

## Trial decision

Correction No. 2016-390050

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The case of trial for correction regarding Patent No. 5560395 has resulted in the following trial decision.

### Conclusion

Approval shall be granted to correct the specification and scope of claims regarding Patent No. 5560395 according to the corrected specification and scope of claims attached to the written demand for trial of the case.

### Reason

#### No. 1 History of the procedures

The history of the procedures of the case is described below.

June 2, 2010 filing of the patent application (Japanese Patent Application No. 2010-126670)

June 20, 2014 registration of establishment (Japanese Patent No. 5560395)

April, 4, 2016 demand for trial for correction

#### No.2 Objective of the demand and details

The objective of the demand for trial of the case is to seek the trial decision to approve the correction of the specification and scope of claims attached to the application of the patent according to the corrected specification and scope of claims attached to the written demand for trial of the case.

Details of the correction are as follows. The underlined parts show the corrected parts.

(1) Correction A

The description in paragraph [0020] of the specification,

"so that the lead angle of the threads 11 and 16 used for screw engagement between the outer cap 4 and the inside plug 3 is smaller than the lead angle of the threads 6 and 10 used for screw engagement between the inside plug 3 and the container body 2"

is corrected to

"so that the lead angle of the threads 11 and 16 used for screw engagement between the outer cap 4 and the inside plug 3 is greater than the lead angle of the threads 6 and 10 used for screw engagement between the inside plug 3 and the container body 2."

(2) Correction B

The descriptions of the unit of "cm" at four locations in paragraph [0021] of the specification are all corrected to "mm."

(3) Correction C

The descriptions of " $\beta_1$ " at three locations in [Equation 2] in paragraph [0024] of the specification are all corrected to " $\beta_2$ " and similarly, the descriptions of " $\beta_2$ " at three locations are all corrected to " $\beta_1$ ."

(4) Correction D

The description of " $\beta_1=2.3135^\circ$ " in paragraph [0025] of the specification is corrected to " $\beta_1=\underline{2.7538}^\circ$ " and similarly,

the description of " $\beta_2=2.7538^\circ$ " is corrected to " $\beta_2=\underline{2.3135}^\circ$ ,"

and the description of " $\beta_2>\beta_1$ " is corrected to " $\beta_2\leq\beta_1$ ."

(5) Correction E

The description in paragraph [0031] of the specification,

"since the lead angle  $\beta_1$  in screw engagement between the outer cap 4 and the inside plug 3 is smaller than the lead angle  $\beta_2$  in screw engagement between the inside plug 3 and the container body 2"

is corrected to

"since the lead angle  $\beta_1$  in screw engagement between the outer cap 4 and the inside plug 3 is greater than the lead angle  $\beta_2$  in screw engagement between the inside plug and the container body 2."

(6) Correction F

The description in Claim 1 of the scope of claims,

"by making the pitch of the screw for engagement between the inside plug and the outer cap smaller than the pitch of the screw for engagement between the inside plug and the outer cap"

is corrected to

"by making the pitch of the screw for engagement between the inside plug and the outer cap greater than the pitch of the screw for engagement between the inside plug and the outer cap."

No. 3 Judgment by the body

1. Purpose of correction

(1) Correction A

Paragraph [0020] in the specification describes "so that the lead angle of the threads 11 and 16 used for screw engagement between the outer cap 4 and the inside plug 3 is smaller than the lead angle of the threads 6 and 10 used for screw engagement between the inside plug 3 and the container body 2."

On the other hand, paragraph [0009] describes "since the lead angle of the screw for engagement between the inside plug and the outer cap is greater than the lead angle of the screw for engagement between the inside plug and the container body, the outer cap and the inside plug can be easily removed and the container can be used for a long time without causing a poor engagement condition of the inside plug even after repeated use." Thus, the descriptions are contradictory to each other.

In addition, paragraphs [0019] to [0020] describe " the force required to loosen the inside plug 3 is made stronger than the force required to loosen the outer cap 4, so that the inside plug 3 is prevented from corotating and being opened when the outer cap 4 is being opened. ... .. When the lead angle is smaller, the screw is easy to tighten and hard to loosen; and when the lead angle is greater, the screw is hard to tighten and easy to loosen." This description is consistent with the technical common sense that when the lead angle is smaller, the screw is easy to tighten and hard to loosen and when the lead angle is greater, the screw is hard to tighten and easy to loosen. Therefore, it is obvious that the lead angle of the screw for engagement between the inside plug and the outer cap should be greater than the lead angle of the screw for engagement between the inside plug and the container body so that "the force required to loosen the inside plug 3 is made stronger than the force required to loosen the outer cap 4 so as to prevent

the inside plug 3 from corotating and being opened when the outer cap 4 is being opened."

Thus, it is obvious that "smaller" is an error of "greater" in the description "so that the lead angle of the threads 11 and 16 used for screw engagement between the outer cap 4 and the inside plug 3 is smaller than the lead angle of the threads 6 and 10 used for screw engagement between the inside plug 3 and the container body 2" in paragraph [0020]. Therefore, since Correction A is for correction of the error, it falls under correction for the purpose of the correction of errors as prescribed in Article 126 (1) (ii) of the Patent Act.

### (2) Correction B

From the description in paragraph [0003] of "since a conventional container with an inside plug is disposed of when shampoo, cosmetics, etc. in it is used up, it is not necessary to remove the inside plug; and therefore, fitting is performed by press-fitting for preventing the inside plug from being opened during use, not for facilitating opening of the inside plug. However, as more refill containers have recently been reused by refilling only contents, a container with an inside plug which allows easy removal of the inside plug (see Patent Document 1) is increasingly used," and from the description in paragraph [0006] of "Therefore, the invention aims at providing a container with an inside plug which allows the inside plug to be removed with a simple operation and which can be repeatedly used for a long time", it is recognized that the invention targets a container with an inside plug for shampoo, cosmetics, etc.

In addition, when judging on the basis of common sense in relation to a screw provided in the vicinity of a mouth part of a container body in a commonly used container with an inside plug for shampoo, cosmetics, etc., it is obvious that the unit "cm" of each dimension described in paragraph [0021] is an error of "mm." Therefore, since Correction B is for correction of the error, it falls under correction for the purpose of the correction of errors as prescribed in Article 126 (1) (ii) of the Patent Act.

### (3) Correction C

From the description in paragraph [0022] of "When respectively finding the lead angle of the threads 11 and 16 as  $\beta_1$  and the lead angle of the threads 6 and 10 as  $\beta_2$  by using Equation 1, Equation 2 is obtained." [Equation 2] described in paragraph [0024] is determined to be one which is obtained by substituting each dimension described in paragraph [0021] into [Equation 1] described in paragraph [0023]. Thus,

it is obvious that " $\beta_1$ " in [Equation 2] is an error of " $\beta_2$ " and " $\beta_2$ " is an error of " $\beta_1$ ." Therefore, since Correction C is for correction of these errors, it falls under correction for the purpose of the correction of errors as prescribed in Article 126 (1) (ii) of the Patent Act.

#### (4) Correction D

Judging from the results of calculating  $\beta_1$  and  $\beta_2$  by substituting each dimension described in paragraph [0021] into [Equation 1] described in paragraph [0023] on the basis of the description in paragraph [0022] of "respectively finding the lead angle of the threads 11 and 16 as  $\beta_1$  and the lead angle of the threads 6 and 10 as  $\beta_2$  by using Equation 1," it is obvious that in paragraph [0025], " $\beta_1=2.3135^\circ$ " is an error of " $\beta_1=2.7538^\circ$ ," " $\beta_2=2.7538^\circ$ " is an error of " $\beta_2=2.3135^\circ$ ," and " $\beta_2>\beta_1$ " is an error of " $\beta_2<\beta_1$ ." Therefore, since Correction D is for correction of these errors, it falls under correction for the purpose of the correction of errors as prescribed in Article 126 (1) (ii) of the Patent Act.

#### (5) Correction E

For the same reason as the above (1), it is obvious that "smaller" is an error of "greater" in the description in paragraph [0031] of "since the lead angle  $\beta_1$  in screw engagement between the outer cap 4 and the inside plug 3 is smaller than the lead angle  $\beta_2$  in screw engagement between the inside plug 3 and the container body 2." Therefore, since Correction E is for correction of the error, it falls under correction for the purpose of the correction of errors as prescribed in Article 126 (1) (ii) of the Patent Act.

#### (6) Correction F

It is obvious from a correlation between the pitch sizes of the threads described in paragraph [0021] that "smaller" is an error of "greater" in the description in Claim 1 of "by making the pitch of the screw for engagement between the inside plug and the outer cap smaller than the pitch of the screw for engagement between the inside plug and the container body." Therefore, since Correction F is for correction of the error, it falls under correction for the purpose of the correction of errors as prescribed in Article 126 (1) (ii) of the Patent Act.

## 2. New matter

Corrections A to F, as described in the above 1, do not introduce new technical

matters in relation to the technical matters derived by summing up all the descriptions in the specifications, the scope of claims, and drawings at the initial application. Therefore, they fall under the provisions of Article 126(5) of the Patent Act.

### 3. Enlargement or alternation of the scope of claims

It is obvious that Corrections A to F, as described in the above in 1, are for the purpose of the correction of errors and do not substantially enlarge or alter the scope of claims. Therefore, the corrections fall under the provisions of Article 126(6) of the Patent Act.

### 4. Independent requirements for patentability

When it is examined whether the invention related to Claims 1 and 2 after correction can be patented independently at the time of filing of the patent application, no reason is found to conclude that the invention related to Claims 1 and 2 after correction cannot be patented independently at the time of filing of the patent application.

Therefore, Corrections A to F fall under the provisions of Article 126(7) of the Patent Act.

### No. 4 Closing

The demand for trial of the case was made for the entire patent right, and it is intended for the matters listed in item (ii) of the proviso to Article 126 (1) of the Patent Act and falls under the provisions of Articles 126(5) to (7) of the Patent Act.

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

June 28, 2016

Chief administrative judge: KEMMOKU, Shoji  
Administrative judge: YAMADA, Yukiko  
Administrative judge: CHIBA, Shigenari