

Trial decision

Invalidation No. 2018-800007

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The trial decision on the case of the patent invalidation trial between the above parties on Japanese Patent No. 5162718, entitled "Chair-type Massage Machine", dated January 29, 2019, came with a court decision of revocation of the trial decision (2019 (Gyo-Ke) 10027, rendition of decision on December 25, 2019) at the Intellectual Property

High Court, the case was proceeded further, and another trial decision is made as follows.

Conclusion

The patent regarding the inventions according to Claims 1 to 2 of Japanese Patent No. 5162718 was invalidated.

The costs in connection with the trial shall be borne by the Demandee.

Reason

No. 1 History of the procedures

1 Application of the patent of the case

The application relating to Japanese Patent No. 516718 (Japanese Patent Application No. 2012-163159, hereinafter, referred to as "the Application") is a divisional application filed on July 23, 2012 from Japanese Patent Application No. 2011-185543 (hereinafter, referred to as "the original application") filed on August 29, 2011, which is a divisional application from Japanese Patent Application No. 2006-220454 filed on August 11, 2006 (hereinafter, referred to as "the retroactive filing date"). A written amendment (hereinafter, an amendment by the written amendment is referred to as "the Amendment") about the scope of claims and the specification was submitted on the same date, and then the establishment of patent right was registered on December 21, 2012. The number of claims at the time of registration was 2.

2 Demand for invalidation trial of the case

The demandant (Family Inada Co., Ltd., hereinafter, referred to as "the Demandant") filed the demand for invalidation trial of Japanese Patent No. 5162718 of the case on January 29, 2018.

3 Procedures until First trial decision

The history of the procedures until the trial decision dated January 29, 2019 (hereinafter, referred to as "the first trial decision") are as follows.

January 29, 2018	Submission of written demand for trial and description of evidence
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February 29, 2018	Submission of written amendment
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May 1, 2018	Submission of written reply of trial case and description of evidence
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Dated May 25, 2018	Notification of matters to be examined
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August 14, 2018	Submission of Oral proceedings statement brief
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(Demandant)

August 14, 2018 Submission of Oral proceedings statement brief and description of evidence (Demandee)

August 27, 2018 Notification of matters to be examined (2)

September 11, 2018 Submission of Oral proceedings statement brief (2) and description of evidence (Demandant)

September 11, 2018 Submission of Oral proceedings statement brief (2) (Demandee)

September 11, 2018 First Oral proceeding

October 5, 2018 Submission of written statement (Demandant)

October 26, 2018 Submission of written statement (Demandee)

November 9, 2018 Submission of written statement (2) (Demandant)

Dated January 29, 2019 First trial decision

4 Conclusion of the first trial decision and a suit for revocation of the trial decision against that

(1) Conclusion of the first trial decision

In the first trial decision, the trial decision of the conclusion that "The trial of the case was groundless. The costs in connection with the trial shall be borne by the Demandant" was made.

(2) A suit for revocation of the trial decision and the subsequent procedures

The Demandant brought an action for revocation of the trial decision at the Intellectual Property High Court on March 6, 2019, with the Demandant as the plaintiff and the Demandee as the defendant.

At the Intellectual Property High Court, the case was reviewed as 2019 (Gyo-Ke) 10027, and a judgment was made to revoke the first trial decision on December 25, 2019 (hereinafter referred to as "the cancellation judgment"), and the cancellation judgment was made final and binding.

Also, there was no petition based on Article 134-3 of the Patent Act from the Demandee.

Then, an advance notice of the trial decision dated March 23, 2020 was notified, but there was no response from the Demandant and the Demandee.

No. 2 Description of the scope of claims

The description of the scope of claims of the patent is as follows, as described in

the scope of claims attached to the application, and below, for convenience, is separately described in constituent components A to G. Further, the invention specified by the matters described in each claim is referred to as "Invention 1" and the like, Inventions 1 to 2 are collectively referred to as "the Invention," and each constituent component is referred to as "Constituent Component A" and the like. Furthermore, the specification and drawings of the patent are referred to as "the specification," and the scope of claims, the specification, and drawings that were originally attached to the application are referred to as "the originally attached specification of the case, etc."

"[Claim 1]

A A chair-type massage machine comprising a chair body that has a seat portion and a backrest portion coupled so as to be reclined on a rear side of the seat portion; left and right side wall portions of the backrest portion; and armrest portions provided on both side portions of the chair body,

B wherein the left and right side wall portions are arranged at positions that are side parts of shoulders or upper arms of a person to be treated who is seated in the seat portion, and

inside surfaces of the left and right side wall portions are provided with expansion/contraction bags respectively overlapped in a left-and-right direction, a base portion of the overlapped expansion/contraction bags being configured to be attached to the side wall portions;

C wherein the armrest portion is formed of a bottom surface portion on which a forearm portion of the person to be treated can be placed, and an outside rising wall, and

a forearm portion treatment mechanism is provided, which massages the forearm portion of the person to be treated which is placed in the bottom surface portion with the plurality of expansion/contraction bags arranged on the outside rising wall in a longitudinal direction of the forearm portion;

D wherein a coupling portion coupling a rear portion of the armrest portion and a side portion of the backrest portion, and a rotating portion provided at a lower portion of the armrest portion and rotating the entire armrest portion with respect to the seat portion through the coupling portion upon the reclining action of the backrest portion are provided;

E wherein the entire armrest portion is configured to incline in a reclining direction together with the reclining action of the backrest portion; and

F wherein regardless of a reclining angle of the backrest portion, while keeping a seating posture of an upper half body of the person to be treated, air pressure treatment is performed from a shoulder or an upper arm to a forearm from the side wall portion and

the outside rising wall side.

[Claim 2]

G The chair-type massage machine according to Claim 1, wherein the armrest portion is extended to the vicinity of the side portion of the backrest portion and the outside rising wall is configured to be positioned from the forearm portion to an elbow portion of the person to be treated".

No. 3 Allegations of the parties and gist of reasons of the first trial decision

1 The Demandant's allegation

The Demandant demanded the trial decision, "The patent regarding the inventions according to Claims 1 to 2 of Japanese Patent No. 5162718 is invalidated. The costs in connection with the trial shall be borne by the Demande" (object of the demand), submitted Evidence A No. 1 to Evidence A No. 13 as means of proof, and alleged as follows as reasons for invalidation.

(Reason for invalidation 1) Since the patent was granted for an amended patent application which does not satisfy the requirement stipulated in Article 17-2(3) of the Patent Act, the patent falls under Article 123(1)(i), and should be invalidated.

(Reason for invalidation 2) Since the patent was granted for an application which does not satisfy the requirement stipulated in Article 36(4)(i) of the Patent Act, the patent falls under Article 123(1)(iv) of the Patent Act, and should be invalidated.

(Reason for invalidation 3) Since the patent was granted for an application which does not satisfy the requirement stipulated in Article 36(6)(i) of the Patent Act, the patent falls under Article 123(1)(iv) of the Patent Act, and should be invalidated.

(Reason for invalidation 4) Since the patent was granted for an application which does not satisfy the requirement stipulated in Article 36(6)(ii) of the Patent Act, the patent falls under Article 123(1)(iv) of the Patent Act, and should be invalidated.

(Reason for invalidation 5) Since Inventions 1 and 2 could have been easily invented by a person skilled in the art on the basis of the invention described in Evidence A No. 6, the Appellant should not be granted a patent for the Invention under the provisions of Article 29(2) of the Patent Act, and the patent falls under Article 123(1)(ii) of the Patent Act and should be invalidated.

(Reason for invalidation 6) Since Invention 1 could have been easily invented by a person skilled in the art on the basis of the inventions described in Evidence A No. 1 to Evidence A No. 3, and Invention 2 could have been easily invented by a person skilled in the art on the basis of the inventions described in Evidence A No. 1 to Evidence A No. 5, the Appellant should not be granted a patent for the Invention under the provisions of Article

29(2) of the Patent Act, and the patent falls under Article 123(1)(ii) of the Patent Act and should be invalidated.

[Means of proof]

·Evidence A No. 1: Japanese Unexamined Patent Application Publication No. 2003-310683

·Evidence A No. 2: Japanese Unexamined Patent Application Publication No. 2005-192603

·Evidence A No. 3: Japanese Unexamined Patent Application Publication No. H10-179675

·Evidence A No. 4: Japanese Unexamined Patent Application Publication No. 2005-177279

·Evidence A No. 5: Japanese Unexamined Patent Application Publication No. 2005-28045

·Evidence A No. 6: Japanese Unexamined Patent Application Publication No. 2011-235180

·Evidence A No. 7: The application of the case, and the specification, scope of claims, drawings, and abstract originally attached in the application

·Evidence A No. 8: The written amendment dated July 23, 2012 of the Application

·Evidence A No. 9: The document obtained by outputting the web page of "'seating' in 'Sanseido Daijirin' of a weblio dictionary," Internet <URL: <https://www.weblio.jp/content/%E7%9D%80%E5%BA%A7>>

·Evidence A No. 10: The document obtained by outputting the web page of "'posture' in 'Digital Daijisen' of kotobank," Internet <URL: <https://kotobank.jp/word/%E5%A7%BF%E5%8B%A2-519836>>

·Evidence A No. 11: The document obtained by outputting the web page of "'posture' in 'Sekai Daihyakkajiten 2nd edition' of kotobank," Internet <URL: <https://kotobank.jp/word/%E5%A7%BF%E5%8B%A2-519836>>

·Evidence A No. 12: The document obtained by outputting the web page of "'posture' in 'Daijirin 3rd edition' of kotobank," Internet <URL: <https://kotobank.jp/word/%E5%A7%BF%E5%8B%A2-519836>>

·Evidence A No. 13: The document obtained by outputting the web page of "'keeping' in 'Sanseido Daijirin' of a weblio dictionary," Internet <URL: <https://www.weblio.jp/content/%E4%BF%9D%E3%81%A4>>

2 The Demandee's allegation

The Demandee alleges that none of the reasons for invalidation alleged by the Demandant has grounds and the demand for trial of the case was groundless, and submitted Evidence B No. 1 to Evidence B No. 2 as means of proof.

[Means of proof]

·Evidence B No. 1: The written statement dated July 23, 2012 of the Application
·Evidence B No. 2: CD-R recording a video file "Invalidation No. 2018-800007 [Evidence B No. 2] .mp4"

Hereinafter, each document such as Evidence A No. 1 will be referred to as "Document A-1" and the like according to the number thereof, and the invention described in Evidence A No. 1 will be referred to as "Invention A-1" and the like.

3 Gist of reasons of the first trial decision

The gist of the reasons of the trial decision is as follows.

(1) Regarding Reason for invalidation 1

Since the Amendment including the addition of matters relating to Constituent Components D and F is amendment within the matters described in the originally attached specification of the case, etc., the patent shall not be invalidated due to Reason for invalidation 1.

(2) Regarding Reason for invalidation 2

It cannot be said that the description of the specification does not clearly and sufficiently describe the Invention to enable a person skilled in the art to carry out the invention, and the patent shall not be invalidated due to Reason for invalidation 2.

(3) Regarding Reason for invalidation 3

The Invention is an invention described in the detailed description of the invention, and the patent shall not be invalidated due to Reason for invalidation 3.

(4) Regarding Reason for invalidation 4

It cannot be said that that the Invention including the matter "regardless of a reclining angle of the backrest portion, while keeping a seating posture of an upper half body of the person to be treated" as the matter specifying the invention is not clear, and the patent shall not be invalidated due to Reason for invalidation 4.

(5) Regarding Reason for invalidation 5

The Application is a legitimate divisional application, and the filing date thereof is retroactive to the retroactive filing date. Incidentally, since the publication date Document A-6 is November 24, 2011, Document A-6 is not a publication distributed prior

to the retroactive filing date of the patent. Hence, the Demandant's allegation is unreasonable in the assumption, and the patent shall not be invalidated due to Reason for invalidation 5.

(6) Regarding Reason for invalidation 6

It cannot be said that the Invention could have been easily invented by a person skilled in the art on the basis of Invention A-1 to Invention A-5. Therefore, the patent shall not be invalidated due to Reason for invalidation 6.

No. 4 Ground for revocation in the cancellation judgment and conclusion

Ground for revocation 1: An error of judgment for correction requirements (Constituent Component D) (Reason for invalidation 1)

Ground for revocation 2: An error of judgment for correction requirements (Constituent Component F) (Reason for invalidation 1)

Ground for revocation 3: An error of judgment for enablement requirements (Reason for invalidation 2)

Ground for revocation 4: An error of judgment for support requirements (Reason for invalidation 3)

Ground for revocation 5: An error of judgment for clarity requirements (Reason for invalidation 4)

Ground for revocation 6: An error of judgment for lack of inventive step Circled 1 (Reason for invalidation 5)

Ground for revocation 7: An error of judgment for lack of inventive step Circled 2 (Reason for invalidation 6)

(Note by the body: Those with the number 1 in a circle are written as "Circled 1" and the like. The same will be applied hereinafter.)

The conclusion of the cancellation judgment is that Ground for revocation 3 has reasons, and without examining other grounds for revocation, the first trial decision is cancelled since there is an illegality that affects the conclusion.

No. 5 Binding effects of the cancellation judgment

Binding effects of a court decision for cancelling a trial decision extends to the findings and legal judgments that have been necessary for deriving the main text of Court decision (Third petty bench of Supreme court Decision, April 28, 1992/ 46-4 Minshu 245).

Therefore, the body is bound by the following judgment matters relating to recognition and determination that have been necessary for deriving the main text of the

Court decision.

1 Regarding enablement requirements, "it is stipulated in Article 36(4)(i) of the Patent Act that the statement of the detailed description of the invention must be clearly and sufficiently described to such an extent that those who have the usual knowledge in a technical field of the invention can carry out the invention, and so as to satisfy the requirements of Article 36(4)(i) of the Patent Act, in the detailed description of the invention of the specification, it is necessary to describe the constitutions and the like of the invention to the extent that a person skilled in the art can carry out the invention without excessive errors and trials, on the basis of the detailed description of the invention of the specification and the common technical knowledge as of the filing". (The cancellation judgment, page 42, lines 3 to 10)

2 "In this case, a specific combination of [1] a coupling means for coupling a rear portion of an armrest portion and a side portion of a backrest portion, [2] a rotating means for rotating the entire armrest portion with respect to a seat portion, and [3] a coupling means for coupling the backrest portion to the seat portion, which satisfy Constituent Components D to F become a problem. Therefore, it is not enough for each of these means to couple or rotate the members without any restrictions, but it is necessary for each means to cooperate to realize the functions shown in Constituent Components D to F. Since technical ingenuity is required to select the means for realizing such a function, and it is not enough to simply select an appropriate means, in order for the description of the specification to meet the enablement requirements, although it is necessary to show a concrete configuration to realize a required function, or at least give a suggestion that a person skilled in the art can reach a concrete configuration based on common general technical knowledge, there is no description and suggestion about such a concrete configuration in the specification". (The cancellation judgment, page 43, line 22 to page 44, line 8)

No. 6 Judgment by the body

1 Regarding the Invention

(1) The scope of claims

The description of the scope of claims of the patent is as described in No. 2 above.

(2) Description of the specification

The specification describes the following matters.

A Technical field

"[0001]

The present invention relates to a chair-type massage machine provided with a forearm portion treatment mechanism for massaging a forearm portion of a person to be treated on an armrest portion."

B Background Art

"[0002]

In a conventional chair-type massage machine provided with a seat portion, a backrest portion, and armrest portions on both left and right sides of the seat portion, those in a form provided with a forearm portion treatment mechanism above the armrest portion to massage an arm portion of the seated person to be treated already exist and are commercialized on the market.

[0003]

For example, a chair-type massage machine provided with a forearm portion treatment mechanism as shown in FIG. 19 is disclosed. That is, as a treatment machine 1 with a hand massage function, armrest portions 21 having rising walls 211, 211 on respective sides in an elbow width direction are provided on respective sides of a chair body 2, and a compressed air supply/exhaust means is arranged so that human body hand portions can be freely fitted and detached between the rising walls 211, 211 of the armrest portions 21 and expansion/contraction treatment can be applied to the human body hand portions. It is configured so that the human body hand portions and arm portions can be efficiently treated by air pressure while the human body hand portions are stably held on upper surfaces of both armrest portions 21, 21 in a seated state of the person to be treated. A front side upper surface portion of the armrest portion 21 is flat without the rising wall 211 being formed.

[0004]

Further, FIG. 20 shows a form in which a pair of left and right rising walls as described above are provided in the entire length direction of the left and right armrest portions. That is, an air bag is attached to each of inner walls of recessed portions so as to provide a space for inserting the limbs of the human body to form a treatment portion, and an air massage machine 3 provided with an air supply/exhaust device for supplying/exhausting air into/from the air bag to expand/contract the air bag in communication is provided in the entire upper area of the armrest of the chair 20".

C Problem to be solved by the invention

"[0006]

Incidentally, as shown in FIG. 20, a chair-type massage machine provided with a pair of left and right rising walls as a forearm portion treatment mechanism over the entire length direction of an armrest portion may simultaneously massage a wide range of a hand and a forearm. However, since each rising wall is formed to the vicinity of an elbow joint of a person to be treated, there are drawbacks in that, as shown in FIG. 18, an inside rising wall 623 on the person to be treated side presses the vicinity of the elbow joint on the inside of an upper arm to cause discomfort to the person to be treated and hinder the loading and unloading of an arm portion in a forearm portion treatment mechanism. In particular, it is considered that the shorter the height of and the smaller the person to be treated, the greater the pressure exerted by the inside rising wall 623.

[0007]

Further, when the seated person to be treated stands up or sits down, he/she usually grasps a front end portion of the armrest portion with his/her hand and puts his/her weight on it. However, since in the chair-type massage machine in the form shown in FIG. 20, the left and right rising walls are formed up to the front end portion of the armrest portion, an upper surface portion at the front end portion of the armrest portion is opened, and it is difficult to put a weight on such a portion.

[0008]

On the other hand, concerning the chair-type massage machine provided with the pair of left and right rising walls, in which the rising wall is not formed on the front upper surface portion of the armrest portion as shown in FIG. 19, and a flat portion is provided, he/her uses the flattened portion as a handle portion and can put his/her weight thereon, but a bottom surface of a recess portion formed between the pair of left and right rising walls and the flattened portion of the handle portion are at the same height, so that when trying to stand up by grasping the handle portion, the vicinity of the elbow joint inside the upper arm portion is pressed by the inside rising wall 623 similarly to that shown in FIG. 18. While the inside of the forearm portion is rubbed with the vicinity thereof, the arm portion is separated from the recessed portion, which is also considered to cause discomfort to the person to be treated and is a problem to be solved.

[0009]

Therefore, the present invention has been made to solve the above-mentioned problems, and the purpose of the invention is to provide a chair-type massage machine that is configured to eliminate the factor that the rising wall of the forearm portion treatment mechanism unnecessarily presses the arm of the person to be treated to cause discomfort, smoothly mount and remove the arm portion in the forearm portion treatment

mechanism, and enable the person to be treated to comfortably stand up and sit down even if the forearm portion treatment mechanism is provided".

D Means for solving the problem

"[0010]

That is, the chair-type massage machine of the present invention is a chair-type massage machine comprising a chair body having a seat portion and a backrest portion coupled so as to be reclined on a rear side of the seat portion, left and right side wall portions of the backrest portion, and armrest portions provided on both side portions of the chair body. In the chair-type massage machine, the left and right side wall portions are arranged at positions that are side parts of shoulders or upper arms of a person to be treated who is seated in the seat portion, inside surfaces of the left and right side wall portions are provided with expansion/contraction bags respectively overlapped in a left-and-right direction, a base portion of the overlapped expansion/contraction bags is configured to be attached to the side wall portions, the armrest portion is formed of a bottom surface portion on which a forearm portion of the person to be treated can be placed, and an outside rising wall, a forearm portion treatment mechanism is provided, which massages the forearm portion of the person to be treated which is placed in the bottom surface portion with the plurality of expansion/contraction bags arranged on the outside rising wall in a longitudinal direction of the forearm portion, a coupling portion coupling a rear portion of the armrest portion and a side portion of the backrest portion, and a rotating portion provided at a lower portion of the armrest portion and rotating the entire armrest portion with respect to the seat portion through the coupling portion upon the reclining action of the backrest portion are provided, the entire armrest portion is configured to incline in a reclining direction together with the reclining action of the backrest portion, and regardless of a reclining angle of the backrest portion, while keeping a seating posture of an upper half body of the person to be treated, air pressure treatment is performed from a shoulder or an upper arm to a forearm from the side wall portion and the outside rising wall side.

Further, in the chair-type massage machine of the present invention, the armrest portion is extended to the vicinity of the side portion of the backrest portion and the outside rising wall is configured to be positioned from the forearm portion to an elbow portion of the person to be treated.

[0013]

Further, in the chair-type massage machine of the present invention, the armrest portion is provided so as to be movable in the front and back direction with respect to the

chair body, and while maintaining a predetermined amount of movement according to the reclining angle of the backrest portion, the armrest portion is configured to move in the front and back direction with respect to the chair body in conjunction with the reclining action of the backrest portion".

E Effect of the invention

"[0015]

Thus, the chair-type massage machine of the present invention has a forearm insertion opening portion for inserting the forearm portion of the person to be treated from the inner rear side of the armrest portion into the armrest portion. Since a cavity portion extending from the arm insertion opening portion to insert and hold the forearm portion of the person to be treated into the interior of the armrest portion is provided and a forearm portion treatment mechanism for massaging the forearm portion of the person to be treated is provided at each of the inner wall surface of the cavity portion, there is no factor for giving unnecessary compression and rubbing to the forearm portion. Thus, smooth loading/unloading of the forearm portion is enabled in the forearm portion treatment mechanism, and the person to be treated can comfortably stand up and sit down.

[0018]

Further, the armrest portion is provided so as to be movable in the front and back direction with respect to the chair body, and moves in the front and back direction with respect to the chair body in conjunction with the reclining action of the backrest portion while maintaining a predetermined amount of movement according to the reclining angle of the backrest portion, which can prevent, to the extent possible, a change in the position of the forearm portion of the forearm portion treatment mechanism provided at the armrest portion, and can stably massage the forearm portion".

F Description of Embodiments

"[0021]

Hereinafter, the chair-type massage machine of the present invention will be described in detail based on one embodiment shown in the drawings. FIG. 1 is a perspective view showing an embodiment of the chair-type massage machine according to the present invention, FIG. 2 is a perspective view showing an embodiment of the chair-type massage machine according to the present invention during use, FIGS. 3 and 4 are right side views showing the chair-type massage machine according to an embodiment of the present invention during use, FIG. 5 is a cross-sectional explanatory view showing an embodiment of the backrest portion in the chair-type massage machine

according to the present invention, FIG. 6 is a plane explanatory view showing an embodiment of the armrest portion in the chair-type massage machine according to an embodiment of the present invention during use, FIGS. 7 to 12 are longitudinal sectional explanatory views showing an embodiment of the armrest portion of the chair-type massage machine according to the present invention, FIGS. 13 to 16 are perspective explanatory views showing the embodiment of the armrest portion of the chair-type massage machine of the present invention, FIG. 17 is a partial front explanatory view of one embodiment of the chair-type massage machine of the present invention during use, and FIGS. 18 to 20 are reference views showing the prior art.

[0022]

In other words, as shown in the embodiment of FIGS. 1 to 3, the chair-type massage machine according to the present invention is a chair-type massage machine 1a which includes a chair body 10a having a seat portion 11a against which a hip or thigh of a person to be treated abuts and a backrest portion 12a against which a back portion of the person to be treated abuts, and armrest portions 14a on both side portions of the chair body 10a. The backrest portion 12a is coupled to the rear side of the seat portion 11a so as to be reclined, and is provided with a foot placing portion 13a coupled to a front side of the seat portion 11a so as to rock in a vertical direction. Further, side wall portions 2a projecting forward are respectively arranged on both left and right sides of the backrest portion 12a.

[0023]

As shown in FIG. 1, the backrest portion 12a is provided with an elevating and lowering treatment element mechanism 3a equipped with a pair of left and right treatment elements 31a in the central portion thereof. The treatment element mechanism 3a moves up and down from an upper end to a lower end of the backrest portion 12a along a pair of left and right guide rails 32a provided on the left and right of the inside of the backrest portion 12a.

[0024]

The treatment element mechanism 3a is a mechanical massage mechanism for operating the pair of left and right treatment elements 31a using a motor and the like as a drive source, and is configured to treat the entire back surface of a neck, a back, a waist, a hip, and the like of a person to be treated leaning against the backrest portion 12a in various forms such as beating, kneading, rolling, vibration, and finger pressure massage.

[0025]

In addition, in each of the predetermined positions of the chair-type massage machine 1a, an expansion/contraction bag 4a capable of repeating expansion/contraction

by air supply/exhaust is embedded. The expansion/contraction bag 4a is configured to perform an expansion/contraction operation by air supply/exhaust by an air supply/exhaust device 42a composed of an air compressor, a distributor for distributing air to each of the expansion/contraction bags 4a, and the like, and the air supply/exhaust device 42a is disposed in a lower space of the seat portion 11a".

"[0054]

As shown in FIG. 4, the armrest portion 14a is provided so as to move in the front and back direction with respect to the chair body 10a. While maintaining a predetermined amount of movement according to the reclining angle of the backrest portion 12a, the armrest portion 14a is configured to move in the front and back direction with respect to the chair body 10a in conjunction with the reclining action of the backrest portion 12a.

[0055]

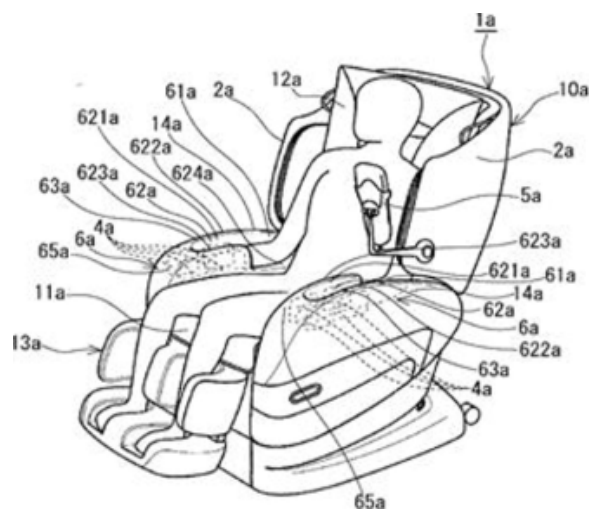
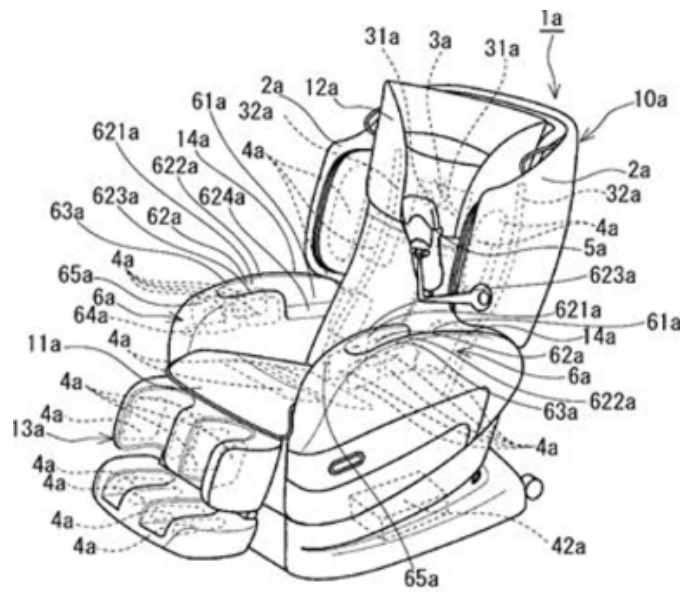
In other words, a rotating portion 141a for rotating in the front and back direction is provided at a lower portion of the armrest portion 14a, and a coupling portion 142a for rotatably coupled to a side portion of the backrest portion 12a is provided at a rear portion of the armrest portion 14a.

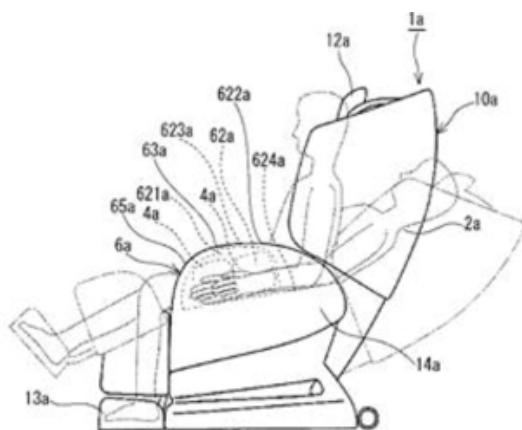
[0056]

Alternatively, although not shown, a horizontal slide mechanism employing a guide rail and the like may be provided in place of the rotating portion 141a, so that the entire armrest portion 14a may be slid horizontally in conjunction with the reclining action of the backrest portion 12a".

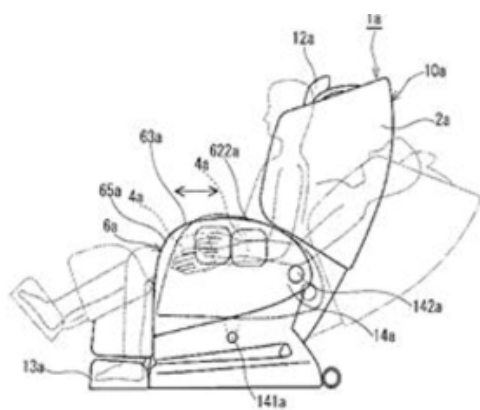
G Drawings

"[FIG. 1]





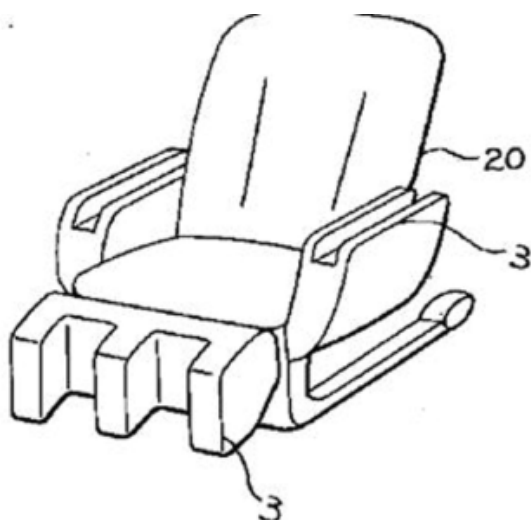
[FIG. 4]



[FIG. 19]



[FIG. 20]



"

(3) Features of the Invention

According to (2) above, it is recognized that the Invention is summarized as follows.

A The Invention relates to a chair-type massage machine provided with a forearm portion treatment mechanism for massaging a forearm portion of a person to be treated on an armrest portion ([0001]).

B The purpose of the invention is to provide a chair-type massage machine that is configured to eliminate the factor that the rising wall of the forearm portion treatment mechanism unnecessarily presses the arm of the person to be treated to cause discomfort, to smoothly mount and remove the arm portion in the forearm portion treatment mechanism, and to enable the person to be treated to comfortably stand up and sit down even if the forearm portion treatment mechanism is provided ([0009]).

C The Invention adopts the configuration described within the scope of claims for the purpose of B above ([0010]).

D Thus, the chair-type massage machine of the present invention has a forearm insertion opening portion for inserting the forearm portion of the person to be treated from the inner rear side of the armrest portion into the armrest portion. Since a cavity portion extending from the arm insertion opening portion to insert and hold the forearm portion of the person to be treated into the interior of the armrest portion is provided and a forearm portion treatment mechanism for massaging the forearm portion of the person to be treated is provided at each of the inner wall surface of the cavity portion, there is no factor for

giving unnecessary compression and rubbing to the forearm portion. Thus, smooth loading/unloading of the forearm portion is enabled in the forearm portion treatment mechanism, and the person to be treated can comfortably stand up and sit down. Further, the armrest portion is provided so as to be movable in the front and back direction with respect to the chair body, and moves in the front and back direction with respect to the chair body in conjunction with the reclining action of the backrest portion while maintaining a predetermined amount of movement according to the reclining angle of the backrest portion, which can prevent, to the extent possible, a change in the position of the forearm portion of the forearm portion treatment mechanism provided at the armrest portion, and can stably massage the forearm portion ([0015] and [0018]).

2 Regarding Reason for invalidation 2 (violation of enablement requirement)

In view of the matters, Reason for invalidation 2 will be judged.

(1) Regarding enablement requirements

It is stipulated in Article 36(4)(i) of the Patent Act that the statement of the detailed description of the invention must be clearly and sufficiently described to such an extent that those who have the usual knowledge in a technical field of the invention can carry out the invention, and so as to satisfy the requirements of Article 36(4)(i) of the Patent Act, in the detailed description of the invention of the specification, it is necessary to describe the constitutions and the like of the invention to the extent that a person skilled in the art can carry out the invention without excessive errors and trials, on the basis of the detailed description of the invention of the specification and the common technical knowledge as of the filing.

(2) Description of the specification

A The specification describes (A) the massage machine according to the present invention is a chair-type massage machine 1a which includes a chair body 10a having a seat portion 11a against which a hip or thigh of a person to be treated abuts and a backrest portion 12a against which a back portion of the person to be treated abuts, and armrest portions 14a on respective side portions of the chair body 10a, and the backrest portion 12a is coupled to the rear side of the seat portion 11a so as to be reclined (Paragraph [0022]), (B) the armrest portion 14a is provided so as to move in the front and back direction with respect to the chair body 10a. While maintaining a predetermined amount of movement according to the reclining angle of the backrest portion 12a, the armrest portion 14a is configured to move in the front and back direction with respect to the chair body 10a in conjunction with the reclining action of the backrest portion 12a (Paragraph

[0054]), (C) a rotating portion 141a for rotating in the front and back direction is provided at a lower portion of the armrest portion 14a (Paragraph [0055]), and (D) a coupling portion 142a for rotatably coupled to a side portion of the backrest portion 12a is provided at a rear portion of the armrest portion 14a (Paragraph [0055]).

Further, [FIG. 4] schematically illustrates that when the backrest portion 12a is reclined with respect to the seat portion, the armrest portion 14a coupled to the backrest portion 12a rotates in the front and back direction (Paragraphs [0054] and [0055]).

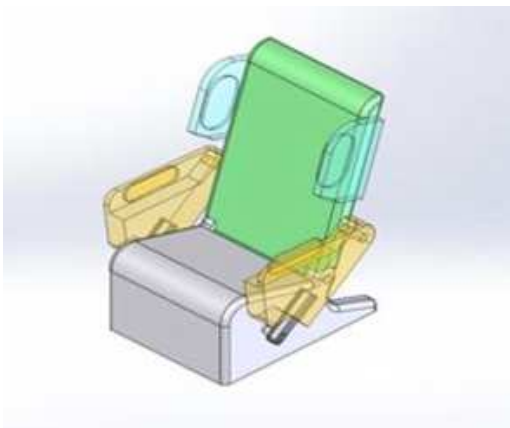
B According to A above, in the specification, concerning [1] a coupling means for coupling the rear portion of the armrest portion and the side portion of the backrest portion "so that the entire armrest portion is inclined in a reclining direction together with the reclining action of the backrest portion" (Constituent Component E), a rotation relationship by the coupling portion 142a is disclosed, and concerning [2] a rotating means for rotating the entire armrest portion with respect to the seat portion, a rotation relationship by the rotating portion 141a is disclosed. However, the concrete configuration of [3] a coupling means for coupling the backrest portion to the seat portion so as to be reclined is not described. Further, in the specification, there is no description about the concrete combination of [1] a coupling means for coupling the rear portion of the armrest portion and the side portion of the backrest portion "so that regardless of a reclining angle of the backrest portion, while keeping a seating posture of an upper half body of the person to be treated" (Constitution Component F), and "so that the entire armrest portion is inclined in a reclining direction together with the reclining action of the backrest portion" (Constituent Components D, E), [2] a rotating means for rotating the entire armrest portion with respect to the seat portion through the coupling means upon the reclining action of the backrest portion (Constituent Component D), and [3] a coupling means for coupling the backrest portion to the seat portion so as to be reclined (Constituent Component D).

C Then, as described B above, in this case, a specific combination of [1] a coupling means for coupling a rear portion of an armrest portion and a side portion of a backrest portion, [2] a rotating means for rotating the entire armrest portion with respect to a seat portion, and [3] the coupling means for coupling the backrest portion to the seat portion, which satisfy Constituent Components D to F becomes a problem. Therefore, it is not enough for each of these means to couple or rotate the members without any restrictions, but it is necessary for each means to cooperate to realize the functions shown in Constituent Components D to F. Since technical ingenuity is required to select the

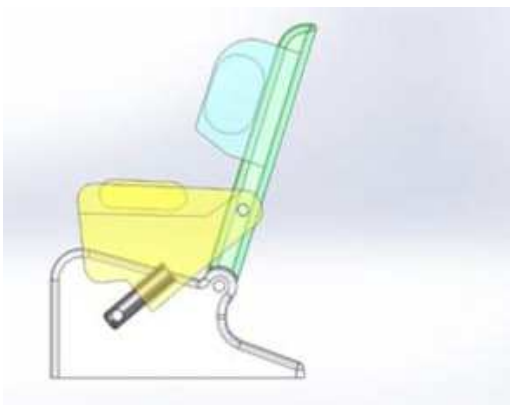
means for realizing such a function, and it is not enough to simply select an appropriate means, in order for the description of the specification to meet the enablement requirements, although it is necessary to show a concrete configuration to realize a required function, or at least give a suggestion so that a person skilled in the art can reach a concrete configuration based on common general technical knowledge, there is no description and suggestion about such a concrete configuration in the specification.

D The Demandee, in the oral proceedings statement brief on August 14, 2018, alleges the concrete configuration of a massage machine (hereinafter, referred to as "the configuration alleged by the Demandee") operated as shown in the following [Reference view Circled 1-1] to [Reference view Circled 3], as a concrete configuration of Invention 1 that a person skilled in the art can carry out on the basis of the description of the specification.

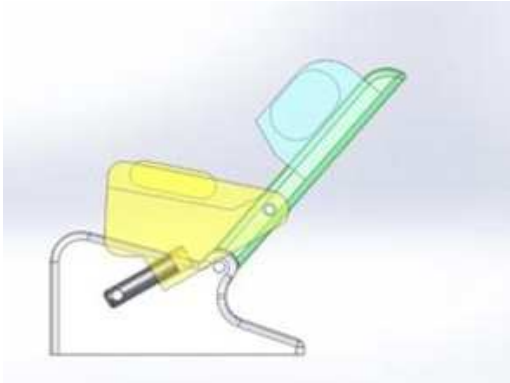
[Reference view Circled 1-1]



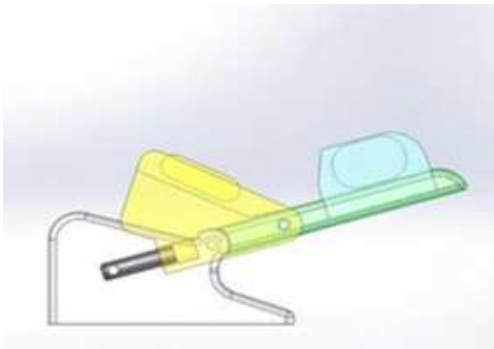
[Reference view Circled 1-2]



[Reference view Circled 2]



[Reference view Circled 3]



The configuration alleged by the Demandee is that [1] the rear portion of the armrest portion and the side portion of the backrest portion are coupled by the rotating means similar to [FIG. 4] of the specification, [2] a columnar member extending from the rotating portion provided on the chair body at the lower portion of the armrest portion is inserted in the cavity portion existing in the armrest portion, [3] the rotating means for rotating the backrest portion is provided by providing an axis at a rear end of the seat portion, in which the columnar member extending from the rotating portion provided at the lower portion of the armrest portion reaches the deep side of the cavity portion existing in the armrest portion ([Reference view Circled 1-2]), and if reclining that, as the entire armrest portion inclines in a reclining direction in conjunction with the reclining action of the backrest portion, the entire armrest portion moves apart from the columnar member along the cavity portion ([Reference view Circled 2] to [Reference view Circled 3]).

However, in the specification, there is no description or suggestion about the configuration alleged by the Demandee, so that the configuration alleged by the Demandee does not immediately support enablement compliance in conformance to the enablement requirement and there is no accurate evidence of common general technical knowledge or well-known art that a person skilled in the art could have adopted the

configuration alleged by the Demandee without excessive errors and trials, on the basis of the description of the specification as described in A and B above and the common technical knowledge as of the filing.

E According to the above, it cannot be said that the constitutions and the like of the invention are described to the extent that a person skilled in the art can carry out Invention 1 without excessive errors and trials, on the basis of the detailed description of the invention of the specification and the common technical knowledge as of the filing, and this point is the same for Invention 2 citing Invention 1.

Therefore, it cannot be said that the description of the specification clearly and sufficiently describes the Invention to enable a person ordinarily skilled in the art of the inventions to carry out the invention.

(3) As described above, it cannot be said that the description of the specification clearly and sufficiently describes the Invention to enable a person skilled in the art to carry out the invention, and it does not meet the requirements stipulated in Article 36(4)(i) of the Patent Act.

Accordingly, the patent should be invalidated by Reason for invalidation 2.

3 Conclusion

As described above, since Reason for invalidation 2 has grounds, the patent should be invalidated without considering the remaining reasons for invalidation.

The costs in connection with the trial shall be borne by the Demandee 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.

July 21, 2020

Chief administrative judge:	SENJU, Akio
Administrative judge:	ASHIHARA, Yasuhiro
Administrative judge:	INOUE, Tetsuo