

### Case Information

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| Case             | Accelerating-Propelling Device CASE            |
| Court, case no.  | Tokyo High Court<br>(H26 (Gyo-Ke) 10189)       |
| Date of judgment | March 5, 2014 (H26)                            |
| Parties          | Plaintiff: X<br>Defendant: Japan Patent Office |

### FACTS

The plaintiff was the Applicant of Patent Application No. 2006-209933 filed on August 1, 2006, which was finally rejected during the prosecution on July 8, 2011. Then, a trial against the Examiner's decision was requested on October 19, 2011. The case of Appeal No. 2011-22602 was examined and the trial decision rejecting the application was made on May 21, 2013. Then, the plaintiff filed a suit to seek rescission of the JPO decision on July 8, 2013.

### ISSUE

The issues were (1) whether the statement of the detailed explanation of the invention as provided in the present specification satisfies the enablement requirements and (2) whether the invention for which a patent is sought is clear or not (Article 36 (4) (i) and Article 36 (6) (ii) of the Patent Act).

### HOLDING

Amended claim 1 recites "An accelerating-propelling device comprising: a central rotation axis penetrating a center of mass; at least three rotors placed around the central rotation axis; a revolution board to support the rotors and to rotate around the central rotation axis; a slant axis, configured by connecting the center of each rotor and one point in the central rotation axis; each rotation axis of each rotor which is to be rotated from a direction perpendicular to the central rotation axis to a direction parallel with the central

rotation axis; an outer shell body of the each rotor to rotate around the slant axis; a support frame for each rotor axis to be fixed to the outer shell and to support each rotor axis; and a power source to rotate the central rotation axis, each slant axis, and each rotor axis; wherein: the plurality of rotors rotate around the rotor axes at the same speed (3rd rotation); each outer shell and each rotor axis support frame rotate around the slant axis having a predetermined angle to the central rotation axis at the same speed (2nd rotation); and the second rotation is allotted with a phase difference that is equal to the cycle period of rotations of the rotor axis support frame and the outer shell body being adjacent to each other around the central rotation axis.”

According to the description of the specification, it is recognized by the court that the accelerating-propelling device moves forward and backward while the whole device floats in the vertical axis direction without an intervening medium since the translation acceleration is generated in the central rotation axis direction as processional motion is generated by rotating the outer shell bodies having rotors to rotate independently.

Then, it should be said that the operating principle of the present invention, in which the translation acceleration is generated only by the processional motion without utilizing the reaction force such that the accelerating-propelling device may move forward and backward while the whole device floats, violates the law of conservation of momentum. The specification of the present application does not disclose the fact (experimental result) that the accelerating-propelling device moves forward or backward while the device floats. Therefore, it cannot be said that the accelerating-propelling device of the present invention can move forward or backward while the device floats.

Thus, the court affirmed the JPO decision, holding as follows.

(1) It cannot be said that the specification of the present application describes the present invention so clearly and sufficiently as to enable any person ordinarily skilled in the art to which the invention pertains to work the invention since the specification of the present application does not describe clearly how the accelerating-propelling device of the present invention continuously works as a means of transportation, with what kind of power source and via what kind of power transmission route, and how the whole device moves so as to create translation acceleration in the central rotation axis direction without any limitations to the acceleration, velocity, and motion directions or the transportation area.

Therefore, the trial decision that it is recognized and judged that the recitation of the claims of the present invention does not satisfy the enablement requirements is suitable and there is no illegality in the decision.

Thus, the trial decision is affirmed since there are no reasons for the plaintiff's request without judging another reason for rescission of the JPO decision.



Fig. 2

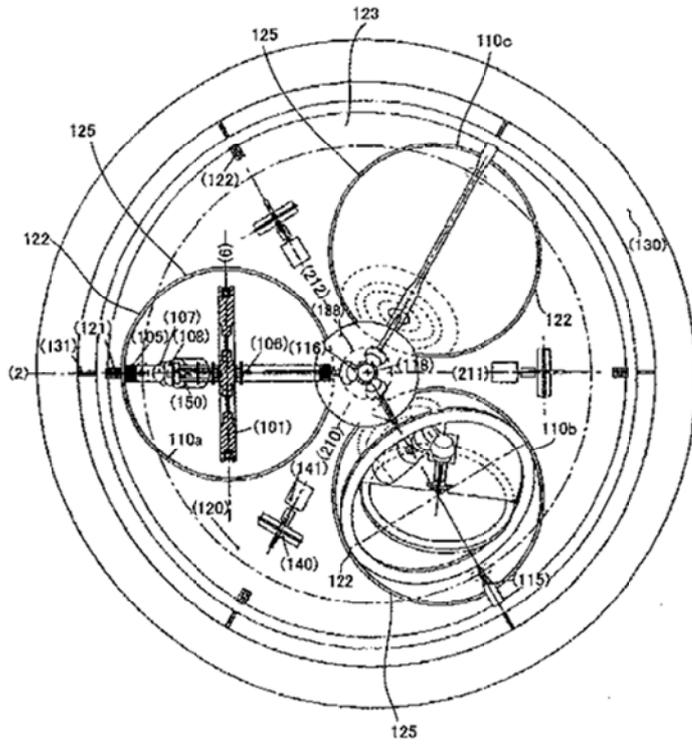


Fig. 3

