

HINDERED PHENOLIC ANTIOXIDANT COMPOSITIONS Case

IP High Court

Case H24 (Gyoke) 10076 (Oct. 29, 2012(H24))

FACTS

Appeal court case rescinding the JPO trial decision which dismissed a request for a trial against a final rejection of Appl. No. 2002-72173 (Based on US60/278316, Priority date: Mar. 23, 2001).

The present invention relates to a hindered phenolic antioxidant composition comprising a single-ring hindered phenolic compound.

In the specification, the purpose of the invention is described.

The specification shows "a single-ring phenol is more volatile and more water soluble and less oil soluble than methylene bridged multi-ring phenol," and "decrease of antioxidant constituent by volatilization deteriorates antioxidant function of a composition, namely, decreasing volatile constituents in a composition improves antioxidant function of the composition." No concrete working examples are described in the specification.

ISSUE

Whether support requirements are fulfilled with a specification having no working examples

HOLDING

It can be recognized from the specification that, by containing very low levels of single-ring hindered phenolic compounds such as OTBP, DTBP and TTBP (starting materials), provided is a methylene bridged multi-ring hindered phenolic antioxidant composition having improved oil solubility and less volatility than conventional ones, thus, a composition having improved antioxidant function can be obtained. That is, one skilled in the art is able to recognize, based on the specification, that by adopting the constitutions of the invention, the problem of the invention can be solved, which fulfills the support requirements. With respect to enablement requirements, fulfillment of enablement requirements is not examined in this court because the trial decision does not refer to enablement requirements.

From the above, the trial decision is improper regarding support requirements and it should be rescinded.

NOTE: In most cases, an appeal court requires a working example in order to prove that a claimed invention achieves an objective effect, so that the claimed invention is supported.