relation with a technical matter to be derived by integrating all descriptions in the description and drawings attached to the application. The matters were made within the scope of the matters described in the description and drawings attached to the application. Therefore, the correction A-1 falls under the provisions of Article 126(5) of the Patent Act.

The correction A-1 does not expand or change the invention according to the scope of claims before and after correction, and does not expand or change the scope of claims substantially. The correction A-1 falls under the provisions of Article 126(6) of the Patent Act.

B Correction A-2

Regarding the description "two rods supporting the seat at two different points located apart from each other in the swinging direction",

it specifies the positional relation between the two rods supporting the seat, that is, it shows that the two rods are spaced from each other. Thus, it falls under restriction of the scope of claims and the purpose of the correction A-1 meets the matters described in the proviso (i) to Articles 126(1).

Paragraph [0018] in the Description attached to the application includes the description, "The seat 2 and the base 5 form a parallel link mechanism configured to support the seat 2 by the two swinging rods 7a, 7b on the side of the base 5. When the swinging rods 7a, 7b swing around the rod support sections 5a, 5b, the seat 2 ... can be swung." Paragraph [0019] includes the description, "The flanges 2a, 2b located below the seating surface and supporting the seat 2 are arranged at two different positions apart from each other in the swinging direction of the seat. Even when the center of gravity is eccentric on the seat depending on the seating position of a user, inclination of the seat 2 and an adverse effect on swinging function, such as swinging amplitude, described below, can be prevented." FIG. 3 to FIG. 6 illustrate that the swinging rods 7a, 7b engage and support the seat 2 in the flanges 2a, 2b of the seat 2 in positions separated in the swinging direction of the seat.

Thus, the swinging rods 7a, 7b forming the parallel link mechanism engage and support the seat 2 in the flanges 2a, 2b of the seat 2, and the two flanges are separated from each other in the swinging direction of the seat. The matters limited in the corrections 1-2 are based on the description and drawings attached to the application, and do not introduce a new technical matter in a relation with a technical matter to be derived by integrating all descriptions in the description and drawings attached to the application. The matters were made within the scope of the matters described in the description and drawings attached to the application. Therefore, the correction A-2 falls under the provisions of Article 126(5) of the Patent Act.

The correction A-2 does not expand or change the invention described in the scope of claims before and after correction, and does not expand or change the scope of claims substantially. The correction A-2 falls under the provisions of Article 126(6) of the Patent Act.

C Correction A-3

The description, "the solenoid having a through hole along a winding shaft, which is fixed to the base in parallel with the swinging direction of the seat, the two

magnetic-material members being fixed to a linear shaft fixed to the seat, and the shaft being inserted in the through hole"

limits the structure of the solenoid and the positional relation between the solenoid and other members (base, shaft, or the like), indicating that the solenoid has a through hole along a winding shaft, the base is fixed so that the winding shaft may be parallel to the swinging direction of the seat, and a linear shaft having two magnetic materials and fixed to the seat is inserted in the through hole. Thus, it falls under restriction of the scope of claims and meets the matters described in the proviso (i) to Articles 126(1).

Paragraph [0020] in the Description attached to the application includes the description, "The swing drive mechanism 1 using electromagnetic force for swinging motion is described in detail with FIG. 6. FIG. 6 is a drawing formed by enlarging a section especially relating to swinging motion in FIG. 3. FIG. 6 illustrates that the solenoid 9 is fixed on the base 5 via a coil base 8 made of an aluminum board or the like, a through hole 10 is formed at the center of the solenoid 9, and a coil core 11 made of plastic or the like is formed on an inner wall surface of the through hole 10. The solenoid 9 is covered with a coil case 12 made of metal or the like, with the through hole 10 opened." Paragraph [0026] includes the description, "In the standby state, the seat 2 is pushed in a direction (a) manually (S3). The seat 2 can be moved in both directions (a) and b in S3. The direction (a) is adopted for simple description in this case." Paragraph [0021] includes the description, "The shaft 13 made of a non-magnetic material, such as aluminum, and two members 14a, 14b (hereinafter referred to as a plunger) made of a magnetic material, such as iron, fixed to the shaft 13 at a predetermined interval, are inserted in the through hole 10 of the solenoid 9, close to and not in contact with the inner wall of the through hole 10. The plungers 14a, 14b are formed of the same material in a cylindrical shape having the through hole formed at the center, and are fixed to the shaft 13 at a predetermined interval. The shaft 13 with the plungers 14a, 14b fixed thereto is pivotally supported at both ends by a shaft fixing plate 15. The shaft fixing plate 15 is fixed to a mounting plate 16. The mounting plate 16 is fixed to the seat 2 via the support members 17a, 17b." Paragraph [0034] includes the description, "The shaft and the plungers present a linear shape with respect to the swinging direction. As compared with a case of using an arch-shaped iron core, the members do not need to be bent, thereby reducing manufacturing cost." Paragraph [0036] includes the description, "In FIG. 9, a coil winding shaft of a solenoid 9' is fixed on the side of the base 5 so as to be vertical to the swinging direction."

The description in paragraph [0026] relates to FIG. 6. FIG. 6 illustrates line

segments with arrows formed at their tips, such as "motion a" and "motion b," indicating the swinging direction which is moving direction of the seat 2.

The description in paragraph [0036] relates to FIG. 9. FIG. 9 illustrates that when the coil winding shaft of the solenoid 9' is arranged vertical to the base 5, "vertical to the swinging direction" can be assumed.

From the above descriptions, when the coil winding shaft of the solenoid 9 is arranged in a lateral direction with respect to the base 5, "parallel to the swinging direction" is apparent. Thus, in the solenoid 9, "the winding shaft (of the solenoid) is fixed to the base in parallel to the swinging direction of the seat," and the shaft 13 is "fixed to the seat 2 via the shaft fixing plate 15, the mounting plate 16, and the support members 17a, 17b." The matters limited in the corrections 1-3 are based on the description and drawings attached to the application, and do not introduce a new technical matter in a relation with a technical matter to be derived by integrating all descriptions in the description and drawings attached to the application. The matters were made within the scope of the matters described in the description and drawings attached to the application. Therefore, the correction A-3 falls under the provisions of Article 126(5) of the Patent Act.

The correction A-3 does not expand or change the invention described in the scope of claims before and after correction, and does not expand or change the scope of claims substantially. The correction A-3 falls under the provisions of Article 126(6) of the Patent Act.

Therefore, the correction A falls under the provision of Articles 126(5) and 126(6) of the Patent Act.

(2) Regarding the correction B

The correction B is a correction of the detailed description of the invention to ensure consistency in connection with the correction of current Claim 1 in accordance with the correction A. It falls under clarification of an ambiguous description, and is for the matters described in the proviso (iii) to Articles 126(1).

The correction B is based on the description and drawings attached to the application, and does not introduce a new technical matter apart from a technical matter derived by integrating all descriptions and drawings attached to the application. The matters were made within the scope of the matters described in the description and drawings attached to the application. Therefore, the correction B falls under the provisions of Article 126(5) of the Patent Act.

The correction B does not expand or change the invention described in the scope

of claims before and after correction, and does not expand or change the scope of claims substantially. The correction B falls under the provisions of Article 126(6) of the Patent Act.

(3) Regarding the corrections 3-5

Since the corrections 3 to 5 are related to each other, they are examined together.

The description in paragraph [0051] in the Description attached to the application describes the effect of the invention according to Original Claim 1.

The description in paragraph [0052] in the Description attached to the application describes the effect of the invention according to Original Claim 2.

The description in paragraph [0053] in the Description attached to the application describes the effect of the invention according to Original Claim 3.

According to the written amendment dated March 30, 2007, Original Claim 1 was deleted, Original Claim 2 which had been dependent on Claim 1 was rewritten to new independent Claim 1, and Original Claim 3 which had been dependent on Claim 1 was rewritten to new independent Claim 2.

However, since the descriptions in paragraph [0051] to [0053] had not been amended, the scope of claims did not correspond to the descriptions and the paragraphs was unclear.

According to the correction C, the description on the effect relating to the deleted Original Claim 1 is deleted. It falls under clarification of an ambiguous description, and its purpose meets the matters described in the proviso (iii) to Articles 126(1).

The correction C is only deletion of a description, and falls under the provisions of Articles 126(5) and 126(6) of the Patent Act.

The correction D falls under clarification of an ambiguous description and its purpose meets the matters described in the proviso (iii) to Articles 126(1) since according to the correction D, the description in paragraph [0052] is corrected in accordance with the effect caused by the corrected Claim 1, where the paragraph had been related to the effect caused by original Claim 2 but not current Claim 2.

Specifically, according to the correction D, the new paragraph [0052] is based on the paragraph [0051] in the Description attached to the application including the effect of the invention described in original Claim 1 and the paragraph [0052] attached to the application including the effect of the invention described in Claim 2. Thus, the

correction D is based on the descriptions and drawings attached to the application, and it does not introduce a new technical matter in relation to a technical matter derived by integrating all descriptions and drawings attached to the application. Besides it was made within the descriptions and drawings attached to the application. Therefore, the correction D falls under the provisions of Article 126(5) of the Patent Act.

The correction D does not expand or change the invention described in the scope of claims before and after correction, and does not expand or change the scope of claims substantially. The correction D falls under the provisions of Article 126(6) of the Patent Act.

The paragraph [0053] is amended in accordance with the corrected Claim2 and it discloses the effect caused by the corrected Claim2 while the Claim3 does not exist after the above amendment and the paragraph [0053] disclosed the effect caused by the Claim 3. Thus, the purpose of the correction is to clarify an ambiguous description and meets the matter described in the proviso (iii) to Articles 126(1) of the Patent Act.

Specifically, the correction E contains the description in paragraph [0051] in the Description attached to the application including the effect of the invention described in original Claim 1, and the description in paragraph [0053] in the Description attached to the application including the effect of the invention described in original Claim 3. It is based on the description and drawings attached to the application, and do not introduce a new technical matter in relation to a technical matter derived by integrating all descriptions and drawings attached to the application. Besides, it was made within the descriptions and drawings attached to the application. Therefore, the correction E falls under the provisions of Article 126(5) of the Patent Act.

The correction E does not expand or change the invention described in the scope of claims before and after correction, and does not expand or change the scope of claims substantially. The correction E falls under the provisions of Article 126(6) of the Patent Act.

(4) Regarding the correction F

Paragraph [0017] in the Description attached to the application relating to the correction F includes the description, "can be separated" with unnecessary spaces. Since the spaces cannot be filled with words, numerical characters, or symbols contextually, it is apparently an error.

Since the correction F is deleting the unnecessary spaces, it falls under correction of an error and its purpose meets the matters described in the proviso (ii) to

Articles 126(1).

Since it is only deletion of unnecessary spaces, it falls under the provisions of Articles 126(5) and 126(6) of the Patent Act.

(5) Regarding the correction G

Paragraph [0034] in the description attached to the application contains a meaningless Japanese sentence "present <RU> a linear shape". This is apparently an error of the unnecessary Japanese letter <RU>.

Since the unnecessary Japanese letter "RU" is deleted according to the correction G, it falls under correction of error and its purpose meets the matters described in the proviso (ii) to Articles 126(1).

Since it is only a deletion of an unnecessary description, it falls under the provisions of Articles 126(5) and 126(6) of the Patent Act.

2 Regarding Article 126(7) of the Patent Act

Since the purpose of the correction A is to restrict the scope of claims, and that of the corrections H and G is to correct an error, whether or not the invention specified by the matters described in the scope of claims after correction should be granted a patent independently at the time of the patent application is examined.

As for the patent right of the patent invention according to Claim 1 before correction, the law suit of patent infringement injunction, 2014 (WA) No. 25196 is pending. The defendant of the law suit alleges in the "brief (2)" dated March 6, 2015 that since the patent invention according to Claim 1 before correction is an invention described in Publication No. 1 (Japanese Unexamined Patent Application Publication No. S55-99219) and falls under Article 29(1)(iii) of the Patent Act, and it could be easily invented by a person skilled in the art on the basis of the invention described in Publication No. 1 and technical matters described in Publication No. 2 (Japanese Unexamined Patent Application Publication No. H8-89377), or on the basis of the invention described in Publication No. 1 and well-known arts described in Publication Nos. 2 to 4 (Publication No. 3: Japanese Unexamined Patent Application Publication No. S60-259212, Publication No. 4: Japanese Unexamined Patent Application Publication No. H7-100040), the patent invention falls under Article of 29(2) of the Patent Act and reasons for invalidation exist.

(1) Corrected patent invention

The invention (hereinafter referred to as "Corrected patent invention 1") according to Claim 1 corrected by the correction A is as follows.

"[Claim 1]

A chair having a swinging function including a base and a seat swingably arranged on the base comprising: magnetic-material members supported on the seat; a solenoid which is fixed to the base close to the magnetic-material members in a position different from the positions of the magnetic-material members located when the seat is stopped, and which attracts the magnetic-material members in a swinging direction electromagnetically; swing control means which controls swinging motion of the seat by exciting the solenoid at a predetermined timing, the magnetic-material members and the solenoid swinging at a distance,

the base including at least two swingable rods spaced from each other in a swinging direction of the seat and supporting the seat at two different points located apart from each other in the swinging direction, the magnetic-material members being formed of two magnetic-material members arranged opposite each other at a predetermined distance, the solenoid being fixed to the base near an intermediate point between the two magnetic-material members located when the seat is stopped,

the solenoid having a through hole along a winding shaft, which is fixed to the base in parallel with the swinging direction of the seat, the two magnetic-material members being fixed to a linear shaft fixed to the seat, and the shaft being inserted in the through hole."

(2) Regarding Article 29(1)(iii) of the Patent Act (for the Corrected patent invention 1)

A Invention described in Publication No. 1

Publication No. 1: Japanese Unexamined Patent Application Publication No. S55-99219

Publication No. 1 includes the following descriptions.

Publication No. 1-A "An electric infant cradle formed by suspending a cradle body swingably at upper ends of support bodies on both sides, and configured to automatically swing the cradle body by a swinging apparatus using electromagnetic force and a swing control apparatus. (p. 1 lower left, l. 4-l. 7)

Publication No. 1-B "(1) is the cradle body for laying an infant, having both ends suspended swingably at upper ends of support bodies (2) (2). A suspension pole (4) with a triangular suspension ring (3) is fixed to upper ends of both frames of the cradle body. The suspension ring (3) of the suspension pole is hooked on a hook

section (5) attached to an upper part of the support bodies (2) (2), so as to swing the cradle body. (p. 2 upper left, l. 8-l. 14)

Publication No. 1-C "(6) is a swing pole configured by inserting an iron bar (7) into a circular-arc synthetic resin tube from only one side. The tube is held and inserted to fixing tools (8) (8) extending obliquely toward frame poles (1') (1') arranged at both surface of one side of the cradle body (1). The swing pole is fixed to the fixing tools by fitting a rubber stop (9) or the like at both ends of the pole." (p. 2 upper left l. 15-p. 2 upper right l. 5)

Publication No. 1-D "(10) is one example of a swinging apparatus using electromagnetic force. A circular-arc pipe (12) is arranged at the center of a housing (11) attached to the support body (2). The swing pole (6) is inserted swingably into the pipe so as not to rub on it. An excitation coil (13) is arranged on an outer circumference of the pipe (12) to apply electromagnetic force to the iron bar (7) of the swing pole (6) through the pipe, to swing the swing pole. The swing pole is moved in one direction by electromagnetic force which acts in a direction of pulling the iron bar of the swing pole (6) when excited, and is moved in the opposite direction by its own weight when demagnetized. The above motion is repeated for swing motion." (p. 2 upper right l. 5-l. 15)

Publication No. 1-E "(15) is a swing control apparatus connected to the electromagnetic swinging apparatus, to start/stop swing motion, adjust swinging amplitude, and set a swinging time." (p. 2 lower left l. 4-l. 6)

From a comprehensive examination on all descriptions in Publication No. 1, including the above descriptions in Publication No. 1, it is recognized that the following invention (hereinafter referred to as "Publication No. 1 invention" is described in Publication No. 1.

"The electric infant cradle, which is formed by fixing a suspension pole (4) with the triangular suspension ring (3) to upper ends of both frames of the cradle body (1), hooking the suspension ring (3) on the hook section (5) attached to an upper part of the support bodies (2) (2) to swing the cradle body (1),

fixing the swing pole (6) with the iron bar (7) inserted only from one side in a circular-arc synthetic resin tube, to the fixing tools (8) (8) extending obliquely toward the frame poles (1') (1') arranged at both surface of one side of the cradle body (1),

and is configured to be moved in one direction with electromagnetic force which acts in a direction of pulling the iron bar (7) of the swing pole (6) when the excitation coil (13) is excited by the swing control apparatus (15) which is connected to the electromagnetic swing control apparatus including: the circular-arc pipe (12) arranged at

the center of the housing (11) attached to the support body (2); the swing pole (6) inserted into the circular-arc pipe (12) so as not to rub on it; and the excitation coil (13) arranged on an outer circumference of the circular-arc pipe (12), to start/stop the swing motion of the cradle body (1), adjust swinging amplitude, and set a swinging time, while moved in the opposite direction by its own weight when demagnetized, the cradle body (1) being swung by repeating the above motion."

B Comparison

When Corrected patent invention 1 is compared with Publication No. 1 invention, the "support bodies (2) (2)" in the latter correspond to the "base" in the former.

Likewise,

the "swing pole (6)" corresponds to the ""shaft,"

the "iron bar (7)" corresponds to the "magnetic-material member,"

the "excitation coil (13)" corresponds to the "solenoid,"

the "swing control apparatus (15)" corresponds to the "swing control means," and

the "circular-arc pipe (12)" corresponds to the "through hole."

In Publication No. 1 invention, it is obvious that "when the excitation coil (13) is excited, the swing pole (6) is moved with electromagnetic force which acts in a direction of pulling the iron core (7), while moved in the opposite direction by its own weight when demagnetized," and that "the circular-arc pipe (12) arranged at the center of the housing (11) attached to the support body (2)" and "the excitation coil (13) arranged on an outer circumference of the circular-arc pipe (12)" correspond to "a solenoid which is fixed to the base close to the magnetic-material member, in a position different from that of the magnetic-material member when stopped, and attracts the magnetic-material member by electromagnetic force in the swinging direction" in Corrected patent invention 1.

In Publication No. 1 invention, it is obvious that the "suspension pole (4)" corresponds to the "rod" in Corrected patent invention 1, since the "suspension pole (4)" is "fixed to both frames of the cradle body (1)," and the cradle body (1) is "suspended to swing with respect to the support bodies (2) (2)" by the suspension pole (4).

In Publication No. 1 invention, it is obvious that it is configured so that "the magnetic-material member and the solenoid are swung in a separate state" in Corrected patent invention 1, since "the swing pole (6) is swingably inserted in the pipe so as not to rub on it."

In Publication No. 1 invention, it is obvious the "swing pole (6)" in Publication No. 1 invention has also a circular-arc shape because of "the swing pole (6) is swingably inserted in the circular-arc pipe (12) so as not to rub on it."

The "cradle body (1)" and the "electric infant cradle" in Publication No. 1 invention, and the "seat" and the "chair having swinging function" in Corrected patent invention 1 are common in concept of "swinging member" and "swinging body," respectively.

Thus, Corrected patent invention 1 and Publication No. 1 invention are common in the point of

"The swinging body including a base and a swinging member arranged to swing with respect to the base, the swinging member including: a magnetic- material member supported by the swinging member; a solenoid fixed to the base close to the magnetic-material member in a position different from that of the magnetic-material member when the swinging member is stopped, and attracting the magnetic-material member by electromagnetic force; and swing control means for controlling swing motion of the swinging member by exciting the solenoid at a predetermined timing, while the magnetic-material member and the solenoid are separated from each other,

the base having at least two rods spaced from each other in a swingable manner and the rods supporting the swinging member at two different positions,

the solenoid having a through hole along a winding shaft and fixed to the base with the winding shaft in parallel with the swinging direction of the swinging member, the magnetic-material member being fixed to the shaft fixed to the swinging member, and the shaft being inserted in the through hole", and are different in the following point.

[The different feature 1]

As for the swinging member, it is a "seat" in Corrected patent invention 1, while it is a "cradle body (1)" in Publication No. 1 invention.

[The different feature 2]

As for the two rods, they are spaced from each other in the "swinging direction of the seat" in a swingable manner and the rods support "the seat in the swinging direction" at two different positions spaced from each other in Corrected patent invention 1, while the above configuration is not provided in Publication 1 invention.

[The different feature 3]

A for the magnetic-material member, it is "two" magnetic-material members "arranged to face each other at a predetermined interval" in Corrected patent invention 1, while it is an "iron bar" in Publication No. 1 invention.

[The different feature 4]

In Corrected patent invention 1, "the solenoid is fixed to the base near an intermediate position between two magnetic-material members when the seat is stopped," while the above configuration is not applied to Publication No. 1 invention.

[The different feature 5]

As for the shape of the shaft, it is a "linear shape" in Corrected patent invention 1, while it is a "circular-arc shape" in Publication No. 1 invention.

[The different feature 6]

As for the swinging body, it is the "chair having swinging function" in Corrected patent invention 1, while it is an "electric infant cradle" in Publication No. 1 invention.

C Examination on different features

There is a substantial difference between Corrected patent invention 1 and Publication No. 1 invention, thus Corrected patent invention 1 is not an invention described in Publication No. 1.

Therefore, Corrected patent invention 1 has novelty, and does not fall under Article 29(1)(iii) of the Patent Act.

The defendant of the case alleges in "brief (2)" as of March 6, 2015 that "it is obvious that the invention having iron bars arranged on both left and right areas of the swing pole is described" in Publication No. 1 invention since there is the description, "The swing pole is configured to insert an iron bar from one side and to pull it to the other side by electromagnetic force, but not only this, the swing pole can be swung by applying electromagnetic force alternately on both sides of the swing pole." (p. 3 upper left l. 3-l. 7) in Publication No. 1, we will examine the above allegation just in case.

The description, "applying electromagnetic force (alternately)" in the above indicates "pulling by electromagnetic force (alternately)." The "electromagnetic force" is generated in the "excitation coil," and thus it should be more natural to understand that the description, "swung by applying electromagnetic force alternately on both sides of the swing pole" means that not the "iron bar" but the "excitation coil" for generating electromagnetic force is arranged on both sides.

Therefore, as described above, it cannot be determined that the iron bar corresponding to the magnetic-material member in Corrected patent invention 1 is "formed of two magnetic-material members arranged opposite each other at a predetermined distance," and the configuration described in "the solenoid being fixed to

the base near the intermediate position between the two magnetic-material members located when the seat is stopped" is described in Publication No. 1.

(3) Regarding Article 29(2) of the Patent act (for Corrected patent invention 1)

A Inventions described in Publications No. 1-4

Publication No. 1: Japanese Unexamined Patent Application Publication No. S55-99219

Publication No. 2: Japanese Unexamined Patent Application Publication No. H8-89377

Publication No. 3: Japanese Unexamined Patent Application Publication No. S60-259212

Publication No. 4: Japanese Unexamined Patent Application Publication No. H7-100040

(A) Publication No. 1 invention described in Publication No. 1 is as examined in "A Invention described in Publication No. 1" of "(2) Regarding Article 29(1)(iii) of the Patent Act."

(B) Publication No. 2: Japanese Unexamined Patent Application Publication No. H8-89377

Publication No. 2-A "[0016] The swing table suspended horizontally on an upper frame can support directly an infant or a container, such as a cage, including the infant, and is repeatedly pushed or pulled by driving means to perform repeated swing motion or repeated horizontal motion."

Publication No. 2-B "[0020]

[Example] An example relating to the invention is described by drawings. A long rectangular upper frame 1 is arranged horizontally, vertical frames 2 are attached to at least four corners thereof, and a frame is attached in accordance with the upper frame 1 to form a frame 3.

[0021] Upper ends of at least two suspending bars 4 are pivotally fixed to each of longitudinal frames 1a of the upper frame 1. Longitudinal frames 5a, 5a are pivotally fixed to lower ends thereof horizontally in a longitudinal direction. A plurality of lateral frames 5b are fixed between the longitudinal bars 5a, 5a. The swing table 5 for an infant is formed by the longitudinal frames 5a and the lateral frames 5b. A cord or chain may be used in place of the suspending bar 4. The cord or chain may be locked to the longitudinal frame 1a at its upper end, or locked to both ends or the

center of a lateral frame 1b.

[0022] One end of a bar body 8 is pivotally fixed to a tip of a rotation arm 7 which is rotated by a rotation shaft of a motor 6 fixed to a middle lateral frame 3b of a plurality of lateral frames 3b fixed between longitudinal frames 3a, 3a of the lower frame 3. The other end of the bar body 8 is pivotally supported on any of the lateral frames 5b of the swing table 5.

[0023] One end of the rotation arm 7 may be fixed to the rotation shaft of the motor 6 or a gear 9 interlocking with the rotation shaft. When the rotation arm 7 is directly fixed to the rotation shaft of the motor 6, rotation speed can be adjusted by a speed changer. When the rotation arm 7 is rotated by the gear interlocking with the rotation shaft of the motor 6, one or more gears are used to select a diameter of the gear so as to achieve a desired speed.

[0024] The swing table 5 is swung as follows. When the motor 6 is rotated, the rotation arm 7 is rotated, and the bar body 8 pivotally supported thereon is pushed. In FIG. 2, a tip of the bar body 8 pushes the lateral frame 5b of the swing table 5. When the rotation arm 7 is parallel to the frame 5a, the lateral frame 5b moves to the rightmost. When the rotation arm 7 is further rotated, the rotation arm 7 pulls the bar body 8, and pushes it in the opposite direction, to the left in FIG. 2. The swing table 5 is moved to the left. When the rotation arm 7 is parallel to the frame 5a, in a direction opposite the direction shown in FIG. 2, the swing table 5 moves to the leftmost. When the rotation arm 7 is further rotated, the swing table 5 moves to the right again. The swing table 5 is located at the highest when swung to the both ends, and at the lowest when swung at the center. The swing table 5 repeats the above lateral motion."

Including the above descriptions in Publication No. 2, generally in consideration of all descriptions in Publication No. 2, it is recognized that the following invention (hereinafter referred to as "Publication No. 2 invention") is described in Publication No. 2.

"The automatic infant swing device configured by pivotally fixing at least upper ends of two suspending bars 4 to each of longitudinal frames 1a of an upper frame 1a, pivotally fixing longitudinal frames 5a, 5a to a lower end thereof horizontally in a longitudinal direction, fixing a plurality of lateral frames 5b between the longitudinal frames 5a, 5a to form an infant swing table 5 by the longitudinal and lateral frames 5a, 5b,

pivotally fixing one end of a bar body 8 to a tip of a rotation arm 7 which is rotated by a rotation shaft of a motor 6 fixed to a middle lateral frame 3b of the lateral frames 3 fixed between the longitudinal frames 3a, 3a of a frame 3, and pivotally

supporting the other end to any lateral frame 5b of the swing table 5, and configured so that the rotation arm 7 is rotated when the motor 6 is rotated, the pivotally fixed bar body 8 is pushed accordingly, and the swing table 5 repeats lateral motion."

In reference to [FIG. 1] in Publication No. 2, it can be perceived that there is described the point (hereinafter referred to as "Publication No. 2 description"), "two suspending bars 4 are swingably arranged in each of longitudinal frames 1a of the upper frame 1 in positions separated from each other in a swinging direction of the swing table 5, and the swing table 5 is supported by the two suspending bars 4 in two different points separated from each other with respect to the swinging direction."

(C) Publication No. 3 Japanese Unexamined Patent Application Publication No. S60-259212

Publication No. 3-A "The invention relates to laying an infant on a cradle crib using power of a sensor. When an infant cries, the cry (the word "voice" described in the publication is determined to be a clerical error, from adjacent descriptions and the above description is authorized) is sensed and a microcomputer issues an instruction for the following operation.

1 The speed of the cradle crib starting cradle motion can be adjusted." (p. 1 lower right l. 9-l. 14)

Publication No. 3-B " A suspension frame (1) having a rectangle shape forms gate-like suspension columns (2) at both ends. The cradle crib (4) is suspended by suspension lower arms (3) of rotation members (14). The cradle crib (4) performs cradle motion by means of a motor (6) with a connection bar (16). A microphone (5) can be freely positioned by a free arm (15). When the microphone (5) receives a cry, a signal is input to a microcomputer (7), and the motor (6) is rotated to cause the cradle crib (4) to perform cradle motion." (p. 2 upper left l. 9-l. 18)

Publication No. 3-C "When house cleaning, laundry, or preparation for cooking are needed while an infant is cranky, the baby-sitting robot of the invention helps a mother to be dedicated to housekeeping at ease." (p. 2 upper right l. 17-l. 19)

Including the above descriptions in Publication No. 3, generally in consideration of all descriptions in Publication No. 3, it is recognized that the following invention (hereinafter referred to as "Publication No. 3 invention") is described in Publication No. 3.

"The baby-sitting robot configured by forming gate-like rectangular suspension columns (2) at both ends of a suspension frame (1), suspending the cradle crib (4) by suspension lower arms (3) of a rotation member (14),

the cradle crib (4) being configured to perform cradle motion by means of a motor (6) with a connection bar (16), and to perform cradle motion when a microphone (5) receives a cry and a signal is input to a microcomputer (7), to rotate the motor (6)."

In reference to [FIG. 1] in Publication No. 3, it can be perceived that there is described the point (hereinafter referred to as "Publication No. 3 description"), "Two rotation members (14) are arranged in each of lateral bars of the gate-like suspension columns (2) erected at both ends of the suspension frame (1). The suspension lower arms (3) extending from the rotation members (4) are arranged swingably in positions separated from each other in a swinging direction of the cradle crib (4). The cradle crib (4) is supported by the two suspension lower arms (3) in two different points separated from each other with respect to the swinging direction."

(D) Publication No. 4 Japanese Unexamined Patent Application Publication No. H7-100040

Publication No. 4-A "[0012] In FIG. 1, a chair 1 includes a base section 2 and a seat section 3, generally. The seat section 3 is suspended via two links 4 and 5 turnable with respect to the base section 2."

Publication No. 4-B "[0013] The base section 2 includes a front leg 6 and a rear leg 7 constituting a leg section. The front leg 6 and the rear leg 7 cross each other, and are connected to each other at their intersection in a pivotally supporting section 8. A front wheel 9 and a rear wheel 10 are rotatably attached to each of lower ends of the front leg 6 and the rear leg 7. When the front wheel 9 and the rear wheel 10 roll on a floor surface 11, the chair 1 can be moved. For example, as for the front wheel 9, a brake mechanism (not shown) for selectively prohibiting the rotation can be arranged.

[0014] A seat holding table 12 is mounted at an upper ends of the front leg 6 and the rear leg 7. Specifically, the front leg 6 is turnably fixed to the seat holding table 12 via a pivotally supporting section 13, and the rear leg 7 is turnably fixed via a pivotally supporting section 14. The pivotally supporting section 14 is located on a movable section 15 of the seat holding table 12. The movable section 15 can adjust a position of the chair 1 in a longitudinal direction, thereby allowing angles of the front and rear legs 6 and 7 to be adjusted as well as a height of the seat section 3. A mechanism for changing the position of the movable section 15 does not relate directly to the gist of the invention, and the description thereof is omitted.

[0015] The seat section 3 includes a seating section 16, a back section 17, side wall sections 18 erected from both sides of the seating section 16, a foot rest 19, and a table 20. Preferably, the back section 17 can be reclined. The table 20 is detachable.

As shown in FIG. 2, the side wall section 18 has a U-shaped cross section, and the seat holding table 12 is partially located in the side wall section 18.

[0016] The links 4 and 5 are formed of a U-shaped rod, as shown in FIG. 2 for the link 5. Upper end of the links 4 and 5 are fixed turnably with respect to the seat holding table 12. In comparing FIG. 3 with FIG. 7 showing the states presenting different operation modes, a distance between the lower ends of the links 4 and 5 can be changed. The configuration therefor is described as follows.

[0017] As shown in FIG. 4 and FIG. 5, and FIG. 8 and FIG. 9, the lower ends of the links 4 and 5 are provided. A lateral extended portion of the chair 1 is engaged with a pair of sliders 21 and 22. The sliders 21 and 22 include grooves 23 and 24, respectively, for receiving the links 4 and 5. The sliders 21 and 22 are guided by a guide 25 indicated by a dashed-dotted line in FIG. 5 and FIG. 9, so as to move in the longitudinal direction of the chair 1 within a predetermined range. The guide 25 is arranged on a lower surface of the seating section 16. The slider 22 includes an operation section 26 to which a tip of a finger of an operator can be locked. By moving the operation section 26 in the longitudinal direction, the slider 22 operates in the longitudinal direction. Along with the operation, in comparison between FIG. 4 and FIG. 5, and FIG. 8 and FIG. 9, the other slider 21 is configured to move in the longitudinal direction symmetrically. The above linking mechanism is described as follows."

In consideration of all descriptions in Publication No. 4, particularly the above descriptions of Publication No. 4, the following invention (hereinafter referred to as "Publication No. 4 invention") is recognized in Publication No. 4

"The chair 1 including a base section 2 and a seat section 3,

the base section 2 including a front leg 6 and a rear leg 7 constituting a leg section, configured to mount a seat holding table 12 on upper ends of the front and rear legs 6 and 7,

the seat section 3 including a seating section 16, a back section 17, side wall sections 18 erected from both sides of the seating section 16, a foot rest 19, and a table 20, configured to locate a part of the seat holding table 12 in the side wall section 18 having a U-shaped cross section, and to be swingably suspended with respect to the base section 2 via two links 4 and 5 formed of a U-shaped rod attached turnably with respect to the seat holding table 12."

In reference to [FIG. 1]-[FIG. 3] in Publication No. 4, it can be perceived that there is described the point (hereinafter referred to as "Publication No. 4 description"), "The U-shaped links 4 and 5 are swingably arranged in positions separated from each

other in a swinging direction of the seat section 3, and the seat section 3 is supported by the links 4 and 5 in two different positions separated from each other with respect to the swinging direction of the seat section 3."

B Comparison

As examined in "B Comparison" of "(2) Regarding Article 29(1)(iii) of the Patent Act," the different features between Corrected patent invention 1 and Publication No. 1 invention are as follows

[The different feature 1]

As for the swinging member, it is a "seat" in Corrected patent invention 1, while it is a "cradle body (1)" in Publication No. 1 invention.

[The different feature 2]

As for the two rods, they are spaced from each other in the "swinging direction of the seat" in a swingable manner and the rods support "the seat in the swinging direction" at two different positions spaced from each other in Corrected patent invention 1, while the above configuration is not provided in Publication 1 invention.

[The different feature 3]

A for the magnetic-material member, it is "two" magnetic-material members "arranged to face each other at a predetermined interval" in Corrected patent invention 1, while it is an "iron bar" in Publication No. 1 invention.

[The different feature 4]

In Corrected patent invention 1, "the solenoid is fixed to the base near an intermediate position between two magnetic-material members when the seat is stopped," while the above configuration is not applied to Publication No. 1 invention.

[The different feature 5]

As for the shape of the shaft, it is a "linear shape" in Corrected patent invention 1, while it is a "circular-arc shape" in Publication No. 1 invention.

[The different feature 6]

As for the swinging body, it is the "chair having swinging function" in Corrected patent invention 1, while it is an "electric infant cradle" in Publication No. 1 invention.

C Consideration on the different features

The different features are examined.

Regarding [Different feature 1] and [Different feature 6]

Since [Different feature 1] and [Different feature 6] relate to the swinging body, they are examined together.

Publication No. 4 invention is as described in the above A-(E), "the chair configured by swingably suspending the seat section 3 to the base section 2", and it can be the chair having a swinging function.

Regarding Publication No. 1 invention and Publication No. 4 invention, since each of them swings a swinging member on which a person is placed and their functions and operations are common, it could be easily implemented by a person skilled in the art to apply Publication No. 4 invention to Corrected patent invention 1.

Thus, it could be easily implemented by a person skilled in the art to form the matters specifying the invention of Corrected patent invention 1 relating to Different features 1 and 6 by applying technical matters described in Publication No. 4 in Corrected patent invention 1.

Regarding [Different feature 2]

In Publication No. 2, as described in the above A-(B), "the point that two suspension bars 4 are arranged swingably in positions separated from each other in the swinging direction of the swing table 5, in each of longitudinal frames 1a of the upper frame 1, and that the swing table 5 is supported by the two suspension bars 4 in two different points separated from each other with respect to the swinging direction" could be described, it is recognizes that the matters specifying the invention of corrected patent invention 1 relating to Different feature 2.

Regarding Publication No. 1 invention and Publication No. 2, since each of them swings a swinging member on which a person is placed and their functions and operations are common, it could be easily implemented by a person skilled in the art to apply Publication No. 2 description to Corrected patent invention 1.

Thus, it could be easily implemented by a person skilled in the art to form the matters specifying the invention of Corrected patent invention 1 relating to Different feature 2 by applying Publication No. 2 description in Corrected patent invention 1.

In Publication No. 3, as shown in the above A-(C), "the point that two rotation members (14) are arranged in each of lateral bars of gate-like suspension columns (2) erected at both ends of a suspension frame (1), suspension lower arms (3) extending from the rotation members (4) are swingably arranged in positions separated from each other in the swinging direction of a cradle crib (4), the cradle crib (4) is supported by the two suspension lower arms (3) in two different points separated from each other with respect to the swinging direction" are described.

In Publication No. 4, as shown in the above A-(D), the structure of "U-shaped

links 4, 5 are swingably arranged in positions separated from each other in a swinging direction of the seat section 3, and the seat section 3 is supported by the links 4 and 5 in two different positions separated from each other with respect to the swinging direction." is disclosed.

Since each of Publication No. 2 to No. 4 teaches the structure of "in a device having swinging function which swings a person placed on a swinging member, two rods are swingably arranged in positions separated from each other in a swinging direction of a swinging member, such as a seat, and the swinging member, such as a seat, is supported in two different positions separated from each other with respect to the swinging direction of the swinging member.", the matters specifying the invention of Corrected patent invention 1 relating to Different feature 2 are well-known arts.

Since Publication No. 1 invention and the well-known arts, each of which swings a singing member on which a person is placed, are common in function and operation, it could be easily implemented by a person skilled in the art to apply the well-known art to Corrected patent invention 1.

Thus, it could be easily implemented by a person skilled in the art to form the matters specifying the invention of Corrected patent invention 1 relating to Different feature 2 by applying the well-known art in Corrected patent invention 1.

Regarding [Different feature 3] to [Different feature 5]

Since [Different feature 3] to [Different feature 5] relate to a driving source of the swinging body, and they are examined together.

Publication No. 2 invention includes, as described in the above A-(B), a swing table 5, which is a swinging member, swung by repeating lateral motion when a motor 6 is rotated, a rotation arm 7 is rotated, and the pivotally fixed bar body 8 is pushed.

Publication No. 3 invention includes, as described in the above A-(C), a cradle crib (4) which performs cradle motion when the motor (6) is rotated to actuate the connection bar (16).

Publication No. 4 invention includes, as described in the above A-(D), the seat section 3 of the chair 1 which is swung without a driving source.

Since, Publication No. 2 to No. 4 inventions include a swinging member with a motor or without specific driving source to swing the swinging member, there is no description or indication in Publication No. 2 to No. 4 inventions about the matters specifying the invention relating to [Different feature 3] to [Different feature 5].

There are no grounds for a person skilled in the art to conceive of including the

matters specifying the invention of Corrected patent invention 1 relating to [Different feature 3] to [Different feature 5].

Since the matters specifying the invention relating to Different features 3 to 5 cause significant effects on Corrected patent invention 1 in that "swinging amplitude can be set shorter than the case of a single magnetic material, and swinging characteristics can be set in detail" described in paragraph [0052] in the Description attached to the application, and that "a distance between a magnetic-material member and a solenoid can be reduced with a simple configuration, power load efficiency can be improved, noise and vibration can be minimized by swinging the seat with the magnetic-material member and the solenoid separated from each other, silence and comfort can be improved, and maintenance work can be reduced" as described in paragraph [0051] in the Description attached to the application, Corrected patent invention 1 could not be easily arrived at by a person skilled in the art on the basis of Publication No. 1 invention and Publication No. 2 to No. 4 inventions.

Accordingly, since [Different feature 3] to [Different feature 5] could not be easily derived, Corrected patent invention 1 could not be easily arrived at by the person skilled in the art on the basis of Publication No. 1 invention and Publication No. 2 invention or Publication No. 1 invention and the well-known art described in Publications No. 2 to 4. The patent of Corrected patent invention 1 does not violate Article 29(2) of the Patent Act.

(4) Summary

Corrected patent invention 1 of the case is not one which should not be granted a patent independently at the time of the application under the provisions of Article 29(1)(iii) or Article 29(2) of the Patent Act.

There are no other reasons for determining that the invention specified by the matters described in the scope of claims after the correction cannot be granted a patent independently at the time of patent application.

Therefore, Corrections 1, 6, and 7 fall under the provisions of Article 126(7) of the Patent Act.

No. 4 Overall Summary

As described above, the request for trial for correction complies with the purposes described in in the provisos (i) to (iii) to Articles 126(1) of the Patent Act.

It also falls under the provisions of Articles 126(5), 126(6) and 126(7) of the Patent Act.

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

July 30, 2015

Chief administrative judge:	KUROSE, Masakazu
Administrative judge:	YOSHIMURA, Hisashi
Administrative judge:	YAMAMOTO, Hajime