

Trial decision

Invalidation No. 2016-800085

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The case of trial regarding the invalidation of Japanese Patent No. 5230864, entitled "Roller for Beautiful Skin" between the parties above has resulted in the following trial decision:

Conclusion

The trial 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

The application of Patent No. 5230864 of the case (hereinafter referred to as "the Patent") is Japanese Patent Application No. 2007-324077 which was filed on December 14, 2007, and the establishment of the patent right of the inventions

according to Claims 1 to 7 was registered March 29, 2013.

The invalidation trial of the case was demanded on July 21, 2016 by the demandant of a trial for invalidation, Benoa Japan Co., Ltd. (hereinafter referred to as "the Demandant") to "request the trial decision that the patent for the inventions described in Claims 1 to 7 of the scope of claims of Patent No. 5230864 shall be invalidated, and the costs in connection with the trial shall be borne by the demandee," and the summary of the procedure of the trial of the case is as follows:

July 21, 2016	Written demand for trial
November 22, 2016	Written reply for the trial case
December 15, 2016	Notification of matters to be examined
January 27, 2017	Oral proceedings statement brief and written statement (submitted by the demandant)
January 30, 2017	Oral proceedings statement brief (submitted by the demandee)
February 2, 2017	Oral proceedings statement brief (2) (submitted by the demandant)
February 2, 2017	Notification of matters to be examined
February 13, 2017	Oral proceedings statement brief (3) (submitted by the demandant)
February 13, 2017	Oral proceedings statement brief (2) (submitted by the demandee)
February 13, 2017	Oral proceedings
February 15, 2017	Written statement (2) and description of evidence (3) (submitted by the demandant)
February 20, 2017	Description of evidence (submitted by the demandee)
March 3, 2017	Written statement (3) (submitted by the demandant)

No. 2 The demandant's allegation

The object of the demand for trial alleged by the demandant is to "request the trial decision that the patent for the inventions described in Claims 1 to 7 of the scope of claims of Patent No. 5230864 shall be invalidated, and the costs in connection with the trial shall be borne by the demandee," and the demandant submitted as means of proof Evidence A No. 1 to Evidence A No. 15 and alleged the following reasons for invalidation:

1 Reason for invalidation 1

The inventions according to Claims 1 to 5 of the Patent could have been easily made by a person skilled in the art based on the invention described in Evidence A No. 1, the well-known arts described in Evidences A No. 2 to No. 4, and any of the inventions described in Evidence A No. 5, Evidence A No. 6, Evidence A No. 7-1, and Evidence A No. 8-1; and thus the demandee should not be granted a patent for the inventions under the provisions of Article 29(2) of the Patent Act.

2 Reason for invalidation 2

The inventions according to Claims 6 and 7 of the Patent could have been easily made by a person skilled in the art based on the invention described in Evidence A No. 1, the well-known arts described in Evidences A No. 2 to No. 4, any of the inventions described in Evidence A No. 5, Evidence A No. 6, Evidence A No. 7-1, and Evidence A No. 8-1, and the invention described in Evidence No. 9; and thus the demandee should not be granted a patent for the inventions under the provisions of Article 29(2) of the Patent Act.

3 Means of proof

Evidence A No. 1: Japanese Unexamined Patent Application Publication No. 2005-66304

Evidence A No. 2: Japanese Unexamined Patent Application Publication No. 2002-65867

Evidence A No. 3: Japanese Unexamined Patent Application Publication No. Sho 60-2207

Evidence A No. 4: Japanese Unexamined Patent Application Publication No. Sho 61-73649

Evidence A No. 5: Japanese Unexamined Patent Application Publication No. Hei 4-231957

Evidence A No. 6: Japanese Unexamined Patent Application Publication No. 2004-321814

Evidence A No. 7-1: Korean Design Registration Publication No. 30-0399693

Evidence A No. 7-2: Translation of Korean Design Registration Publication No. 30-0399693

Evidence A No. 8-1: Taiwanese Utility Model Gazette No. M258730
Evidence A No. 8-2: Translation of Taiwanese Utility Model Gazette No. M258730
Evidence A No. 9: Registered Utility Model Gazette No. 3109896
Evidence A No. 10-1: Printed PDF data of Korean Examination Guidelines for Design (partly extracted)
Evidence A No. 10-2: Translation of printed PDF data of Korean Examination Guidelines for Design (partly extracted)
Evidence A No. 11: page 1800, section of "投影" in the fourth edition of Kojien
Evidence A No. 12: page 2178, section of "美肌" in the fourth edition of Kojien
Evidence A No. 13-1: Specification of U.S. Reissue Patent Invention No. 19696
Evidence A No. 13-2: Translation of specification of U.S. Reissue Patent Invention No. 19696
Evidence A No. 14-1: Specification of U.S. Patent No. 2011471
Evidence A No. 14-2: Translation of specification of U.S. Patent No. 2011471
Evidence A No. 15-1: Specification of French Unexamined Patent Application Publication No. 2891137
Evidence A No. 15-2: Bibliographic data pages of the specification of French Unexamined Patent Application Publication No. 2891137 displayed in English on Espacenet (<https://worldwide.espacenet.com/>), which were displayed and printed on February 10, 2017
Evidence A No. 15-3: Translation of specification of French Unexamined Patent Application Publication No. 2891137

No. 3 The demandee's allegation

The demandee requested the trial decision that "the demand for trial of the case was groundless and the costs in connection with the trial shall be borne by the demandant" as the object of the reply and made the following allegation:

1. Regarding the invention according to Claim 1 of the Patent

The invention according to Claim 1 the Patent could not have been easily made by a person skilled in the art based on the invention described in Evidence A No. 1, the well-known arts described in Evidences A No. 2 to No. 4, and the inventions described in Evidence A No. 5 to No. 8; and thus the reason for invalidation resulting

from a violation of the provisions of Article 29(2) of the Patent Act does not exist.

2. Regarding the invention according to Claim 2 of the Patent

The invention according to Claim 2 of the Patent could not have been easily made by a person skilled in the art based on the invention described in Evidence A No. 1, the well-known arts described in Evidences A No. 2 to No. 4, and the inventions described in Evidence A No. 5 to No. 8; and thus, the reason for invalidation resulting from a violation of the provisions of Article 29(2) of the Patent Act does not exist.

3. Regarding the inventions according to Claims 3 to 7 of the Patent

The inventions according to Claims 3 to 7 of the Patent could not have been easily made by a person skilled in the art based on the invention described in Evidence A No. 1, the well-known arts described in Evidences A No. 2 to No. 4, the inventions described in Evidence A No. 5 to No. 8, and the invention described in Evidence A No. 9; and thus, the reason for invalidation resulting from a violation of the provisions of Article 29(2) of the Patent Act does not exist.

4. Means of proof

Evidence B No. 1: Written demand for trial (Japanese Patent No. 5702019), excerpts

Evidence B No. 2: Printed webpage of Co., Ltd. Five Star

Evidence B No. 3: Japanese Unexamined Patent Application Publication No. 2009-142509

Evidence B No. 4: Webpage of pore shape roller at Amazon

(<https://www.amazon.co.jp/グリム-12316-毛穴シェイプローラー/dp/B0015R1LEQ>) which was displayed and printed on February 9, 2017

Evidence B No. 5: Webpage of pore shape roller at a germanium shop GE32

(<https://www.airm7.com/germa/keana.html>) which was displayed and printed on February 10, 2017

No. 4 Judgment by the body

1. Regarding the Invention

(1) Described matters in the scope of claims and specification of the case

In the scope of claims and specification of the case, the following are described:

A "[Scope of Claims]

[Claim 1]

A roller for beautiful skin, comprising:

a handle;

a pair of rollers formed by a conductor at one end of the handle; and

a solar battery energizing the rollers by generated power;

wherein, the rotary shafts of the rollers are each provided at an acute angle to the center shaft in a long shaft direction of the handle; and

the angle formed by the rotary shafts of the pair of rollers is obtuse.

[Claim 2]

A roller for beautiful skin, comprising:

a pair of rollers formed by a conductor;

a grip part supporting the pair of rollers; and

a solar battery energizing the rollers by generated power;

wherein, the rotary shafts of the rollers are each provided at an acute angle to the center line of the grip part; and

the angle formed by the rotary shafts of the pair of rollers is obtuse.

[Claim 3]

A roller for beautiful skin according to Claim 1 or 2, wherein the roller is formed of metal.

[Claim 4]

A roller for beautiful skin according to one of Claims 1 to 3, wherein the roller is formed of a metal oxide.

[Claim 5]

A roller for beautiful skin according to Claim 3 or Claim 4, wherein one or more kinds of metals are selected as the metal from platinum, titanium, germanium, and stainless steel.

[Claim 6]

A roller for beautiful skin according to one of Claims 1 to 5, wherein the roller includes a photocatalyst.

[Claim 7]

A roller for beautiful skin according to Claim 6, wherein the photocatalyst is a titanium oxide."

B "[Technical Field]

[0001]

The present invention relates to a roller for beautiful skin for pushing out dirt in pores by rolling on the skin while pressing."

C "[Background Art]

[0002]

... there has been a problem in which dirt accumulated in deep pores cannot be removed only by facial cleansers or cleaning agents. ...

[0004]

... there has been a problem in which dirt in pores cannot be removed efficiently."

D "[Problem to be solved by the invention]

[0005]

The present invention was made in consideration of the above problems, and aims to provide a roller for beautiful skin that can efficiently remove dirt in pores."

E "[Advantage of the Invention]

[0008]

According to a roller for beautiful skin of the present invention, there is an effect of efficiently removing dirt in pores."

F "[0015]

... The roller for beautiful skin of the present embodiment is pressed on the skin and pushed toward the direction of the arrow A shown in FIG. 3. At this time, the skin is stretched toward both sides, making the pores open. This causes dirt in deep pores to move toward the openings of the pores.

[0016]

In addition, the roller for beautiful skin of the present embodiment is pulled toward the arrow B while being pressed on the skin. At this time, the skin is sandwiched between the pair of rollers, making the pores shrink. This causes dirt in the pores to be pushed out.

[0017]

By repeating such pushing and pulling, dirt in deep pores can be efficiently removed.

[0018]

In addition, by energizing the roller 20 with a current generated by a solar battery 30, the roller 20 is charged, dirt in the pores is drawn out, and furthermore, skin beautifying effects are provided. ..."

(2) Regarding the Patent Invention

A According to descriptions B to D of the above (1), it can be said that the Invention was made to "provide a roller for beautiful skin that can efficiently remove dirt in pores so as to solve a problem in which dirt accumulated in deep pores cannot be removed" and in view of description F of the above (1), the "roller for beautiful skin" of the Invention is such that when being "pressed on the skin" and pushed on one direction, "the skin is stretched toward both sides, making the pores open" and "this causes dirt in deep pores to move toward the openings of the pores," and when being "pulled" on the other direction, "the skin is sandwiched between the pair of rollers, making the pores shrink" and "this causes dirt in the pores to be pushed out," and in addition, " by energizing the roller 20 with a current generated by a solar battery 30, the roller 20 is charged, dirt in the pores is drawn out, and furthermore, skin beautifying effects are provided." That is, it is recognized that the Invention provides the synergistic effect of "efficiently removing dirt in pores" in combination of the configuration of "a pair of rollers" capable of efficiently removing dirt in deep pores by repeating pushing and pulling and the configuration of "a solar battery" charging the roller.

B In addition, the inventions according to Claims 1 to 7 of the Patent (hereinafter, referred to as "the Patent Invention 1" to "the Patent Invention 7" and "the Patent Invention" as the whole) are recognized as specified by the matters described in the above Claims 1 to 7 of the scope of claims.

C The demandant alleges that "that is, the action of 'drawing dirt in the skin out due to energization of a weak current is not related to pickup of the skin by a pair of rollers and the action is independently provided by itself, and such description is made also in the specification of the Patent'" (Oral proceedings statement brief, page 15, lines 13-15), however, as described in the above A, the effect of "efficiently removing dirt in pores" of the Invention can be obtained by the synergistic effect

provided by both the above configuration of "a pair of rollers" and the above configuration of "a solar battery" and it cannot be said that the effect is obtained due to "actions each independently provided" which are alleged by the demandant, and the allegation by the demandant cannot be adopted.

2 Regarding Reasons for invalidation 1

(1) Described matters in Publication

(1-1) Evidence A No. 1

In Evidence A No. 1, the following matter is described with drawings regarding "a massager." Note that the underlines were added by the body.

A "[Technical field] [0001] The present invention relates to a massager that revitalizes the skin.

[0002] Making the skin beautiful and keeping the beautiful skin for a long time are women's desire from ancient times, and in order to satisfy such desires, many cosmetics and massagers have been invented. ..."

B "[0014] In this massager, when one terminal (anode) of the DC power supply is connected to the roller and the other terminal (cathode) of the DC power supply is connected to the outer peripheral surface of the grip part, the effect of allowing wastes in the skin to float up is provided, and when connection of the terminals of the DC power supply is switched in such a manner that the other terminal (cathode) of the DC power supply is connected to the roller and the one terminal (anode) of the DC power supply is connected to the grip part, the effect of impregnating germanium into skin, thereby improving the flow of blood, is provided.

[0015] In addition, the roller supporting part is bifurcated and the two rollers are supported apart, providing the advantage of increasing the mechanical stimuli applied to the skin."

C "[0022] The following describes the massager according to one embodiment of the present invention.

[Embodiment 1] [0023] First, the massager according to the first embodiment of the present invention is described with reference to drawings. FIG. 1 is a schematic sectional view of the massager of the first embodiment of the present invention

[0024] The massager shown in FIG. 1 comprises: a roller 100 that is a substantially

cylindrical permanent magnet 110 on which a gold thin film 120 is attached to an outer peripheral surface and further a germanium thin film 130 is attached thereto; a conductive roller supporting part 200 on whose tip part the roller 100 is rotatably mounted and which is electrically connected with the roller 100; a grip part 300 that is electrically isolated from the roller supporting part 200 while holding the base end part of the roller supporting part 200; and a DC power supply 400 which is housed inside the grip part 300. Each of the parts is described below.

[0025] As shown in FIG. 2, each of the rollers 100 includes a permanent magnet 110 at the center of which a through hole 111 is opened; a gold thin film 120 attached on the outer surface of the permanent magnet 110; and a germanium thin film 130 which is attached to a part corresponding to an outer peripheral surface of the permanent magnet 110, on the gold thin film 120. As the permanent magnet, a ferrite magnet is used, for example.

[0026] In addition, the roller supporting part 200 is formed in an approximately T shape and is configured to rotatably support each of the rollers 100 at two tips of the horizontal shaft parts 210 (that is, tip end parts) thereof. In addition, the lower end of the vertical shaft part 220 (that is, a base end part) of the roller supporting part 200 is configured so as to allow either one terminal 410 (here, an anode) of a dry battery as the DC power supply 400 described below or the other terminal 420 (here, a cathode) to make contact therewith. Note that the roller supporting part 200 is formed of a conductive metal.

[0027] In addition, the grip part 300 is a part which is gripped by a hand when the massager is used and includes: a grip part body 310 that is formed in a cylindrical shape so as to allow the dry battery as the DC power supply 400 to be internally housed; and a lid part 320 that is mounted at a lower end edge part of the grip part body 310. ...

[0029] The grip part body 310 and the lid part 320 constituting the grip part 300 are formed of a conductive metal. ...

[0031] The grip part 300 and roller supporting part 200 are structurally connected via the cap 330; however, the cap 330 is formed of an insulating material and therefore, they are electrically insulated."

D "[0032] Next, how to use the massager thus configured is described. First, the usage for allowing waste to float up from the skin is described. In this case, as shown in FIG.

1, the roller 100 is connected to one terminal 410 of the DC power supply 400, and the grip part 300 is connected to the other terminal 420 of the DC power supply 400. That is, one terminal 410 of the dry battery as the DC power supply 400 is brought into contact with the lower end of the vertical shaft part 220 of the roller supporting part 200, and the other terminal 420 of the dry battery as the DC power supply 400 is brought into contact with the protrusion 322 of the lid part 320. In this state, when the grip part 300 is gripped and the roller 100 is brought into contact with the skin, wastes which are included in the skin contacted by the roller 100, such as oil, etc., float up to the surface from the skin.

[0033] That is, a weak current of the order of several μA from the DC power supply 400 flows in such a manner as the DC power supply 400 \rightarrow the roller supporting part 200 \rightarrow the roller 100 \rightarrow a human body \rightarrow the grip part body 310 \rightarrow the lid part 320 \rightarrow the DC power supply 400. In this case, since the roller 100 is charged positive and the grip part 300 is charged negative, the skin is charged positive. This makes oil in the skin which is charged negative float up from the skin.

[0034] In addition, in order to impregnate germanium into the skin to improve the flow of blood, the DC power supply 400 as a dry battery is replaced, the roller 100 is connected to the other terminal 420 of the DC power supply 400, and the grip part 300 is connected to the one terminal 410 of the DC power supply 400, as shown in FIG. 3. That is, the other terminal 420 of the dry battery as the DC power supply 400 is brought into contact with the lower end of the vertical shaft part 220 of the roller supporting part 200, and the one terminal 410 of the dry battery as the DC power supply 400 is brought into contact with the protrusion 322 of the lid part 320. In this state, when the grip part 300 is gripped and the roller 100 is brought into contact with the skin, germanium is impregnated into the skin which is contacted by the roller 100, improving the flow of blood.

[0035] That is, a weak current of the order of several μA from the DC power supply 400 flows in such a manner as the DC power supply 400 \rightarrow the lid part 320 \rightarrow the grip part body 310 \rightarrow a human body \rightarrow the roller 100 \rightarrow the roller supporting part 200 \rightarrow the DC power supply 400. In this case, since the roller 100 is charged negative and the grip part 300 is charged positive, the skin is charged negative. This makes germanium atoms Ge in the germanium thin film 130 of the roller 100 permeate as germanium ions Ge^{4+} from the roller 100 into the skin.

[0036] It should be noted that there are two rollers 100, and this provides an advantage

E From FIG. 1, it can be seen that "the vertical shaft part 220 of the T-shaped roller supporting part 200 is connected to the grip part 300 so as to match the center line in a long shaft direction thereof via the cap 330 provided at the upper end edge part of the grip part 300."

F In addition, it can be seen from FIG. 1 that "a pair of rollers 100, 100 are provided at two tips of the horizontal shaft parts 210 of the T-shaped roller supporting part 200. The pair of rollers 100, 100 is arranged in parallel to and at an equal distance from the center line in the vertical shaft direction of the vertical shaft part 220 of the roller supporting part 200."

G Furthermore, it can be seen from FIG. 1 that "the dry battery 400 is provided inside the grip part 300, the anode 410 of the dry battery is in contact with the roller supporting part 200, and the cathode of the dry battery is in contact with the protrusion 322 of the lid part 320 which is mounted at the lower end edge part."

H In the light of the description of "The massager shown in FIG. 1 comprises: a roller 100 that is a substantially cylindrical permanent magnet 110 on which a gold thin film 120 is attached to an outer peripheral surface and further a germanium thin film 130 is attached thereto; a conductive roller supporting part 200 on whose tip part the roller 100 is rotatably mounted and which is electrically connected with the roller 100; a grip part 300 that is electrically isolated from the roller supporting part 200 while holding the base end part of the roller supporting part 200; and a DC power supply 400 which is housed inside the grip part 300" in the above extracted matter C and the contents of observed matters E to G in the above FIG. 1, it is recognized that the "massager" in the above extracted matter A includes "a grip part 300," "a pair of rollers 100, 100," and "a dry battery 400" and the "pair of rollers 100, 100" are rotatably mounted at "the horizontal shaft parts 210" of the roller supporting part 200 which is provided at one end of the "grip part 300."

I In addition, in consideration of the description of "the roller 100 includes a permanent magnet 110 at the center of which a through hole 111 is opened; a gold thin film 120 attached on the outer surface of the permanent magnet 110; and a

germanium thin film 130 which is attached to a part corresponding to an outer peripheral surface of the permanent magnet 110, on the gold thin film 120," in the above extracted matter C, the above "pair of rollers 100, 100" is recognized to be formed by a conductor and on the basis of the recognized matter H, it is recognized to be "a pair of rollers 100, 100 formed by a conductor at one end of the grip part 300."

J On the basis of the description of "a weak current of the order of several μA from the DC power supply 400 flows in such a manner as the DC power supply 400 \rightarrow the roller supporting part 200 \rightarrow the roller 100 ..." in the above extracted matter D and the above recognized matter H, it is recognized that the above "dry battery 400" generates power and the power is fed to the above "pair of rollers 100, 100" for energization.

K In the light of the description of "the roller supporting part 200 is formed in an approximately T shape and rotatably supports each of the rollers 100 at two tips of the horizontal shaft parts 210 (that is, a tip end part) thereof " in the above extracted matter C and the contents of the observed matters E to G of the above FIG. 1, it is recognized that "the horizontal shaft parts 210 as rotation shafts of the rollers 100, 100 are each provided at the right angle to the center line of the grip part 300, and the angle formed by the horizontal shaft parts 210 as rotation shafts of the pair of rollers 100, 100 is 180 degrees."

Accordingly, the following invention (hereinafter, referred to as "the Invention A-1-1") is described in Evidence A No. 1:

"A massager, comprising:

a grip part 300;

a pair of rollers 100, 100 formed by a conductor at one end of the grip part 300; and

a dry battery 400 energizing the rollers 100, 100 by generated power;

wherein, the horizontal shaft parts 210 as rotary shafts of the rollers 100, 100 are each provided at a right angle to the center line of the grip part 300; and

the angle formed by the horizontal shaft parts 210 as the rotary shafts of the pair of rollers 100, 100 is 180 degrees."

Furthermore, the pair of rollers 100, 100 is formed at one end of the grip part 300 and therefore, it can be said that the grip part 300 supports the pair of rollers 100,

100. Accordingly, the following invention (hereinafter, referred to as "the Invention A-1-2") is described in Evidence A No. 1.

"A massager, comprising:

a pair of rollers 100, 100 formed by a conductor;

a grip part 300 supporting the pair of rollers 100, 100; and

a dry battery 400 energizing the rollers 100, 100 by generated power;

wherein, the horizontal shaft parts 210 as rotary shafts of the rollers 100, 100 are each provided at a right angle to the center line of the grip part 300; and

the angle formed by the horizontal shaft parts 210 as the rotary shafts of the pair of rollers 100, 100 is 180 degrees."

(1-2) Evidence A No. 2

In Evidence A No. 2, the following matter is described.

"[0018] In the present invention, alternating current is not especially required as an electric energy source to be applied to a living body, and therefore, a commonly-used battery such as a primary, secondary, or solar battery can be used. ...

[0030] As a battery 4, a button-shaped one is preferably used. The battery 4 of this shape is suitable for realizing a smaller and thinner instrument. As the battery 4, a battery such as a primary battery, secondary battery, or solar battery can be used. ...

[0038] In the present invention, a battery 4 such as a primary battery, secondary battery, or solar battery is used as an electric energy source to be applied to a living body, making its structure simple and its configuration extremely compact; and thus, an instrument for health improvement that especially does not become either a burden or a nuisance when it is worn at all times can be obtained. ...

[0063] As for a concrete usage of the present invention, use of the instrument in combination with another item is not restricted. In one example, ... a massager ..." (hereinafter, referred to as "the Matter A-2.")

(1-3) Evidence A No. 3

In Evidence A No. 3, the following matter is described (refer to lines 6 to 8 in the right column in page 1).

"... a dry cell battery, solar battery, or the like is embedded in a grip part of a

toothbrush, and electricity is drawn from each electrode thereof with a conductive conductor ..." (hereinafter, referred to as "the Matter A-3").

(1-4) Evidence A No. 4

In Evidence A No. 4, the following matter is described (refer to lines 4 to 17 in the right column in page 1).

"2. Scope of claims

An electric toothbrush, having a positive electrode provided around an outer peripheral surface of a grip handle part, having a negative electrode arranged at a brush implantation part of a brush handle part connected to the grip handle part, and having a connection conductor for the positive electrode and negative electrode embedded in the grip handle part and the brush handle part; wherein, one or two or more solar batteries (7) are arranged with a light receiving surface directed outward on an enclosing peripheral surface of a base part of the brush handle part (2), a chemical battery (8) is included in the grip handle part (1), and a switching circuit (9) for switching to the chemical battery (8) that is used as an auxiliary power supply when a electromotive force by the solar battery (7) decreases is interposed in the connection conductor (6) for connecting between the positive electrode (4) provided around the grip handle part (1) and the negative electrode (5) arranged at the brush implantation part (2a)." (Hereinafter, referred to as "the Matter A-4.")

(1-5) Evidence A No. 5

In Evidence A No. 5, the following matter is described (refer to paragraphs [0003], [0005], [0008], [0028], [0031], and [0043] to [0050], and FIGS. 3 to 6).

"A massage device is provided wherein to obtain improved elasticity of the skin and a significant decrease of moisture and oil existing on a skin surface after massage treatment, an oblique angle β between the directions of shaft lines of rollers is from 60 degrees to 170 degrees, especially from 115 degrees to 125 degrees; the rollers are made of a flexible material having hardness from 25 to 90 Shore A, especially elastomer or thermoplastic elastomer; protrusive parts are provided on each of the rollers; on the protrusive parts, contact end parts suitable for application to the skin are provided; and those contact end parts are arranged in the shaft line directions of the rollers and in the peripheral direction thereof, at a distance from each other,

exerting the vibration action in addition to the pleating/rolling actions on the skin or, adding the relaxation action to the skin in the other direction. Specifically, when the massage device is moved in a direction from a region determined by large openings of the rollers toward an output region determined by small openings of the rollers, the rollers press the skin and are slightly pushed into the skin, roll and slide with a rubbing motion on the surface of the skin to generate a pleating action of the skin, and on the other hand, when the massage device is moved in another direction, the skin is not subjected to the same massage action; and such a rolling action of the rollers involved in the movement of the device causes the skin to be stretched or relaxed, rolling to occur, and moisture to be gradually discharged from the skin." (Hereinafter, referred to as "the Matter A-5".)

(1-6) Evidence A No. 6

In Evidence A No. 6, the following matter is described (refer to paragraphs [0004] to [0006], [0008], [0012], [0013], [0017], [0019], and [0020], and FIGS. 1 to 4).

"A unit which includes a bottle (10) being able to hold a product and having a vertical axis X so as to work for both skin massaging and application of product; wherein, the bottle includes a product distributing hole (17) openable/closable by a lid (20) on a first end and at least two rollers (41, 42) which are made of a pliant material having hardness from 15 Shore A to 90 Shore D, especially elastomer or thermoplastic elastomer on a second end opposite to the first end so as to allow them to freely rotate, the rollers (41, 42) can rotate around the rotary shafts (A_1 , A_2) and are arranged so that the directions of the roller shafts (A_1 , A_2) form the angle α from 80 degrees to 140 degrees, preferably from 100 degrees to 120 degrees on a first cross section P1, when the unit is moved on the skin to a direction from a region determined by a large opening OS between the rollers toward a region determined by a small opening OE between the rollers, the skin is twisted by this slide operation with friction; and on the other hand, the unit is moved toward another direction, the skin is given only a little stretch or relaxation and is not subjected to the same massage operation, and after massaging the skin, the unit is turned over, the lid is opened, and a product stored in the bottle is applied to a body part which has just been massaged." (Hereinafter, referred to as "the Matter A-6".)

(1-7) Evidence A No. 7-1

In Evidence A No. 7-1, the following matter is described with reference to drawings (it should be noted that reference was made to the translation that was submitted as Evidence A No. 7-2).

In the "Article" field, "a massager" is described; in the "Description of design" field, "1. The material is a synthetic resin material." is described; in the "Gist of creation content of design" field, "the massager of the present application is a massager for stretching and pressing part of a human body to relax muscles, wherein the gist of the creation content is that stable and three-dimensional sensations are emphasized to generate a beautiful feeling" is described. In addition, from the descriptions of the front view and rear view, it can be seen that "a pair of ball objects are arranged at tips of two arms extending in a Y shape from the handle." (Hereinafter, referred to as "the Matter A-7".)

(1-8) Evidence A No. 8-1

In Evidence A No. 8-1, the following matter is described with reference to drawings (it should be noted that reference was made to the translation that was submitted as Evidence A No. 8-2).

"Claim 7" describes "Massage balls and a novel structure of a massager according to Claim 1 or 4, wherein, the massage balls have a massage ball body having an elastic material that exhibits a hollow body state so as to enhance the weight reduction effect and the operation controllability of the grip shaft rod and have a plurality of diametrically directed shaft plates on a top end surface; a plurality of grain-shaped protrusions are provided between the shaft plates to increase the number of times of rolling massage and the shaft rod is mounted so as to exhibit a Y shape; and two massage ball bodies are provided on the grip shaft rod so as to exhibit an inward pinch angle while each ball is made to exhibit an inward eccentric swing angle, thereby increasing an eccentric pinch effect in a massaged part." (Hereinafter, referred to as "the Matter A-8".)

(1-9) Evidence A No. 9

In Evidence A No. 9, the following matter is described.

"[0008] ... dirt due to organic materials and bacteria on a face surface and other skin surfaces are decomposed and removed due to the photocatalytic action by titanium

coating that covers over the surface of the roller body, and consequently, skin aging is suppressed, the skin is activated, and by extension, the occurrence of wrinkles and skin slacks are suppressed, allowing a skin tightening action to be exerted. ...

[0009] ... exhibits such an effect that dirt due to organic materials and bacteria on a face surface and other skin surfaces are decomposed and removed due to the photocatalytic action of titanium coating over the surface of the roller body, and consequently skin aging is suppressed and in addition, wrinkles and skin slacks are tightened to allow maintenance of a lively beautiful skin. ...

[0012] ... is made by utilizing the property of generating a titanium coating on the surface of the titanium main portion due to oxidation of the titanium powder by reaction with oxygen in the air. ... Accordingly, the titanium coating provided in this roller body 3 exhibits a structure called an oxygen deficient inclination structure in which oxygen becomes slightly deficient from its surface toward the inside. It is estimated that regarding the photocatalytic reaction, this oxygen deficient inclination structure causes the photocatalytic reaction in response to not only ultraviolet rays but also every type of electromagnetic waves such as visible rays, infrared rays, radio waves, and X rays.

[0013]

In addition, as is obvious also from description in the preceding example provided at the outset, the titanium coating on the surface of the roller body 3 works as a photocatalyst having such decomposition functions as deodorizing, antibacterial, and antifouling functions, and such a photocatalytic action is exerted by application of light such as solar light and fluorescent light to the titanium coating. ...

[0014]

Accordingly, when the grip 1 of the beauty roller of the embodiment shown in FIG. 1 is gripped by a hand and the roller body 3 thereof is lightly rolled on a face surface or the other part on the skin surface, dirt and bacteria formed of trace organic matters on the skin surface are decomposed by the photocatalytic action due to the titanium coating, to be decomposed or reduced into water (water vapor) and carbon dioxide, thereby becoming harmless. In addition, by the photocatalytic action due to the titanium coating, the anti-oxidation function is exerted to suppress the action of active oxygen that causes blemishes and aging. ..." (Hereinafter, referred to as "the Matter A-9.")

(2) Regarding the Patent Invention 1

(2-1) Comparison

In comparison between the Patent Invention 1 and Invention A-1-1, in the light of its structure or functions, the "grip part 300" of the Invention A-1-1 corresponds to the "handle" in the Patent Invention 1; and similarly, "a pair of rollers 100, 100 formed by a conductor at one end of the grip part 300" corresponds to "a pair of rollers formed by a conductor at one end of the handle."

In addition, the "solar battery" of the Patent Invention 1 and the "dry battery 400" of the Invention A-1-1 are common only in terms of being "a battery" and similarly, the "roller for beautiful skin" of the former and the "massager" of the latter are common only in terms of being the "roller applied to skin" in the light of their functions.

Accordingly, the two are identical in that:

"a roller applied to skin comprising:

a handle;

a pair of rollers formed by a conductor at one end of the handle; and

a battery energizing the roller with generated power";

and are different in each of the following features:

(The different feature 1)

Regarding power with which the roller is energized, it is generated by the "solar battery" in the Patent Invention 1; whereas, it is generated by the "dry battery 400" in the Invention A-1-1.

(The different feature 2)

Regarding a relationship between the pair of rollers and the handle, "the rotary shafts of the rollers are each provided at an acute angle to the center shaft in a long shaft direction of the handle; and the angle formed by the rotary shafts of the pair of rollers is obtuse" in the Patent Invention 1; whereas, "the horizontal shaft parts 210 as the rotation shafts of the rollers 100, 100 are each provided at the right angle to the center line of the grip part 300, and the angle formed by the horizontal shaft parts 210 as rotation shafts of the pair of rollers 100, 100 is 180 degrees" in the Invention A-1-1.

(The different feature 3)

A roller applied to skin is the "roller for beautiful skin" in the Patent Invention 1; whereas, it is the "massager" in the Invention A-1-1.

(2-2) Judgment

The above different features are examined below. It should be noted that in view of the case, the different feature 2 is first examined.

(2-2-1) Regarding the different feature 2

A In Evidence A No. 1, the following description is provided regarding the "pair of rollers 100, 100" of the Invention A-1-1.

The extracted matter D of the above (1-1) describes "the roller 100 is connected to one terminal 410 of the DC power supply 400, and the grip part 300 is connected to the other terminal 420 of the DC power supply 400. ... In this state, when the grip part 300 is gripped and the roller 100 is brought into contact with the skin, wastes which are included in the skin contacted by the roller 100, such as oil, etc., float up to the surface from the skin. ... That is, a weak current of the order of several μA from the DC power supply 400 flows in such a manner as the DC power supply 400 \rightarrow the roller supporting part 200 \rightarrow the roller 100 \rightarrow a human body \rightarrow the grip part body 310 \rightarrow the lid part 320 \rightarrow the DC power supply 400. In this case, since the roller 100 is charged positive and the grip part 300 is charged negative, the skin is charged positive. This makes oil in the skin which is charged negative float up from the skin. ... In addition, in order to impregnate germanium into the skin to improve the flow of blood, ... the DC power supply 400 as a dry battery is replaced, the roller 100 is connected to the other terminal 420 of the DC power supply 400, and the grip part 300 is connected to the one terminal 410 of the DC power supply 400 In this state, when the grip part 300 is gripped and the roller 100 is brought into contact with the skin, germanium is impregnated into the skin which is contacted by the roller 100, improving the flow of blood. ... That is, a weak current of the order of several μA from the DC power supply 400 flows in such a manner as the DC power supply 400 \rightarrow the lid part 320 \rightarrow the grip part body 310 \rightarrow a human body \rightarrow the roller 100 \rightarrow the roller supporting part 200 \rightarrow the DC power supply 400. In this case, since the roller 100 is charged negative and the grip part 300 is charged positive, the skin is charged negative. This makes germanium atoms Ge in the germanium thin film 130 of the roller 100 permeate as germanium ions Ge^{4+} from the roller 100 into the skin."

According to the above description, the "pair of rollers 100, 100" of the Invention A-1-1 is (A) one that is charged positive or negative (having conductivity) and (B) one that exerts, by changing the polarity of the DC power supply 400, both the effect of making oil in the skin which is charged negative float up from the skin and the effect of making germanium permeate into the skin contacted by the roller

100 so as to improve the flow of blood in the skin.

B Examination of the easily-conceived property of Evidence A No. 5

The Matter A-5 relates to a massage device and it can be said that the technical field of the invention is common with the Invention A-1-1; however, the rollers of the Matter A-5 are "made of a flexible material having hardness from 25 to 90 Shore A, especially elastomer or thermoplastic elastomer" and therefore, do not have conductivity.

On the other hand, as presented in the above A, in consideration of the functions, the configuration in which the rollers 100, 100 of the Invention A-1-1 have conductivity is essential and therefore, it cannot be recognized that there is a motivation for even a person skilled in the art who considered Evidence A No. 5 to replace the configuration of the rollers 100, 100 and the horizontal shaft part 210 as the rotation shaft in the Invention A-1-1 with the configuration of the rollers and roller shaft lines in the Matter A-5.

In addition, if the rollers 100, 100 in the Invention A-1-1 are replaced with the rollers in the Matter A-5, it is obvious in this case that the function and effect obtained by the charging of the rollers presented in the above A are lost; and it is recognized that there is a disincentive in the application of the configuration of the Matter A-5 to the Invention A-1-1.

Further, in the Matter A-5, the rolling/pleating actions of skin are exerted by the rollers and in addition, protrusive parts are provided on the rollers. Therefore, it is recognized that the state of contact between the rollers and skin becomes such that the function and effect in (B) of the above A cannot be sufficiently exerted; and also in this point, it is recognized that there is a disincentive in the application of the configuration of the Matter A-5 to the Invention A-1-1.

In view of the above, regarding the Invention A-1-1, it cannot be said that there is a motivation for even a person skilled in the art who considered Evidence A No. 5 to apply the configuration of the Patent Invention 1 relating to the different feature 2 and it is recognized that there is a disincentive in the application; and it cannot be said that the configuration of the Patent Invention 1 relating to the different feature 2 could be easily conceived of from the inventions described in Evidence A No. 1 and Evidence A No. 5.

In addition, the Patent Invention 1 provides the synergistic effect of efficiently removing dirt in pores which is presented in A of "(2) Regarding the Patent

Invention" of "1 Regarding the Invention" by the configuration of the Patent Invention 1 relating to the above different feature 2; and exerts an effect that cannot be predicted from the inventions described in Evidence A No. 1 and Evidence A No. 5.

C Examination of the easily-conceived property of Evidence A No. 6

The matter A-6 relates to a device for performing massage and it can be said that the technical field of the invention is common with the Invention A-1-1; however, the rollers of the Matter A-6 are "made of a pliant material having hardness from 15 Shore A to 90 Shore D, especially elastomer or thermoplastic elastomer" and therefore, do not have conductivity.

On the other hand, as presented in the above A, in consideration of the functions, the configuration in which the rollers 100, 100 of the Invention A-1-1 have conductivity is essential and therefore, it cannot be recognized that there is a motivation for even a person skilled in the art who considered Evidence A No. 6 to replace the configuration of the rollers 100, 100 and the horizontal shaft part 210 as the rotation shaft in the Invention A-1-1 with the configuration of the rollers and roller shaft lines in the Matter A-6.

In addition, if the rollers 100, 100 in the Invention A-1-1 are replaced with the rollers in the Matter A-6, it is obvious in this case that the function and effect obtained by the charging of the rollers presented in the above A are lost; and it is recognized that there is a disincentive in the application of the configuration of the Matter A-6 to the Invention A-1-1.

Further, in the Matter A-6, the skin is twisted by the rollers. Therefore, it is recognized that the state in contact between the rollers and skin becomes such that the function and effect in (B) of the above A cannot be sufficiently exerted; and also in this point, it is recognized that there is a disincentive in the application of the configuration of the Matter A-6 to the Invention A-1-1.

In view of the above, regarding the Invention A-1-1, it cannot be said that there is a motivation for even a person skilled in the art who considered Evidence A No. 6 to apply the configuration of the Patent Invention 1 relating to the different feature 2 and it is recognized that there is a disincentive in the application; and it cannot be said that the configuration of the Patent Invention 1 relating to the different feature 2 could be easily conceived of from the inventions described in Evidence A No. 1 and Evidence A No. 6.

In addition, the Patent Invention 1 provides the synergistic effect of efficiently removing dirt in pores which is presented in the above A of "(2) Regarding the Patent Invention" of "1 Regarding the Invention" by the configuration of the Patent Invention 1 relating to the above different feature 2; and exerts an effect that cannot be predicted from the inventions described in Evidence A No. 1 and Evidence A No. 6.

D Examination of the easily-conceived property of Evidence A No. 7-1

The matter A-7 relates to a massager and it can be said that the technical field of the invention is common with the Invention A-1-1; however, the "material is a synthetic resin material" for the massager of the Matter A-7. Therefore, even if "a pair of ball objects" is "a pair of rollers" as alleged by the demandant, the massager does not have conductivity.

On the other hand, as presented in the above A, in consideration of the functions, the configuration in which the rollers 100, 100 of the Invention A-1-1 have conductivity is essential and therefore, it cannot be recognized that there is a motivation for even a person skilled in the art who considered Evidence A No. 7-1 to replace the configuration of the rollers 100, 100 and the horizontal shaft part 210 as the rotation shaft in the Invention A-1-1 with the configuration of the ball objects and two arms extending in a Y shape in the Matter A-7.

In addition, if the rollers 100, 100 in the Invention A-1-1 are replaced with the ball objects in the Matter A-7, it is obvious in this case that the function and effect obtained by the charging of the rollers presented in the above A are lost; and it is recognized that there is a disincentive in the application of the configuration of the Matter A-7 to the Invention A-1-1.

Further, in the Matter A-7, part of a human body is stretched and pressed by the ball objects to relax muscles. Therefore, it is recognized that the state in contact between the ball objects and skin becomes such that the function and effect in (B) of the above A cannot be sufficiently exerted; and also in this point, it is recognized that there is a disincentive in the application of the configuration of the Matter A-7 to the Invention A-1-1.

In view of the above, regarding the Invention A-1-1, it cannot be said that there is a motivation for even a person skilled in the art who considered Evidence A No. 7-1 to apply the configuration of the Patent Invention 1 relating to the different feature 2 and it is recognized that there is a disincentive in the application; and it

cannot be said that the configuration of the Patent Invention 1 relating to the different feature 2 could be easily conceived of from the inventions described in Evidence A No. 1 and Evidence A No. 7-1.

In addition, the Patent Invention 1 provides the synergistic effect of efficiently removing dirt in pores which is presented in the above A of "(2) Regarding the Patent Invention" of "1 Regarding the Invention" by the configuration of the Patent Invention 1 relating to the above different feature 2; and exerts an effect that cannot be predicted from the inventions described in Evidence A No. 1 and Evidence A No. 7-1.

E Examination of the easily-conceived property of Evidence A No. 8-1

The Matter A-8 relates to a massager and it can be said that the technical field of the invention is common with the Invention A-1-1; however, the massage balls of the Matter A-8 have "an elastic material" and do not have conductivity.

On the other hand, as presented in the above A, in consideration of the functions, the configuration in which the rollers 100, 100 of the Invention A-1-1 have conductivity is essential and therefore, it cannot be recognized that there is a motivation for even a person skilled in the art who considered Evidence A No. 8-1 to replace the configuration of the rollers 100, 100 and the horizontal shaft part 210 as the rotation shaft in the Invention A-1-1 with the configuration of the massage balls and Y-shaped shaft rod in the Matter A-8.

In addition, if the rollers 100, 100 in the Invention A-1-1 are replaced with the massage balls in the Matter A-8, it is obvious in this case that the function and effect obtained by the charging of the rollers presented in the above A are lost; and it is recognized that there is a disincentive in the application of the configuration of the Matter A-8 to the Invention A-1-1.

Further, in the Matter A-8, an eccentric pinch effect in a massaged part is increased by the massage balls and in addition, grain-shaped protrusions are provided on the massage balls. Therefore, it is recognized that the state in contact between the massage balls and skin becomes such that the function and effect in (B) of the above A cannot be sufficiently exerted; and also in this point, it is recognized that there is a disincentive in the application of the configuration of the Matter A-8 to the Invention A-1-1.

In view of the above, regarding the Invention A-1-1, it cannot be said that there is a motivation for even a person skilled in the art who considered Evidence A

No. 8-1 to apply the configuration of the Patent Invention 1 relating to the different feature 2 and it is recognized that there is a disincentive in the application; and it cannot be said that the configuration of the Patent Invention 1 relating to the different feature 2 could be easily conceived of from the inventions described in Evidence A No. 1 and Evidence A No. 8-1.

In addition, the Patent Invention 1 provides the synergistic effect of efficiently removing dirt in pores which is presented in the above A of "(2) Regarding the Patent Invention" of "1 Regarding the Invention" by the configuration of the Patent Invention 1 relating to the above different feature 2; and exerts an effect that cannot be predicted from the inventions described in Evidence A No. 1 and Evidence A No. 8-1.

Consequently, as examined in the above A to E, the different feature 2 cannot be considered to be easily conceived.

In addition, the Matters A-2 to A-4 relate to the technique of applying a solar battery to a massager and toothbrush, and the Matter A-9 relates to the technique of providing titanium coating having a photocatalytic action on the roller surface; and with reference with either of the publications, the different feature 2 cannot be considered to be easily conceived.

(2-2-2) Summary

As examined in the above (2-2-1), the different feature 2 cannot be considered to be easily conceived and therefore, there is no need to examine the different feature 1 and the different feature 3, and the Patent Invention 1 could not have been easily made by a person skilled in the art based on the Invention A-1-1 and the inventions described in Evidence A No. 1 to Evidence A No. 9.

(2-3) Demandant's allegation

A The demandant alleged that "the restriction in which to achieve the purpose of energization, an angle formed by the horizontal shaft part (210) as the rotation shaft of the pair of rollers (100, 100) must be 180 degrees in the configuration of the pair of rollers having a roller supporting part forked is not described in Evidence A No. 1 and it can be said that Evidence A No. 1 assumes that actually, the roller supporting part is forked, with two rollers supported apart from each other. In addition, the Inventions A-5 to A-8 exist as prior arts relating to the massager in which the roller

supporting part is forked and two rollers are supported apart from each other; and therefore, it can be said that a description for the motivation to apply any of the Inventions A-5 to A-8 to the Invention A-1 exists in Evidence A No. 1." (Oral proceedings statement brief, page 15, 9th line from the bottom to page 16. line 1).

In addition, the Inventions A-5 to A-8 exist as prior arts relating to the massager in which the roller supporting part is forked and two rollers are supported apart from each other; and therefore, it can be said that a description for the motivation to apply any of the Inventions A-5 to A-8 to the Invention A-1 exists in Evidence A No. 1." (Oral proceedings statement brief, page 180, ninth line from the bottom, to page 16. line 1). Further, as for the application of the Inventions A-5 to A-8 to the Invention A-1, there is no disincentive and rather, the action by the pair of rollers in the Inventions A-5 to A-8 is identical to the action by the pair of rollers in the Patent Invention 1. Therefore, it can be said that a person skilled in the art can easily make the Patent Invention 1 by replacing the dry battery of the Invention A-1 with a solar battery and applying the Inventions A-5 to A-8." (Oral proceedings statement brief, page 17, fourth line from the bottom, to page 18. line 8).

However, as examined in A to E of the above (2-2-1), the configurations, and functions and effects of the roller, etc. which are disclosed in Evidence A No. 5 to Evidence A No. 8-1 are different from the configuration of the roller of the Invention A-1-1 (the condition (A) of the above (2-2-1) A) and the function and effect thereof (the condition (B) of the above (2-2-1) A); and it cannot be recognized that there is a motivation to apply such a roller and others to the Invention A-1-1 and it is recognized that there is a disincentive in the application.

Further, in any of Evidence A No. 1, Evidences A No. 5 to Evidence A No. 8-1, the remarkable effect of "when being pressed on the skin and pushed in one direction, the skin is stretched to both sides, making the pores open and this causes dirt in deep pores to move toward the opening of the pores, and when being pulled on the other direction, the skin is sandwiched between the pair of rollers, making the pores shrink and this causes dirt in the pores to be pushed out" by the "roller for beautiful skin" of the Patent Invention 1 which is presented in the above A of "(2) Regarding the Patent Invention" of "1 Regarding the Invention" is neither disclosed nor implied. Even when the angle formed by the pair of rollers, etc. in Evidence A No. 5 to Evidence A No. 8-1 is a well-known art, the remarkable effect of the Patent Invention 1 of "efficiently removing dirt in pores" when the angle is applied to the angle formed by the pair of rollers of the Invention A-1-1 cannot be predicted even

by a person skilled in the art.

Accordingly, the above allegation shall not be adopted.

B In addition, the demandant alleges that "there is no other way than understanding that the Patent Invention 1 is configured as an invention obtained by simply combining the action of pushing out dirt in pores and the action of drawing out dirt in the skin by energization of a weak current. Accordingly, the Patent Invention 1 can be understood as an invention obtained by simply combining the configuration of a pair of rollers and the configuration for energization of a small current; and when the inventive step is discussed from the viewpoint, it can also be said that the Patent Invention 1 can be easily made by simply combining the Invention A-1 and any of the Inventions A-5 to the Invention A-8." (Oral proceedings statement brief, page 18, lines 14 to 21).

However, the Patent Invention 1 exerts the synergistic effect of "efficiently removing dirt in pores" by the configuration of "a pair of rollers" and the configuration of "a solar battery" as presented in the above 1 (2) A, and therefore, the above allegation cannot be adopted.

(3) Regarding the Patent Invention 2

(3-1) Comparison

In comparison between the Patent Invention 2 and the Invention A-1-2, in the light of its structure or functions, the "grip part 300" of the Invention A-1-2 corresponds to the "grip part" in the Patent Invention 2.

In addition, the "solar battery" of the Patent Invention 2 and the "dry battery 400" of the Invention A-1-2 are common only in terms of being a "battery" and similarly, the "roller for beautiful skin" of the former and the "massager" of the latter are common only in terms of being the "roller applied to skin" in light of their functions.

Accordingly, the two are identical in that:

"a roller applied to skin comprising:

a pair of rollers formed by a conductor;

a grip part supporting the pair of rollers, and

a battery energizing the roller with generated power;"

and are different in each of the following features:

(The different feature 1)

Regarding power with which the roller is energized, it is generated by the "solar battery" in the Patent Invention 2; whereas, it is generated by the "dry battery 400" in the Invention A-1-2.

(The different feature 2)

Regarding a relationship between the pair of rollers and the grip part, "the rotary shafts of the rollers are each provided at an acute angle to the center shaft of the grip part; and the angle formed by the rotary shafts of the pair of rollers is obtuse" in the Patent Invention 2; whereas, "the horizontal shaft parts 210 as rotation shafts of the rollers 100, 100 are each provided at the right angle to the center line of the grip part 300, and the angle formed by the horizontal shaft parts 210 as rotation shafts of the pair of rollers 100, 100 is 180 degrees" in the Invention A-1-2.

(The different feature 3)

A roller applied to skin is "a roller for beautiful skin" in the Patent Invention 2; whereas, it is "a massager" in the Invention A-1-2.

(3-2) Judgment

The above different features are examined below. It should be noted that in view of the case, the different feature 2 is first examined.

(3-2-1) Regarding the different feature 2

The difference between the Invention A-1-2 and the Invention A-1-1 is whether "the grip part 300 supports the pair of rollers 100, 100" or "a pair of rollers 100, 100 is formed at one end of the grip part 300"; and it can be said that the Invention A-1-2 is a generic concept of the Invention A-1-1 in terms of a position where the pair of roller is formed. Then, the "Invention A-1-1" is replaced with the "Invention A-1-2" in the examination of (2-2-1) of "(2) Regarding the Patent Invention 1" and for a similar reason, the different feature 2 cannot be considered to be easily conceived.

(3-2-2) Summary

As examined in the above (3-2-1), the different feature 2 cannot be considered to be easily conceived and therefore, there is no need to examine the different feature 1 and the different feature 3, and the Patent Invention 2 could not have been easily made by a person skilled in the art based on the Invention A-1-2 and the inventions described in Evidence A No. 1 to Evidence A No. 9.

(4) Regarding the Patent Inventions 3 to 5

The Patent Inventions 3 to 5 include, as a part of their configurations, the configuration of the Patent Invention 1 or the Patent Invention 2, and therefore, for a reason similar to those in "(2) Regarding the Patent Invention 1" and (3) Regarding the Patent Invention 2," those inventions could not have been easily made by a person skilled in the art.

(5) Summary

Therefore, it cannot be concluded that the Patent Inventions 1 to 5 could have been easily made by a person skilled in the art based on the reasons alleged by the demandant.

3 Regarding Reasons for invalidation 2

(1) Regarding the Patent Inventions 6 and 7

The Patent Inventions 6 and 7 include, as a part of their configurations, the configurations of the Patent Inventions 1 to 5, and therefore, for a reason similar to those in the examination in "(2) Regarding the reason for invalidation 1," those inventions could not have been easily made by a person skilled in the art.

(2) Summary

Therefore, it cannot be concluded that the Patent Inventions 6 and 7 could have been easily made by a person skilled in the art based on the reasons alleged by the demandant.

No. 5 Closing

As described above, the patent regarding the Patent Inventions 1 to 7 cannot be invalidated based on the reason for invalidation 1 and reason for invalidation 2 alleged by the demandant and the means of proof submitted by the demandant.

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.

April 18, 2017

Chief administrative judge: YAMAGUCHI, Naoshi

Administrative judge: TACHIBANA, Masanori

Administrative judge: HIRASE, Tomoaki