Appeal Decision

Appeal No. 2018-14937

Appellant NAKAMATSU, Yoshiro

The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2016-89537, entitled "Method of installing a geothermal power generation facility", [the application published on March 22, 2018, Japanese Unexamined Patent Application Publication No. 2018-44439], has resulted in the following appeal decision:

Conclusion

The appeal of the case was groundless.

Reason

No. 1 History of the procedures

The present application is an application filed on April 27, 2016, reasons for refusal were notified as of May 29, 2017 (date of dispatch: June 20, 2017), a written opinion and a written amendment were submitted on August 21, 2017 that was within the designation period thereof, the final notice of reasons for refusal was notified as of December 4, 2017 (date of dispatch: January 9, 2018), and a written opinion and a written amendment were submitted on March 8, 2018 that was within the designation period thereof; however, the amendment dated March 8, 2018 was dismissed as of July 13, 2018 (date of dispatch: July 24, 2018), and, in conjunction with this, a decision of refusal was made on the same day, and, against this, an appeal against the examiner's decision of refusal was requested on October 24, 2018, and, at the same time, a written amendment was submitted.

No. 2 Decision to dismiss amendment on the written amendment submitted on October 24, 2018

[Conclusion of Decision to Dismiss Amendment]

The amendment submitted on October 24, 2018 (Hereinafter, referred to as "the Amendment") shall be dismissed.

[Reason]

1. Regarding the Amendment

(1) The matters of Claim 1 of the scope of claims amended by the amendment of August 21, 2017 before the Amendment is as follows.

"[Claim 1]

A method for facilitating geothermal power generation in our country, in order to facilitate geothermal power generation utilizing geothermal energy in our country and for the purpose of suppressing opposition to electric power generation by geothermal power generation, capable of suppressing opposition to geothermal power generation by the hot spring industry by combination of five methods of: first, not digging a well for use in geothermal power generation, second, generating electric power by hot water from a spring source of an existing hot spring, third, reducing temperature of the spring source by electric power generation, fourth, providing a hot spring whose temperature has been lowered to a temperature suited for bathing for a hot spring business operator, and, fifth, giving an advantage of making cost of temperature reduction of spring source needed for the hot spring business operators unnecessary, thereby promoting geothermal power generation, and enabling increase in utilization of geothermal energy of our country."

(2) By the Amendment, the matters of the aforementioned Claim 1 of the scope of claims before the Amendment has been amended as indicated below (the underlines were added by the Appellant to indicate amended portions).

"[Claim 1]

A method of installing a geothermal power generation facility, the method capable of facilitating installation of geothermal power generation facilities by obtaining a consensus of opposition to geothermal power generation by replacing a part of a temperature reduction facility for cooling a high-temperature spring source in an existing hot spring with a geothermal power generator, wherein

the geothermal power generator includes a thermoelectric device arranged horizontally on earth,

the thermoelectric device generates electric power by being heated by the high-temperature spring source, and the spring source is provided as a hot spring by being cooled by heat absorption by the thermoelectric device, and wherein,

without digging a well for use in geothermal power generation, it is possible to supply a high-temperature spring source as a hot spring of a suitable temperature, and perform electric power generation, thereby

benefiting hot spring business operators and increasing national interests."

2. Propriety of amendment

(1) About purpose of amendment

A By the Amendment, the invention written in Claim 1 before amendment, which is an invention of "a method for facilitating geothermal power generation in our country", has become the invention written in Claim 1 after amendment, which is an invention of "a method of installing a geothermal power generation facility". In other words, purpose of the Amendment does not fall under any of the matters stipulated in Article 17-2(5) of the Patent Act.

B By the Amendment, the matter "in order to facilitate geothermal power generation utilizing geothermal energy in our country" of the invention written in Claim 1 before amendment was deleted, and the matter "capable of facilitating installation of geothermal power generation facilities" of the invention written in Claim 1 after amendment was added. When the two are compared, since the matter "utilizing geothermal energy in our country" written in Claim 1 before amendment was deleted, this amendment does not fall under restriction of the scope of claims stipulated in Article 17-2(5)(ii) of the Patent Act, and, in addition, does not fall under any of the matters of Article 17-2(5) of the Patent Act.

As shown in the above-mentioned A and B, since the Amendment about Claim 1 does not fall under any of the matters of Article 17-2(5) of the Patent Act, it should be dismissed in accordance with the provisions of Article 53(1) of the same act as applied mutatis mutandis by replacing certain terms pursuant to Article 159(1) of the same act.

(2) About addition of new matters

By the Amendment, the matter "the geothermal power generator includes a thermoelectric device arranged horizontally on earth, the thermoelectric device generates electric power by being heated by the high-temperature spring source, and the spring source is provided as a hot spring by being cooled by heat absorption by the thermoelectric device," was added.

About the ground for this amendment, it is described, in "[Reason that the invention should be patented] 2. Specification of the ground for amendment" of the

written request for appeal, that "The contents of the written amendment submitted on the same day with this document are based on the descriptions of paragraphs 0003-0014, FIG. 4, and the like of the description at the initial application.".

Therefore, with reference to paragraph [0012] of the description at the initial application, it is described that "FIG. 4 is a third example of the present invention. Hot water from the spring source 4 is led to the heater tube 32 (its shape may be a bent tube so as to maximize the heating efficiency) to heat the thermoelectric device 33. It is publicly known that, when heat is added to the thermoelectric device 33, electric power is generated. Such thermoelectric devices are connected in series or in parallel by the connection 34 so as to obtain a predetermined voltage or current, and the electric power 28 is obtained. The first and second examples are dynamic and large or medium scale electric power generation using a turbine, and the third example is static and silent compact size solid-state electric power generation using a thermoelectric device, and these are examples for use in a suitable hot spring, respectively."

However, in paragraph [0012] of the initial application, there is no description about the matter of the invention after the Amendment "the geothermal power generator includes a thermoelectric device arranged horizontally on earth" (the underlined portions were added by the body). (Note that FIG. 4 is nothing but a schematic diagram, and thus it cannot be said that "a thermoelectric device arranged horizontally on earth" is disclosed by FIG. 4)

Thus, the Amendment to add the matter that "the geothermal power generator includes a thermoelectric device arranged horizontally on earth, the thermoelectric device generates electric power by being heated by the high-temperature spring source, and the spring source is provided as a hot spring by being cooled by heat absorption by the thermoelectric device," mentioned above does not comply with the provision of Article 17-2(3) of the Patent Act, and, therefore, it should be dismissed in accordance with the provisions of Article 53(1) of the same act as applied mutatis mutandis by replacing certain terms pursuant to the provisions of Article 159(1) of the same act.

(3) Judgment on independent requirements for patentability

Although, as described in (1) and (2), the Amendment does not fall under the purposes of Article 17-2(5) of the Patent Act, and includes a new matter, provisionally considering the case of the invention according to Claim 1 after the Amendment aiming at restriction of the scope of claims of Article 17-2(5)(ii) of the Patent Act, preliminary examination will be performed whether it complies with the provisions of Article 126(7) of the same act as applied mutatis mutandis pursuant to the provisions of 17-2(6) of the

same act (whether or not the invention after the Appellant can be granted a patent independently at the time of filing of the patent application).

A The Amended Invention

The Amended Invention is one as has been described in the above-mentioned 1.(2).

B Described matters in cited documents

In Japanese Unexamined Patent Application Publication No. 2013-133705 (hereinafter, referred to as "Cited Document") that is a cited document cited in the reasons for refusal stated in the examiner's decision and was distributed or made available to the public through electric telecommunication lines before the application of the present application, there are described, relating to "hot water/steam power generating device", the following matters together with drawings (in particular, refer to [FIG. 1] and [FIG. 4]) (underlines were given by the body for the purpose of helping understanding, and the same applies hereinafter).

a "[0001]

The present invention relates to a hot water/steam power generating device that can be installed in a hot spring resort or an area rich in hot water by low cost and simple installation, and that uses hot water and steam efficiently to generate electric power."

b "[0009]

Japan is a volcanic archipelago, and there are many hot spring resorts and hot water areas in Japan. In addition, unlike hot spring resorts in foreign countries, Japan's hot spring resorts are subjected to regional development such as sightseeing and therapeutic bath areas, and often have transport infrastructures and housing infrastructures. Naturally, there are many warm water and hot water sites in a hot spring resort, and it is possible to witness the situation where a lot of steam is rising from here and there. In Japan, there is a problem of wasting these heat sources. Warm water, hot water, or hot water/steam is a sufficient heat source for power generation, and it can be said that not using such source for power generation is a waste of resources."

c "[0015]

On the other hand, in hot spring resorts, there are problems associated with

rights handling about acquisition of hot water used for a hot spring, and development permission, and thus it is difficult to install a large-sized geothermal power generator due to the necessity of complicated right handling. This is because it is difficult to acquire a land and coordinate interests with users who use the hot spring. Or, a hot spring resort with few hot spring acquisition right holders such as a hot spring inn may be at the back in the mountains and have difficulty installing a geothermal power generator. Or, such a hot spring resort having few hot spring acquisition right holders may be located in a national park, and installation of a geothermal power generator may be often difficult due to various regulations.

[0016]

Of course, even in a hot spring resort where infrastructures such as hot spring inns and tourist facilities have been developed, it is naturally possible to use the hot water to be pumped out without causing unforeseen disadvantages of the hot spring acquisition right holders.

[0017]

Under such circumstances, in a hot spring resort where tourism and infrastructures for living have been developed, a geothermal power generator that meets the following conditions has been required.

[0018]

(1) The convenience of the hot spring acquisition right holders is not impaired.

(2) A flexible scale installation can be made according to the installation location without requiring large-scale construction and large-scale investment.

(3) The hot water to be obtained can be diverted not only to power generation but also to hot spring bathing and other applications.

(4) Cost-effective power generation can be realized.

[0019]

In view of the above subject, an object of this invention is to provide the hot water/steam power generating device which can achieve sufficient electric power generation, while satisfying these conditions (1)-(4)."

d "[0023]

In addition, since the device is not large and the hot water used for power generation can be reused as a hot spring, it is possible to realize a hot water/steam power generating device flexibly corresponding to the scale of the spring source and the scale of the hot spring owners. As a result, the spread of geothermal power generation is realized regardless of various regulations and rights handling."

e "[0143]

In Embodiment 2, the case where the hot water/steam power generating device 1 described in Embodiment 1 is variously installed in a hot spring resort will be described.

[0144]

The hot water/steam power generating device 1 generates electric power using hot water. Further, as described in Embodiment 1, since the device is very small and simple, it is easily installed even in a hot spring resort where many rights holders using hot spring sources, such as accommodation facilities and tourist facilities, already exist.

[0145]

FIG. 4 is a schematic view showing the installation of a hot water/steam power generating device according to Embodiment 2 of the present invention. FIG. 4 shows a state in which the hot water/steam power generating device 1 is installed in a hot spring resort where a plurality of spring sources exist.

[0146]

In FIG. 4, two sources consisting of the spring source 40A and the source 40B are shown. In either of the spring sources 40A and 40B, the water-intake right is already set by a hot spring utilization facility or the like, and the sources are in a state of being used for hot spring utilization facilities. In FIG. 4, the spring source 40A is used for the hot spring utilization facility 30A, and the source 40B is used for the hot spring utilization facility 30B. For example, these spring sources are used as a hot spring for bathing.

[0147]

The hot water/steam power generating device 1 described in Embodiment 1 is provided at these sources. The hot water/steam power generating device 1A is installed at the spring source 40A. The hot water/steam power generating device 1B is installed at the spring source 40B.

[0148]

The mixed hot water pipe 2A of the hot water/steam power generating device 1A is connected to the spring source 40A. As a result, the mixed hot water pipe 2A sucks up the mixed hot water (hot spring water of the spring source) from the spring source 40A. The mixed hot water pipe 2A supplies the mixed hot water from the spring source 40A to the hot water/steam power generating device 1A. The hot water/steam power generating device 1A performs power generation using the mixed hot water of the spring source 40A by the function described in Embodiment 1. The

power generated by the hot water/steam power generating device 1A may be used, for example, in the hot spring utilization facility 30A having the right of the spring source 40A.

[0149]

Next, the hot water/steam power generating device 1A circulates the hot water, which has been used for power generation, to the hot spring utilization facility 30A through the hot water circulation path 6A. That is, the hot water circulation path 6A does not return the hot water (including condensed steam) used for power generation to the ground, but circulates it to the hot spring utilization facility 30A that uses hot spring water. That is, the hot water circulation path 6A circulates hot water to the hot spring utilization facility 30A as hot spring water.

[0150]

The hot water/steam power generating device 1A only uses the mixed hot water sucked from the spring source 40A as a source of pressure for rotating the turbine, and therefore does not consume the hot water itself. The hot water circulation path 6A can circulate (deliver) hot water containing condensed steam to the hot spring utilization facility 30A as hot spring water. The hot water circulated from the hot water circulation path 6A is not altered as hot spring water. For this reason, in the hot spring utilization facility 30A, it is possible to use the hot water just like normal hot spring water. Of course, additional processing such as sanitation management and sanitation processing may be performed in the hot spring utilization facility 30A.

[0151]

Similarly, the hot water/steam power generating device 1B is installed at the spring source 40B. The mixed hot water pipe 2B sucks up mixed hot water from the source 40B and supplies the mixed hot water to the hot water/steam power generating device 1B. The hot water used by the hot water/steam power generating device 1B is circulated to the hot spring utilization facility 30B by the hot water circulation path 6B. Also in this case, the hot water used for power generation can be reused as hot spring water in the hot spring utilization facility 30B. Of course, the power generated by the hot water/steam power generating device 1B may be used by the hot spring utilization facility 30B.

[0152]

As described above, since the hot water/steam power generating device 1 is small in size and easy to install for each spring source, the used hot water can be reused as hot spring water in the original hot spring utilization facility. As a result, even in the hot spring resort, the hot water/steam power generating device 1 is installed without

causing a problem to the right holders of the spring source.

[0153]

The hot spring utilization facility 30, which is the right holder of the spring source 40, is in a state of using the spring source 40 for use in hot spring bathing, and a mechanism for sucking up the spring source has already been installed. By connecting the hot water/steam power generating device 1 to this mechanism, the power used by itself can be furnished. In some cases, selling power is also possible. Moreover, since the hot water used for power generation can also be used as the original hot spring water, the owner of the hot spring utilization facility 30 also comes to have a high motivation to install the hot water/steam power generating device 1.

[0154]

Of course, if there is concern in using the hot water after power generation as hot spring water, the hot water sucked from the spring source 40 may be first used as hot spring water, and then the hot spring water to which pressure is applied may be supplied to the power generating device 1.

[0155]

In any case, there will be a high motivation to install the hot water/steam power generating device 1 for the hot spring utilization facility 30. As a result, the spread of the hot water/steam power generating device 1 can be facilitated.

[0156]

Although the aspect in which the hot water/steam power generating device 1 is installed at each of the spring sources 40 has been demonstrated in FIG. 4, one hot water/steam power generating device 1 may be installed at a plurality of spring sources 40. Conversely, a plurality of hot water/steam power generating devices 1 may be installed at a single spring source 40."

f From the descriptions of the above-mentioned a to d, it can be said that there is described in Cited Document an installation method of the hot water/steam power generating device 1.

g From the description of "Naturally, there are many warm water and hot water sites in a hot spring resort, and it is possible to witness the situation where a lot of steam is rising from here and there. In Japan, there is a problem of wasting these heat sources. Warm water, hot water, or hot water/steam is a sufficient heat source for power generation, and it can be said that not using such source for power generation is a waste of resources." of the above-mentioned paragraph [0009], and the description of

"The hot water to be obtained can be diverted not only to power generation but also to hot spring bathing and other applications." of paragraph [0018], it can be understand that, in the installation method of the hot water/steam power generating device 1 described in Cited Document 1, a heat source of hot water conventionally wasted in a hot spring is used for electric power generation.

h From description such as "even in the hot spring resort, the hot water/steam power generating device 1 is installed without causing a problem to the right holders of the spring source." of the above paragraph [0152], "The hot spring utilization facility 30, which is the right holder of the spring source 40, is in a state of using the spring source 40 for use in hot spring bathing, and a mechanism for sucking up the spring source has already been installed. By connecting the hot water/steam power generating device 1 to this mechanism, the power used by itself can be furnished. In some cases, selling power is also possible. Moreover, since the hot water used for power generation can also be used as the original hot spring water, the owner of the hot spring utilization facility 30 also comes to have a high motivation to install the hot water/steam power generating device 1." of [0153], and "In any case, there will be a high motivation to install the hot water/steam power generating device 1 for the hot spring utilization facility 30. As a result, the spread of the hot water/steam power generating device 1 can be facilitated." of [0155], it can be seen that the installation method of the hot water/steam power generating device 1 described in Cited Document is profitable also for the owner of the hot spring utilization facility 30, does not cause a problem to right holders of a spring source, and the spread of the hot water/steam power generating device 1 can be facilitated.

C Cited Invention

When these described matters and the illustrated contents of the drawings are put together and sorted out in accordance with the description of the Amended Invention, the following invention is described in Cited Document (Hereinafter, referred to as "Cited Invention").

"An installation method of the hot water/steam power generating device 1 by which, by providing the hot water/steam power generating device 1 that uses a heat source conventionally wasted in a hot spring, a spread of the hot water/steam power generating device 1 can be facilitated without causing a problem to a right holder of a spring source, wherein

only by connecting the hot water/steam power generating device 1 to a mechanism for sucking up a spring source for use in the hot spring utilization facility 30, electric power to be used by itself can be furnished, and hot water used for electric power generation can be used also as original hot spring water, and wherein

the installation method is also profitable for the owner of the hot spring utilization facility 30, electric power generation can be performed by the hot water/steam power generating device 1, and spread of geothermal power generation is realized."

D Comparison

When the Amended Invention and the Cited Invention are compared, "providing the hot water/steam power generating device 1 that uses a heat source conventionally wasted in a hot spring" of the latter is to provide the hot water/steam power generating device 1 that utilizes a heat source for which the temperature of a high-temperature spring source is wastefully cooled in a hot spring conventionally, and therefore it corresponds to "replacing a part of a temperature reduction facility for cooling a high-temperature spring source in an existing hot spring with a geothermal power generator" of the former.

In addition, since "a spread of the hot water/steam power generating device 1 can be facilitated without causing a problem to a right holder of a spring source" of the latter is to facilitate spread of the hot water/steam power generating device 1 by making it easy to obtain a consensus of the right holders of the spring source, it corresponds to "capable of facilitating installation of geothermal power generation facilities by obtaining a consensus of opposition to geothermal power generation (note by the appeal decision: it is recognized as an error of "obtaining a consensus of approval of geothermal power generation")" of the former.

In addition, regarding "only by connecting the hot water/steam power generating device 1 to a mechanism for sucking up a spring source for use in the hot spring utilization facility 30, electric power to be used by itself can be furnished, and hot water used for electric power generation can be used also as original hot spring water" of the latter, there is no need to dig a well for use in geothermal power generation, a high-temperature spring source is utilized as hot spring water by reducing its temperature, and electric power generation by the hot water/steam power generating device 1 is also performed, and therefore this corresponds to "without digging a well for use in geothermal power generation, it is possible to supply a high-temperature spring source as a hot spring of a suitable temperature, and perform electric power generation"

of the former.

Further, regarding "the installation method is also profitable for the owner of the hot spring utilization facility 30, electric power generation can be performed by the hot water/steam power generating device 1, and spread of geothermal power generation is realized" of the latter, since it is profitable for the hot spring business operator who is the owner of the hot spring utilization facility 30, and a spread of geothermal power generation is also national interest in Japan, it corresponds to "thereby benefiting hot spring business operators and increasing national interests" of the former.

Therefore, the two are identical in a point of being

"A method of installing a geothermal power generation facility, the method capable of facilitating installation of geothermal power generation facilities by obtaining a consensus of opposition to geothermal power generation by replacing a part of a temperature reduction facility for cooling a high-temperature spring source in an existing hot spring with a geothermal power generator, wherein

without digging a well for use in geothermal power generation, it is possible to supply a high-temperature spring source as a hot spring of a suitable temperature, and perform electric power generation, thereby

benefiting hot spring business operators and increasing national interests."

, and differ in terms of the following points.

[Different Feature]

With respect to the geothermal power generator, the former is one in which "the geothermal power generator includes a thermoelectric device arranged horizontally on earth, the thermoelectric device generates electric power by being heated by the high-temperature spring source, and the spring source is provided as a hot spring by being cooled by heat absorption by the thermoelectric device", whereas the latter does not have such a configuration.

E Judgment

The Different Feature will be discussed below.

In the technical field of geothermal power generator, the technology in which "the geothermal power generator includes a thermoelectric device arranged horizontally on earth, the thermoelectric device generates electric power by being heated by the high-temperature spring source, and the spring source is provided as a hot spring by being cooled by heat absorption by the thermoelectric device" is a technology that was well known before the application of the present application (hereinafter, referred to as

"Well-Known Art". For example, refer to: the description of Japanese Unexamined Patent Application Publication No. 2003-318453, paragraphs [0048] to [0060] and the drawings (in particular, FIG. 1 to FIG. 3); and Japanese Unexamined Patent Application Publication No. H11-247753, paragraphs [0032] to [0088] and the drawings (in particular, FIG. 8)).

Then, the Cited Invention and the Well-Known Art are ones having a common problem to be solved in the common technical field of a geothermal power generator that heat of hot spring water is utilized for electric power generation.

Therefore, in the Cited Invention, it would have been easily conceived by a person skilled in the art to make it have the matters specifying the invention of the Amended Invention concerning the different feature, by applying the above-mentioned Well-Known Art as an electric power generator.

In addition, even the Amended Invention is examined as a whole, no special effect can be predicted from the Cited Invention and the Well-Known Art.

Accordingly, since the Amended Invention could have been invented by a person skilled in the art with ease based on the Cited Invention and the Well-Known Art, the Appellant should not be granted a patent independently at the time of patent application in accordance with the provisions of Article 29(2) of the Patent Act.

F Summary

As above, even if it is assumed that the purpose of the Amendment is to restrict the claim, it violates the provisions of Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to Article 17-2(6) of the same act, and, therefore, should be dismissed under the provisions of Article 53(1) of the same Act which is applied mutatis mutandis by replacing certain terms pursuant to Article 159(1) of the same act.

(4) Closing

As described above, determination is made as in [Conclusion of Decision to Dismiss Amendment] mentioned above.

No. 3 Regarding the invention

1. The Invention

Since the amendment made on October 24, 2018 has been dismissed as above,

the invention according to Claim 1 of the present application is one that is specified by the matters written in Claim 1 of the scope of claims amended by the amendment of August 21, 2017, and the invention according to Claim 1 thereof (hereinafter, referred to as "the Invention") is an invention specified by the matters written in Claim 1 thereof as described in above No. 2 [Reason] 1.(1).

2. Reasons for refusal stated in the examiner's decision

The reasons for refusal stated in the examiner's decision are as follows.

(1) (Novelty) The inventions according to the following claims of this application are the inventions described in the following Publication distributed in Japan or abroad or the inventions available to the public through electric telecommunication lines before the application thereof, and, therefore, correspond to Article 29(1)(iii) of the Patent Act, and the Appellant should not be granted a patent for these.

(2) (Inventive step) The inventions according to the following claims of this application could have been invented with ease by a person ordinarily skilled in the art in the technical field of the invention before the application was filed based on the inventions described in the following Publication distributed in Japan or abroad or the inventions available to the public through electric telecommunication lines before the application thereof, and, therefore, the Appellant should not be granted a patent for these in accordance with the provisions of Article 29(2) of the Patent Act.

Note (regarding Cited Document and the like, refer to Cited Document List)

· Regarding Reason (1) (novelty) and Reason (2) (inventive step)

· Claim 1
· Cited Document 2

<Cited Document List>

Cited Document 2: Japanese Unexamined Patent Application Publication No. 2013-133705

3. Cited Document and Cited Invention A

Cited Document cited in the reasons for refusal stated in the examiner's decision and the described matters thereof are in above No. 2 [Reason] 2. (3) B.

Then, in the Cited Document, the following invention (hereinafter, referred to as "Cited Invention A") is described.

"A method of realizing a spread of geothermal power generation, wherein, in order to make motivation to install a hot water/steam power generating device 1 high without causing a problem to a right holder of a spring source for realizing a spread of geothermal power generation, wherein only by connecting the hot water/steam power generating device 1 to a mechanism for sucking up a spring source for use in the hot spring utilization facility 30, electric power to be used by itself can be furnished, and hot water used for electric power generation can be used also as original hot spring water, wherein the installation method is also profitable for the owner of the hot spring utilization facility 30, and motivation of an owner of the hot spring utilization facility 30 to install the hot water/steam power generating device 1 is made high without causing a problem to a right holder of the spring source, and wherein a spread of the hot water/steam power generating device 1 is facilitated."

4. Comparison / Judgment

When the Invention and Cited Invention A are compared, since "for realizing a spread of geothermal power generation" of the latter is for the purpose of a spread of geothermal power generation utilizing geothermal energy, it corresponds to "in order to facilitate geothermal power generation utilizing geothermal energy in our country" of the former.

In addition, since "in order to make motivation to install a hot water/steam power generating device 1 high without causing a problem to a right holder of a spring source" of the latter is for the purpose of eliminating disadvantage for the right holder of the spring source and increasing advantage, and suppressing opposition to geothermal power generation as a result, it corresponds to "for the purpose of suppressing opposition to electric power generation by geothermal power generation" of the former.

Further, since it can be said that "only by connecting the hot water/steam power generating device 1 to a mechanism for sucking up a spring source for use in the hot spring utilization facility 30, electric power to be used by itself can be furnished" of the latter is to generate electric power by hot water from a spring source for use in the existing hot spring utilization facility 30 without digging an exclusive-use well for geothermal power generation, it corresponds to "first, not digging a well for use in geothermal power generation, second, generating electric power by hot water from a spring source of existing hot spring" and "fifth, giving advantage of making cost of temperature reduction of spring source needed for the hot spring business operators

unnecessary" of the former.

Yet further, since "hot water used for electric power generation can be used also as original hot spring water" of the latter is to utilize hot water whose temperature has been dropped by electric power generation as original hot spring water, it corresponds to "third, reducing temperature of the spring source by electric power generation, fourth, providing hot spring whose temperature has been lowered to a temperature suited for bathing for a hot spring business operator" of the former.

Therefore, "only by connecting the hot water/steam power generating device 1 to a mechanism for sucking up a spring source for use in the hot spring utilization facility 30, electric power to be used by itself can be furnished, and hot water used for electric power generation can be used also as original hot spring water, wherein the installation method is also profitable for the owner of the hot spring utilization facility 30, and motivation of an owner of the hot spring utilization facility 30 to install the hot water/steam power generating device 1 is made high without causing a problem to a right holder of the spring source" of the latter corresponds to "suppressing opposition to geothermal power generation by the hot spring industry by combination of five methods" of the former.

In addition, since "a spread of the hot water/steam power generating device 1 is facilitated" of the latter is to promote a spread of geothermal power generator, it corresponds to "promoting geothermal power generation" of the former, and, similarly, "a method of realizing a spread of geothermal power generation" of the latter corresponds to "a method for facilitating geothermal power generation in our country" of the former.

Therefore, the two are identical in a point of

"A method for facilitating geothermal power generation in our country, in order to facilitate geothermal power generation utilizing geothermal energy in our country and for the purpose of suppressing opposition to electric power generation by geothermal power generation, capable of suppressing opposition to geothermal power generation by the hot spring industry by combination of five methods of: first, not digging a well for use in geothermal power generation, second, generating electric power by hot water from a spring source of an existing hot spring, third, reducing temperature of the spring source by electric power generation, fourth, providing a hot spring whose temperature has been lowered to a temperature suited for bathing for a hot spring business operator, and, fifth, giving an advantage of making cost of temperature reduction of spring source needed for the hot spring business operators unnecessary, thereby promoting geothermal power generation, and enabling increase in utilization of geothermal energy of our

country."
, and there is no different feature.

No. 4 Closing

As above, the Invention falls under Article 29(1)(iii) of the Patent Act, and the Appellant cannot be granted a patent for that in accordance with the provisions of Article 29(1) of the Patent Act; therefore, without examining the inventions according to the other claims, the present application should be rejected.

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

September 24, 2019

Chief administrative judge: MIZUNO, Haruhiko
Administrative judge: KANAZAWA, Toshio
Administrative judge: SAITO, Koshiro