

SHELL HANGER Case
Tokyo High Court
Case H19 (Gyo-Ke) 10078, Judgment on June 13, 2007 (H19)
Summary authored by Manabu SUZUKI

FACTS

The plaintiff was an applicant having filed a design application for a shell hanger on August 9, 2005. The application was rejected by the board of appeal of the JPO under Article 3, Para. 2 of the Design Act, on the ground that a person ordinarily skilled in the art of the design would have been able to easily create the design based on publicly known designs. The plaintiff filed this case to seek rescission of the JPO decision.

ISSUE

The issue was whether a person ordinarily skilled in the art would have been able to easily create the present design based on the cited designs 1 and 2.

HOLDING

The defendant asserted that a person ordinarily skilled in the art would have been able to easily create the present design, since it was easy to replace a coupling band with a pair of connecting cords. In particular, (1) it is a generally known structure in which a pair of short projections facing each other in a symmetric manner are formed, as a rope stopper, on the above of the elongated bar-shaped pin near its center area; (2) it is common to use a pair of connecting cords; and (3) it is common technique to decide an appropriate distance between the connecting cords.

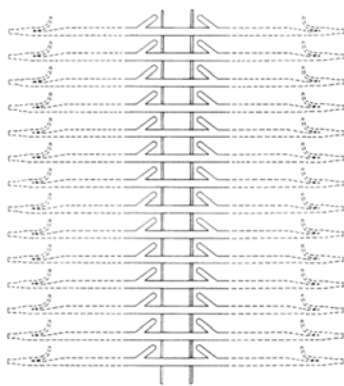
However, even if the respective parts of the present design are common, it cannot be concluded that it would be easy for a person skilled in the art to create the present design, because the present design has a characteristic impression as a whole design. In the present design, (1) two coupling cords are placed near the rope stopper projections, thus substantially triangular spaces are formed between each of the coupling cord and rope stopper protrusions; and (2) horizontally rectangular spaces, having a size in which a rope can be placed, are formed by providing a wide interval between coupling cords and between the upper and lower

pins.

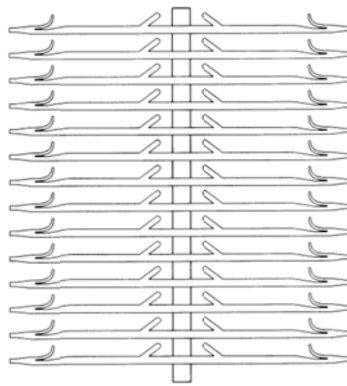
Therefore, it is held that the present design have not been easily created by a person ordinarily skilled in the art based on the cited designs 1 and 2.

It is noted that a scope of the registered design (Design Law Article 24) cannot be deemed as broad in view of the cited designs 1, 2 and other known designs.

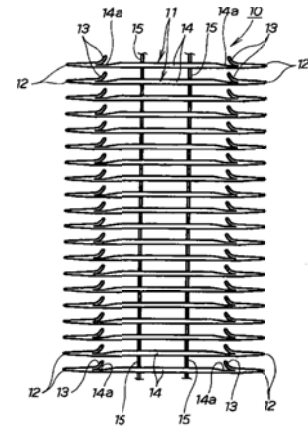
Design:



Present design



Cited design 1



Cited design 2

February 2015

Original document (Japanese):

http://www.courts.go.jp/app/files/hanrei_jp/798/034798_hanrei.pdf

English translation:

N/A