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Lianyungang Yingyou Textile Machinery Co., Ltd. v. Jiangyin Zhouzhuang Textile Equipment Plant

Citation: The Supreme People's Court's Reply No. Minsantazi 10/2007

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Background

The Jiangsu Province Higher People's Court requested the Supreme People's Court for instruction on how to determine the extent of protection of the dependent claims in Lianyungang Yingyou Textile Machinery Co., Ltd. v. Jiangyin Zhouzhuang Textile Equipment Plant, a case of patent infringement dispute. The Supreme People's Court gave its instruction as follows.

Issue

Whether an interested party could choose the dependent claims to base the claim construction on and how to construe the dependent claims?

Key points

Article 56, paragraph one, of the Patent Law provided that the extent of protection of the patent right for invention or utility model should be determined by the terms of the claims. The "claims" mentioned in the Article were not merely defined as the "independent claim", and they should also include "dependent claims". The "dependent claims" contained additional technical features, which further defined the claims they referred to, including independent claim; hence the extent of protection of a patent a dependent claim defined was narrower than that defined by an independent claim or a claim it referred to. Therefore, the court should allow an interested party to disclaim an independent claim and voluntarily choose the dependent claims as the basis of the extent

of protection of a patent since the choice was neither contrary to the law, nor detrimental to the public interests. On the contrary, if an interested party that did not voluntarily abandon the independent claim of the largest possible extent of protection, but chose the dependent claims to make the claim construction, the court should not construe, on its own, the claims according to the dependent claims. It should show deference to the interested party's own choice.

When an interested party abandoned the independent claim and chose the dependent claim to define the extent of protection of the patent, the extent of protection of said patent should be defined on the basis of the technical features of the dependent claim he had chosen together with the technical features of the claim said dependent claim referred to. That was, the extent of protection of the patent should not be determined only on the basis of the technical features of the dependent claim, nor together with those of the claims that were not referred to in other claims. Since the technical solution of each dependent claim and that of the claim it referred to were different, but complete technical solutions, they should be separately protected.