

JAPAN

Claim interpretation in 3D TV patent infringement case

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Recently video technology has advanced notably. For example, new style televisions incorporating new video technology such as 3D TV (televisions having the function of displaying stereoscopic video images) or 4K TV and 8K TV (televisions having the function of displaying video images at 4K or 8K resolution) have been introduced one after another.

We describe a case where the owner of a patent for 3D TV filed a patent infringement lawsuit against a manufacturer of 2D TV (televisions having the function of displaying only conventional two-dimensional video image). The issue was the interpretation of the claims, which seem to literally include 2D TV.

European Patent Convention Article 69 provides: "The extent of the protection conferred by a European patent or a European patent application shall be determined by the claims. Nevertheless, the description and drawings shall be used to interpret the claims." The Japanese Patent Act includes provisions to the same effect. Article 70 paragraphs 1 and 2 provide that the technical scope of a patented invention shall be determined based upon the statements in the scope of claims attached to the application and that the meaning of each term used in the scope of claims shall be interpreted in consideration of the statements in the description and drawings attached to the application, respectively.

When interpreting the claims of the patent whose title of the patented invention was "display unit", the court considered not only the specification of the patent but also the specification of the original application from which the patent was divided, and thereby narrowly interpreted the scope of claims of the

patent in a way to cover only "a stereoscopic video display unit", that is 3D TVs.

Summary of the case

The plaintiff owns a patent for "display unit". NANA O Corporation (now EIZO Corporation), the defendant, manufactures and sells 2D TVs with a liquid crystal display. Here, the plaintiff claimed for damages against EIZO alleging that it infringes the patent because 2D TVs manufactured by EIZO fall within the technical scope of the patented invention. Our firm represented EIZO.

Claim 1 has the following claimed elements:

- A: A display unit comprising:
- B: a LCD;
- C: wherein when different images are sequentially displayed on said LCD;
- D: a black level signal for displaying a black image on said LCD is inserted between each fields or frames of input video signal.

The plaintiff argued that EIZO's accused 2D TVs satisfy all of the above elements A to D. EIZO rebutted that elements A and C should be narrowly interpreted on the premise that the patented invention is an invention for 3D TVs.

Judgment of May 8 2008 Osaka District Court

1) The technical scope of the patented invention

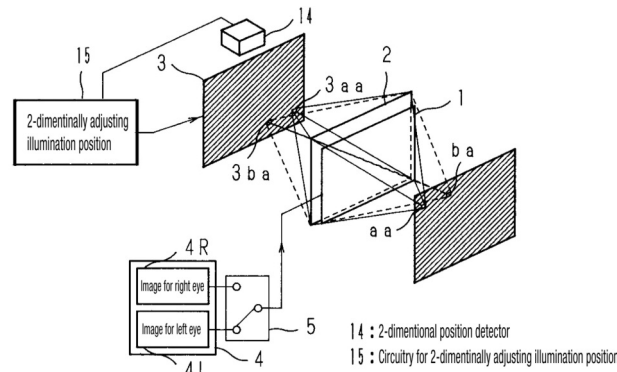
The Osaka District Court considered the specification and narrowly interpreted element A as "a stereoscopic video display unit" and element C as "images for the left eye and for the right eye are sequentially displayed by time-divisionally

switching the images". Namely, the Court interpreted the scope of the claim in a way to cover only 3D TVs and to exclude 2D TVs.

1) Element A

The patented invention is an invention for 3D TVs. It is because descriptions concerning technical field, problems to be solved by the patented invention and embodiments in the specification mention 3D TVs only and the specification has no descriptions regarding 2D TVs, and the patented invention is directed to solve problems that are caused by using an LCD as a display of a display units which displays stereoscopic vision by projecting images for left eye and for right eye. Therefore, the technical scope of the patented invention is limited to 3D TVs and element A should be interpreted as "a stereoscopic video display unit".

Furthermore, since the patent was filed as divisional application, the Court considered the relationship between the patent and the original application from which the patent was divided as follows. The specification of the original application has descriptions regarding 3D TV only and has no descriptions regarding 2D TV at all. Therefore, if the patented invention is interpreted to cover 2D TVs, the application does not fulfil the requirements of a divisional application because the specification of the divisional application is beyond the scope of the specification or drawings of the original application. If the application does not fulfil requirements of the divisional application, there will be no retroactive effects in respect of the filing date and the actual filing date of the application becomes the critical date to determine novelty of the patented invention. In that case, the patented invention lacks novelty as the patented invention has already been dis-



Source: Japan patent No. 3569522

closed in the specification of the original application. On the other hand, if the scope of the claim is interpreted to cover only 3D TVs and to exclude 2D TVs, the patented invention does not lack novelty as this invention is described in the specification of the original application and the requirements of the divisional application are fulfilled. It is appropriate to interpret element A as “a stereoscopic video display unit” from this aspect as well.

2) Element C

As mentioned above, the patented invention is an invention for 3D TVs. Therefore, “different images are sequentially displayed” in element C is interpreted as “respective images for left and right eyes are sequentially displayed by time-divisionally switching said images”.

2) Whether accused products are within the technical scope of the patented invention

EIZO's accused products are LCD televisions that are used in homes. They are capable of receiving 2D video signals transmitted from broadcasts/storage media and have input terminals only dedicated to 2D video signals. Therefore, EIZO's accused products are not 3D TVs because they cannot display stereoscopic vision but are 2D TVs which display 2D images only. Thus, EIZO's accused products do not satisfy element A.

Furthermore, EIZO's accused products do not include configurations which are required to sequentially display images for the left eye and for the right eye by time-divisionally switching the images. Therefore, EIZO's accused products do not satisfy element C.

As described above, EIZO's accused products are not within the technical scope of the patented invention because they do not satisfy at least elements A and C of the patented invention.

The Court held as above and dismissed the plaintiff's claim.

Practical tips

The Court narrowly interpreted the technical scope of the patented invention in a way to cover 3D television only by considering not only the specification of the

patent but also the specification of the original application from which the patent was divided. This approach, which narrowly interprets the technical scope of the patented invention in a way to fulfil requirements of a divisional application when broad claim interpretation results in violation of divisional application requirements, is not often adopted in other precedents. It attracts attention as a defence strategy in the divisional application case. On the other hand, the patentee should carefully consider the fulfilment of divisional application requirements when forming infringement arguments.