## Decision on Opposition

Opposition No. 2018-700853

Patentee NIPPON PAPER CRECIA CO., LTD.

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The case of opposition against the invention "ROLL PRODUCT PACKAGE" in Japanese Patent No. 6313029 has resulted in the following decision.

#### Conclusion

The scope of claims of Japanese Patent No. 6313029 may be corrected in accordance with Claims 1 to 7 after the correction as in the corrected scope of claims attached to the written correction request submitted on July 18, 2019.

The patents for Claims 1-5 of Japanese Patent No. 6313029 are to be revoked.

The opposition to a granted patent regarding the patent according to Claims 6 and 7 of Japanese Patent No. 6313029 shall be dismissed.

## Reasons

No. 1 History of the procedures

The application of the patent according to Claims 1 to 7 of Japanese Patent No. 6313029 was filed on November 27, 2013. The establishment of the patent right was registered on March 30, 2018, and the patent publication thereof was issued on April 18. 2018. The history of the opposition to a granted patent in relation to this patent was as follows.

October 18, 2018: Opposition to a granted patent by Patent Opponent

MURAKAMI, Kiyoko (hereinafter, referred to as "the Opponent")

Dated December 6, 2018: Notice of reasons for revocation

January 29, 2019: Submission of written opinion and written correction by

the Patentee

February 5, 2019: Submission of written amendment for amending the written correction request by the Patentee

April 3, 2019: Submission of written opinion by the Opponent

Dated May 23, 2019: Notice of reasons for revocation (advance notice of

decision)

July 18, 2019: Submission of written opinion and written correction by the Patentee (Hereinafter, the correction request by the written correction request is referred to as "the correction request of the case," and the correction is referred to as "the correction of the case".)

August 26, 2019: Submission of written opinion by the Opponent

(Further, due to the correction request of the case, the correction by the correction request submitted on January 29, 2019 shall be deemed withdrawn in accordance with the provisions of Article 120-5(7) of the Patent Act.)

## No. 2 Judgment on request for correction

#### 1 Contents of correction

The correction request of the case is "to request to correct the scope of claims of Japanese Patent No. 6313029 to Claims 1 to 7 after the correction, as the corrected scope of claims attached to written correction request of the case," and the contents of the correction of the case are as follows with underlines indicating corrected portions.

#### (Correction A)

"A roll product package in which a plurality of roll products wrapped with sanitary tissue paper sheets are stored in a packaging bag made of a film,

wherein, when the roll product is 2 ply, winding length is 65 to 95 m, the mass of one roll excluding a core is 200 to 350 g, and winding hardness is 1.0 to 3.0 mm, and when the roll product is 1 ply, winding length is 125 to 185 m, the mass of one roll excluding a core is 250 to 430 g, and winding hardness is 0.5 to 2.5 mm,

wherein, when the roll product is 2 ply, (the winding hardness (mm)/the basis weight  $(g/m^2)$  of the film) is 0.020 to 0.100  $(mm/(g/m^2))$ , and when the roll product is 1 ply, (the winding hardness (mm)/the basis weight  $(g/m^2)$  of the film) is 0.015 to 0.080  $(mm/(g/m^2))$ , and

wherein the basis weight of the film is 25 to 45 g/m²" in Claim 1 of the scope of claims before the correction of the case, is corrected to

"A roll product package in which four roll products wrapped with sanitary

tissue paper sheets are <u>longitudinally</u> stored <u>in two stages in caramel packaging or gusset packaging</u>, in a packaging bag made of a film <u>that is made of polyethylene with a density of 0.86 to 0.91 g/cm<sup>3</sup></u>, a basis weight of 25.5 to 40.5 g/m<sup>2</sup>, and a thickness of 29 to 47  $\mu$ m, the roll product package having substantially the same dimensions as those by which the roll products are disposed so that the roll products contact with the packaging bag,

wherein, when the roll product is 2 ply, winding length is 65 to 95 m, the mass of one roll excluding a core is 200 to 350 g, and winding hardness is 1.2 to 2.3 mm, and when the roll product is 1 ply, winding length is 125 to 185 m, the mass of one roll excluding a core is 250 to 430 g, and winding hardness is 0.7 to 1.8 mm, and

wherein, when the roll product is 2 ply, (the winding hardness (mm)/the basis weight  $(g/m^2)$  of the film) is 0.037 to 0.071 (mm/ $(g/m^2)$ ), and when the roll product is 1 ply, (the winding hardness (mm)/the basis weight  $(g/m^2)$  of the film) is 0.021 to 0.055 (mm/ $(g/m^2)$ )".

(Claims 2 to 5 depending from Claim 1 shall be corrected similarly.) (Correction B)

"When the roll product is 2 ply, basis weight is 13.1 to 17.0 g/m², and when the roll product is 1 ply, basis weight is 16.5 to 21.5 g/m²" in Claim 3 of the scope of claims before the correction of the case, is corrected to

"when the roll product is 2 ply, basis weight is <u>15.0 to 16.8 g/m<sup>2</sup> per 1 ply</u>, and when the roll product is 1 ply, basis weight is <u>19.0 to 21.2 g/m<sup>2</sup></u>". (Correction C)

"The handle portion is made of a film with a thickness of 40 to 130  $\mu m$ " in Claim 5 of the scope of claims before the correction of the case, is corrected to

"the handle portion is made of a film containing polypropylene with a thickness of 40 to 130  $\mu$ m and a width of 10-40 mm, and both end portions of the handle portion are respectively jointed to side surfaces on the opposite short sides of the packaging bag". (Correction D)

Claim 6 of the scope of claims is deleted.

(Correction E)

Claim 7 of the scope of claims is deleted.

Here, since, among Claims 1 to 7 before the correction, Claims 2 to 7 cite the description of Claim 1 to be corrected, the correction of the case is requested for a group of Claims 1 to 7 as stipulated in Article 120-5(2) of the Patent Act.

- 2 Suitability of correction
- (1) Regarding Correction A

## A Purpose of correction

Since Correction A above limited a film of a package bag wherein the basis weight of the film is 25 to 45 g/m² in Claim 1 before the correction to "a film that is made of polyethylene with a density of 0.86 to 0.91 g/cm³, a basis weight of 25.5 to 40.5 g/m², and a thickness of 29 to 47  $\mu$ m," limited a roll product stored in a packaging bag from "a plurality of" before the correction to "four longitudinally in two stages in caramel packaging or gusset packaging," limited (the winding hardness (mm)/the basis weight (g/m²) of the film) when the roll product is 2 ply, from "0.020 to 0.100 (mm/(g/m²))" to "0.037 to 0.071 (mm/(g/m²))," limited (the winding hardness (mm)/the basis weight (g/m²) of the film) when the roll product is 1 ply, from "0.015 to 0.080 (mm/(g/m²))" to "0.021 to 0.055 (mm/(g/m²))," and further limited a roll product package to the one "having substantially the same dimensions as dimensions by which the roll products are disposed so that the roll products contact with the packaging bag," it falls under the restriction of the scope of claims in accordance with Article 120-5(2)(i) of the Patent Act.

## B Correction that substantially does not enlarge or alter the scope of claims

As described A above, Correction A above substantially does not enlarge or alter the scope of claims, and complies with the provisions of Article 126(6) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

C Correction that is within the matters described in the description, scope of claims, or drawings attached to the application

Correction A above is based on the description "the packaging bag 2 arranges positions of several roll products 6 inside a tubular film, for example, and is packaged by a well-known packaging method (for example, caramel packaging, gusset packaging etc.). In the example of FIG. 1, the roll products 6 are arranged in two longitudinal pieces and two lateral pieces on a plane, and are packaged in a packaging bag 2. The number of rolls of the roll product 6 stored in the roll product package 100 is not particularly limited, but is preferably 2 to 12, more preferably 4 to 8, still more preferably 4 to 6, and most preferably 4" in [0013] of the description, the descriptions of the density, basis weight, and thickness of a polyethylene, winding hardness of a toilet roll product, the description of (the winding hardness (mm)/the basis weight (g/m<sup>2</sup>) of the film) of Examples 1 to 12 (especially, [Table 1] and [Table 2]) in [0026] to [0037], and the matter that FIG. 2 illustrates that four roll-shaped articles are stored longitudinally in two stages in one bag, so that it is within the matters described in the description, scope of claims, or drawings attached to the application of the patent, and complies with the provisions of Article 126(5) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

## (2) Regarding Correction B

## A Purpose of correction

Correction B above clarified the matter that it is not clear that the notation of basis weight is per 1 ply when it is 2 ply, as "per 1 ply," narrowed the numerical range thereof from "13.1 to 17.0 g/m²" to "15.0 to 16.8 g/m²," and narrowed the numerical range thereof from "16.5 to 21.5 g/m²" to "19.0 to 21.2 g/m²" when it is 1 ply, so that it falls under the restriction of the scope of claims in accordance with Article 120-5(2)(i) of the Patent Act and is intended on clarification of an ambiguous statement, as stipulated by Article 120-5(2)(iii) of the Patent Act.

### B Correction that substantially does not enlarge or alter the scope of claims

As described in A above, Correction B above substantially does not enlarge or alter the scope of claims, and complies with the provisions of Article 126(6) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

C Correction that is within the matters described in the description, scope of claims, or drawings attached to the application

Correction B above is based on the descriptions of the basis weight of Examples 1 to 12 in [0026] to [0037] of the description, so that it is within the matters described in the description, scope of claims, or drawings attached to the application of the patent, and complies with the provisions of Article 126(5) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

## (3) Regarding Correction C

#### A Purpose of correction

Since Correction C above limited a handle portion made of a film in Claim 5 before the correction of the case to the one "made of a film containing polypropylene with a width of 10-40 mm, and both end portions of the handle portion are respectively jointed to side surfaces on the opposite short sides of the packaging bag," it falls under the restriction of the scope of claims in accordance with Article 120-5(2)(i) of the Patent Act.

## B Correction that substantially does not enlarge or alter the scope of claims

As described A above, Correction C above substantially does not enlarge or alter the scope of claims, and complies with the provisions of Article 126(6) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

C Correction that is within the matters described in the description, scope of claims, or drawings attached to the application

Correction C above is based on [Claim 6] before the correction and the descriptions of [0023] and [0024] of the description, so that it is within the matters described in the description, scope of claims, or drawings attached to the application of the patent, and complies with the provisions of Article 126(5) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5 (9) of the Patent Act.

### (4) Regarding Correction D

## A Purpose of correction

Since Correction D above deletes Claim 6, it falls under the restriction of the scope of claims in accordance with Article 120-5(2)(i) of the Patent Act.

B Correction that substantially does not enlarge or alter the scope of claims

As described in A above, Correction D above substantially does not enlarge or alter the scope of claims, and complies with the provisions of Article 126(6) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5 (9) of the Patent Act.

C Correction that is within the matters described in the description, scope of claims, or drawings attached to the application

As described A above, Correction D above is a correction within the matters described in the description, scope of claims, or drawings attached to the application of the patent, and complies with the provisions of Article 126(5) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

## (5) Regarding Correction E

#### A Purpose of correction

Since Correction E above deletes Claim 7, it falls under the restriction of the scope of claims in accordance with Article 120-5(2)(i) of the Patent Act.

B Correction that substantially does not enlarge or alter the scope of claims

As described in A above, Correction E above substantially does not enlarge or alter the scope of claims, and complies with the provisions of Article 126(6) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

C Correction that is within the matters described in the description, scope of claims, or drawings attached to the application

As described in A above, Correction E above is a correction within the matters described in the description, scope of claims, or drawings attached to the application of the patent, and complies with the provisions of Article 126(5) of the Patent Act which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

### (6) Summary

As described above, the correction of the case aims at matters prescribed in Article 120-5(2)(i) and Article 120-5(2)(iii) of the Patent Act, complies with the provision of Article 120(4) of the Patent Act, and the provisions of Article 126(5) and (6) of the Patent Act which is applied mutatis mutandis pursuant to Article 120(9) of the Patent Act. Therefore, the corrections on Claims 1 to 7 after the correction shall be approved.

## No. 3 The patent invention

Since the correction of the case is approved as described above, the inventions according to Claims 1 to 5 of the patent invention (hereinafter, referred to as "Inventions 1 to 5") are as follows as specified by the matters described in Claims 1 to 5 of the corrected scope of claims.

### "[Claim 1]

A roll product package in which four roll products wrapped with sanitary tissue paper sheets are longitudinally stored in two stages in caramel packaging or gusset packaging, in a packaging bag made of a film that is made of polyethylene with a density of 0.86 to 0.91 g/cm<sup>3</sup>, a basis weight of 25.5 to 40.5 g/m<sup>2</sup>, and a thickness of 29 to 47  $\mu$ m, the roll product package having substantially the same dimensions as those by which the roll products are disposed so that the roll products contact with the packaging bag,

wherein, when the roll product is 2 ply, winding length is 65 to 95 m, the mass of one roll excluding a core is 200 to 350 g, and winding hardness is 1.2 to 2.3 mm, and when the roll product is 1 ply, winding length is 125 to 185 m, the mass of one roll excluding a core is 250 to 430 g, and winding hardness is 0.7 to 1.8 mm, and

wherein, when the roll product is 2 ply, (the winding hardness (mm)/the basis weight  $(g/m^2)$  of the film) is 0.037 to 0.071  $(mm/(g/m^2))$ , and when the roll product is 1 ply, (the winding hardness (mm)/the basis weight  $(g/m^2)$  of the film) is 0.021 to 0.055  $(mm/(g/m^2))$ .

## [Claim 2]

The roll product package according to Claim 1, wherein the roll products are stored in the packaging bag so that their axial directions are vertical, and both end portions of a handle portion are respectively jointed to opposite side surfaces of the packaging bag, over an upper surface of the packaging bag.

#### [Claim 3]

The roll product package according to Claim 1 or 2, wherein when the roll product is 2 ply, basis weight is 15.0 to 16.8 g/m<sup>2</sup> per 1 ply, and when the roll product is

1 ply, basis weight is 19.0 to 21.2 g/m<sup>2</sup>. [Claim 4]

The roll product package according to any of Claims 1 to 3, wherein perforations for opening are provided at predetermined locations on the packaging bag, and a ratio of the perforations (cut portion/uncut portion) is 0.3 to 3.0.

[Claim 5]

The roll product package according to Claim 2, wherein the handle portion is made of a film containing polypropylene with a thickness of 40 to 130  $\mu$ m and a width of 10-40 mm, and both end portions of the handle portion are respectively jointed to side surfaces on the opposite short sides of the packaging bag".

### No. 4 Judgment by the body

#### 1 Outline of reasons for revocation

The outline of reasons included in the notice of reasons for revocation (advance notice of decision) dated May 23, 2019 notified by the body is as follows.

(1) (Support requirement) Since Inventions 1 to 5 are not within a scope described in the detailed description of the invention in the following points, the patent violates the provisions of Article 36(6)(i) of the Patent Act, and thus the patent falls under Article 113(4) of the Patent Act and should be invalidated.

## A Regarding the number, arrangement, etc. of roll products

Although it is common general technical knowledge that an increased number (weight) and arrangement of packed roll products (toilet paper) increases a probability of tearing, in the description of the patent invention, in the examples, only the number of four and the arrangement shown in FIG. 2 have been confirmed, and it cannot be understood that the result is the same as that of the embodiment in terms of easiness of tearing, for example, in the case that the number is 12 or in other arrangements, which is included in the scope of Invention 1.

## B Regarding a packaging method and size

Also for a form of packaging, since it is common general technical knowledge that the form of packaging such as caramel packaging or gusset packaging affects the easiness of tearing, it cannot be understood that similar results will be obtained with respect to the easiness of tearing in all packaging forms. Accordingly, it cannot be understood that the problem of the Invention can be solved in all packaging forms

included in the scope of Invention 1, from the statements of the description of the patent invention.

(2) (Enablement requirement) Since the detailed description of the invention of the patent invention is not described to the extent that a person skilled in the art can implement the invention, the patent violates the provisions of Article 36(4)(i) of the Patent Act, and thus falls under Article 113(4) of the Patent Act and should be invalidated.

A Since it cannot be said that the roll product package described in the detailed description of the invention of the description of the patent invention is hard to tear when carrying, it cannot be said that the detailed description of the invention of the description of the patent invention is clear and sufficient to the extent that a person skilled in the art can implement Inventions 1 to 5.

## 2 Judgement on support requirement

# (1) Regarding Invention 1

It should be judged whether or not the descriptions of the scope of claims comply with the requirement for support of the patent description, by comparing the description in the scope of claims with the detailed description of the invention, and examining whether or not the invention described in the scope of claims for patent is the invention described in the detailed description of the invention and whether or not it can be acknowledged that a person skilled in the art could solve the problem of the invention based on the detailed description of the invention, further, examining whether or not a person skilled in the art could solve the problems of the invention by means of referring to the common general technical knowledge sense upon filing the application even in the absence of the descriptions or the suggestion. Therefore it will be examined as follows.

#### A Regarding a problem to be solved of the invention

The problem to be solved by the Invention is "to provide a roll product package that stores long winding roll products in a packaging bag, which is hard to tear when carried and do not become stiff, and in which roll products are not easily crushed when the roll products with appropriate winding hardness are packaged." ([0004]).

B Regarding a roll product package that can be recognized as solving the problem of being hard to tear when carrying, in the description of the patent invention.

First, in the examples, the roll products package which a person skilled in the art can recognized as solving the problem of being hard to tear when carrying, will be

examined.

## (A) Regarding sensory evaluation of examples

The description of the patent invention ([0026] to [0037]) describes a toilet roll product package of Examples 1 to 12, and results of sensory evaluation described in [0030] on the Examples 1 to 12 are described in [Table 1] and [Table 2]

However, in the sensory evaluation, it is only mentioned about the evaluation on the tearing of the film that "Film strength: In the package after packaging the toilet roll, the presence or absence of film tearing was evaluated" ([0030]).

Then, there is no description as to what kind of situation the "film strength" was evaluated for the presence or absence of tearing of the film, for example, whether or not the "film strength" is merely an evaluation of the state of the film after packaging, or it is an evaluation of the state of the film after some use. From the wording, it can be considered that it is merely evaluating for the presence or absence of tearing of the film after packaging, so that it cannot understood that "film strength" represents the difficulty of tearing when carrying.

Here, although the Patentee, in 5(7) of the written opinion on July 18, 2019, alleges that as described in Evidence B No. 1 (Japanese Patent No. 5217293), Evidence B No. 2 (Japanese Patent No. 5518415) and Evidence B No. 3 (Registered Utility Model Publication No. 3004939), as an evaluation of the strength of the handle portion of the package having the handle portion and the film, a person skilled in the art usually carries it by gripping the handle portion for a predetermined time or moves it up and down, and it is obvious that the "film strength" confirms whether or not it tears "when carrying (or moving up and down as an evaluation to promote it)".

However, since there is no description that "the film strength" of the description of the patent invention is the strength of the film when carrying it by gripping the handle portion for a predetermined time or moving it up and down, the Patentee's allegation is absolutely irrational.

Furthermore, considering that "the film strength" in [Table 1] and [Table 2] represents the difficulty of tearing when carrying, which is alleged by the patentee, it will examined as follows.

#### (B) Regarding a packaging form

For the packaging form of the toilet roll product package of the examples, although it is described that "a polyethylene film having the physical properties shown in Table 1 was prepared, and the toilet roll product was packaged in the form shown in FIG. 2 to obtain a roll product package" in [0026], even if seeing FIG. 2, it is not possible to

unambiguously understand what kind of packaging form (caramel packaging, gusset packaging, etc.) it is.

Then, as shown in Evidence A No. 8 to A No. 13 attached to the written opinion submitted on August 26, 2019 by the Opponent, since it is common general technical knowledge that the toilet roll product package has different points of concentration of force when they are carried, depending on the packaging form, it is obvious that the difficulty of tearing when carrying depends on the packaging form, the form of the handle portion, and the like.

Therefore, it cannot be acknowledged that the one in caramel packaging or gusset packaging of Invention 1 can solve the problem of being hard to tear when carrying, from the results of Examples 1 to 12 in which the packaging forms are unclear, and furthermore, it cannot be acknowledged that Invention 1 including a package having no handle portion can solve the problem of being hard to tear when carrying.

Here, although the Patentee, in 5 (7) of the written opinion submitted on July 18, 2019, alleges that it is obvious that the package of the example according to FIG. 2 is a caramel packaging on the drawing, FIG. 2 does not show any folding lines and the like indicating the caramel packaging, and there is no common general technical knowledge that the handle portion can be attached only to the caramel packaging, so that the Patentee's allegation is groundless and cannot be accepted.

#### (C) Regarding weight of toilet roll products

The description of the patent invention describes that "since the above-described long winding roll product has a large weight per roll, a load is applied to the handle portion or the bottom of the packaging bag when the consumer carries the package in which the roll products are packaged" in [0004], and that "the long winding toilet paper having the above-described roll length, mass, and roll hardness has a heavy weight of one roll as compared to a normal toilet paper, and therefore, the film is easily torn when it is packaged with a normal toilet paper film" in [0015], and it is common general technical knowledge that the increase in weight of one packed roll product (toilet paper) increases a probability of tearing.

On the other hand, what was confirmed in the description of the patent invention is a package in which mass (g) excluding a core is until 318 g (Example 4) in 2 ply and until 390 g (Example 10) in 1 ply, even if referring to "the film strength" of a package in which it is up to 368 g in 2 ply (Comparative Example 2 and Comparative Example 3), and Comparative Example 5 and Comparative Example 8 in 1 ply, it cannot be understood that the package in which it is 350 g in 2 ply and 430 g in 1 ply of Invention

1 is not torn.

### (D) Summary

As described above, since it cannot acknowledged that Invention 1 can solve the problem of being hard to tear when carrying, Invention 1 is not within the scope described in the detailed description of the invention.

## (2) Regarding Inventions 2 to 5

Inventions 2 to 5 are not within the scope described in the detailed description of the invention, for the same reasons as examined in (1) above.

### (3) Summary

As described above, since Inventions 1 to 5 are not within the scope described in the detailed description of the invention, the patent violates the provisions of Article 36(6)(i) of the Patent Act.

- 3 Judgment on enablement requirement
- (1) The problem of the Invention includes providing a roll product package that is hard to tear when carrying, as described in 2 (1) A above.
- (2) Then, in the description of the patent invention, concerning the specific evaluation on the tearing of the film, it is only mentioned that "film strength: In the package after packaging the toilet roll, the presence or absence of film tearing was evaluated," and "the evaluation criteria were based on a perfect score of 5 points. 5 points: very good, 4 points: good, 3 points: no problem in practical use, 2 points: inferior, 1 point: remarkably inferior." ([0030]).

Further, as the results of the evaluation, there are the descriptions of "1," "3" and "5" in [Table 1] and [Table 2].

- (3) First, if examining whether or not "film strength" represents the difficulty of tearing when carrying, as examined in 2 (1) B (A) above, it cannot be understood that the "film strength" represents the difficulty of tearing when carrying.
- (4) Even if "film strength" of [Table 1] and [Table 2] evaluates that it is hard to tear when carrying, "the presence or absence of film tearing" is usually considered as a two-stage evaluation of whether or not there is tear, and it cannot be understood what kinds of the

states of tearing at least "5 points: very good," "3 points: no problem in practical use,"

and "1 point: remarkably inferior" respectively indicate or how those indicate the

difficulty of tearing when carrying.

(5) Therefore, the description of the patent invention is not described to the extent that a

person skilled in the art can implement the roll product package of Inventions 1 to 5 which

is hard to tear when carrying, and the patent violates the provisions of Article 36(4)(i) of

the Patent Act.

No. 5 Closing

As described above, since Inventions 1 to 5 are not within the scope described

in the detailed description of the invention, the patent violates the provisions of Article

36(6)(i) of the Patent Act. Further, since the description of the patent invention is not

clearly and sufficiently described to the extent that a person skilled in the art can

implement Inventions 1 to 5, the patent violates the provisions of Article 36(4)(i) and

36(6)(iv) of the Patent Act. For either reason, the patent falls under the Article 113(4)

of the Patent Act and should be invalidated.

Further, the patent according to Claims 6 and 7, as described above, was deleted

by the correction of the case. Accordingly, the opposition to Claims 6 and 7 by the

Opponent is illegal since the subject of the opposition does not exist, and cannot be

amended, so that it shall be dismissed under the provisions of Article 135 of the Patent

Act which is applied mutatis mutandis pursuant to Article 120-8(1) of the Patent Act.

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

September 20, 2019

Chief administrative judge: TAKAYAMA, Yoshiyuki

Administrative judge:

SASAKI, Seisho

Administrative judge:

KUBO, Katsuhiko

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