

CERTIFICATE OF TRANSLATION ACCURACY

I am a professional translator, reviewer, and coordinator specializing in translating Chinese, Japanese and Korean to English and vice versa.

I served as Chief Examiner of the certified court interpreter test for the State of California and as a contract translator and interpreter for various federal agencies through the U.S. Department of State for more than a decade. I served as an instructor at the University of California at Berkeley and the Middlebury Institute of International Studies at Monterey.

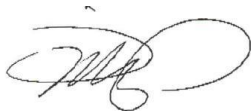
I have more than 30 years of experience translating thousands of technical, legal, and business documents from Korean to English submitted to, among others, Chinese judicial authorities, various U.S. federal courts, the U.S. International Trade Commission (ITC), and the USPTO Patent Trial and Appeal Board (PTAB).

I certify that the following document translated from Chinese into the English language is a true, correct, and complete translation of the corresponding source text to the best of my knowledge and ability.

I certify under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of November 2023 in the Contra Costa County of the State of California.

By:



Alex N. Jo
Member, ATA

The People's Republic of China
Beijing Intellectual Property Court
Administrative Judgment

(2023) Jing 73 Xing Chu No. 651

Plaintiff: Jingjing Zhang, female, born on October 10, 1983, ethnic Han, residing at No. 42, Zone 2, Lianzhong Village, Qingfengdian Town, Dingzhou City, Hebei Province, People's Republic of China (PRC).
(Absent)

Appointed litigation counsel: Danqing Song, attorney at Beijing Ningda Law Firm. (Present)

Appointed litigation counsel: Weibo Li, apprentice attorney at Beijing Ningda Law Firm. (Present)

Defendant: China National Intellectual Property Administration (CNIPA), located at No. 6 West Tucheng Road, Jimenqiao, Haidian District, Beijing, PRC.

Legally designated representative: Changyu Shen, Director. (Absent)

Appointed litigation counsel: Junyan Yang, examiner at China National Intellectual Property Administration (CNIPA). (Present)

Appointed litigation counsel: Xin Zhao, examiner at China National Intellectual Property Administration (CNIPA). (Present)

Third Party: Dyson Technology Limited, located at Tetburyhill, Malmesbury, Wiltshire, United Kingdom of Great Britain and Northern Ireland (UK).

Legally designated representative: Andrew John Gill, Legal Director.
(Absent)

Appointed litigation counsel: Kai Chen, attorney at Beijing Liu-Shen & Associates. (Present)

Appointed litigation counsel: Jing Li, attorney at Beijing Liu-Shen & Associates. (Present)

Cause of action: Administrative dispute over invalidation of the utility model patent right

Decision under appeal: Decision on Review of Request for Invalidation No. 58695

Date of the decision under appeal: January 10, 2023

Date of the appeal filing at this Court: January 16, 2023

Date of appeal hearing: August 16, 2023

The decision under appeal was made by the Defendant in response to the Plaintiff's request for invalidation of the utility model patent right of Patent No. 201610830364.1 (hereinafter referred to as "the Subject Patent"). The Defendant argued in respect of the decision under appeal that the claims of the Subject Patent are novel under the provisions set forth in Paragraph 2 of Article 22, and involves an inventive step (nonobviousness) under the provisions set forth in Paragraph 3 of Article 22 and comply with the requirements set forth in Paragraphs 3 and 4 of Article 26 of the *Patent Law of the People's Republic of China* (hereinafter referred to as "the PRC Patent Law"). Accordingly, the patent is maintained as valid.

The Plaintiff filed a lawsuit in this Court to appeal the original decision, claiming as follows:

1. The Subject Patent lacks novelty and an inventive step (nonobviousness) versus Exhibit 1. (i) The vacuum cleaner in Exhibit 1 is identical to the "handheld" vacuum cleaner in the Subject Patent. (ii) The dirt collector in Exhibit 1 and the dirt collector in the Subject Patent are identical in structure. (iii) Exhibit 1 and the Subject Patent have the same angle, i.e., not greater than 85° and not less than 140°. (iv) The structure disclosed in Exhibit 1 can also facilitate emptying the trash, and those skilled in the art can come up with the structure described in Exhibit 1 without creative endeavor in solving the technical problems described in the background section of the Subject Patent.

2. The Subject Patent lacks novelty and inventive step (nonobviousness) versus Exhibits 3 and 5.

3. The Subject Patent lacks novelty and inventive step (nonobviousness) versus Exhibits 6 and 7. On these grounds, the Plaintiff requested that the People's Court revoke the decision under appeal and order the Defendant to make a new decision.

The Defendant argued that the decision under appeal was clear in its facts found, correct in its application of the law, procedurally lawful in its trial proceedings, and correct in its conclusion, and requested that the Plaintiff's litigation claims be rejected.

The Third Party claimed that the Subject Patent is novel and involves an inventive step (nonobviousness); The decision under appeal was clear in its facts found, correct in its application of the law, procedurally lawful in its trial proceedings, and correct in its conclusion, and requested that the Plaintiff's litigation claims be rejected.

During the instance trial, this Court found as follows:

I. The Subject Patent

- (1) Patentee: the Third Party
- (2) Title of the invention: VACUUM CLEANER
- (3) Patent No.: 201610830364.1
- (4) Filed: September 18, 2016
- (5) Authorized publication date: November 3, 2020
- (6) Date of request for invalidation: April 22, 2022

Claims for which the decision under appeal was made:

1. A handheld vacuum cleaner, comprising:

a handle by which the vacuum cleaner is supported during normal use;

a cyclonic separating unit having a longitudinal axis and a dirt collector at one end of the cyclonic separating unit, the cyclonic separating unit comprising an end portion having a closed configuration in which dirt is retained within the dirt collector by the end portion and an open configuration for the removal of dirt from the dirt collector, wherein the handle has a pistol grip configuration in which the handle is inclined with respect to the cyclonic separating unit to form an angle of not less than 85 degrees and not greater than 140 degrees between the handle and the longitudinal axis of the cyclonic separating unit, wherein the longitudinal axis of the cyclonic separating unit extends in a plane which is located above the handle, wherein the end portion is arranged to pivot between the closed configuration and the open configuration.

2. The handheld vacuum cleaner of claim 1, wherein the handle is inclined with respect to the cyclonic separating unit to form an angle of not less than 100 degrees and not greater than 125 degrees between the handle and the longitudinal axis of the cyclonic separating unit.

3. The handheld vacuum cleaner of claim 1, wherein the end portion comprises an end wall of the cyclonic separating unit.

4. The handheld vacuum cleaner of any one of preceding claims 1-3, wherein the cyclonic separating unit comprises a dirty air inlet through the end portion.

5. The handheld vacuum cleaner of any one of preceding claims 1-3, further comprising a connector and a cleaning tool connectable to the connector, wherein the cleaning tool is configured such that when the end portion is in the closed configuration and the cleaning tool is connected to the connector, movement of the end portion from the closed configuration to the open configuration is prevented.

6. The handheld vacuum cleaner of claim 5, wherein the cleaning tool comprises a collar which abuts the end portion in order to hold the end portion in the closed configuration.

7. The handheld vacuum cleaner of any one of preceding claims 1-3, wherein the dirt collector is disposed forward of the handle.

8. The handheld vacuum cleaner of any one of preceding claims 1-3, wherein the cyclonic separating unit comprises a cyclonic separation chamber having an axis that defines the longitudinal axis of the cyclonic separating unit.

II. Exhibits submitted by the Defendant and disclosures as set by the decision under appeal

Exhibit 1: Chinese Patent No. CN1178622C, published on December 8, 2004. Exhibit 1 discloses a vacuum cleaner. FIGS. 1-19 describe the first embodiment, and FIG. 25 describes the fifth embodiment (see the specification of the two embodiments and the corresponding figures).

FIG. 25 is a diagram schematically illustrating the vacuum cleaner of the fifth embodiment. For convenience's sake, such portions as finding their counterparts in the first embodiment shown in FIG. 1 are identified with the same reference numerals; that is, a so-called upright type vacuum cleaner in which the vacuum cleaner body 1 is directly connected with the connection pipe 10b connected with the cyclone dust collector 5. The handle 10a held by the user during cleaning is formed integrally with the vacuum cleaner body 1. The connection pipe 3 is connected with the suction nozzle 4 which has a suction port facing the floor F, and the cyclone dust collector 5 is connected with the connection pipe 3. When the electric fan is driven, the sucked air will be drawn in from the suction port of the suction nozzle 4, flow from the inlet 5 to the cyclone dust collector 5 through the connection pipe 3. The dust will be separately stacked in first dust chamber 7. In the lower part of the first dust chamber 7, a second dust chamber 8 is provided approximately coaxially through a partition 9. A mesh-like opening portion 9a formed by a plurality of holes is provided in the partition 9 so that fine dust is collected into the second dust chamber 8 through the opening portion 119a. The cyclone dust collector 5 may be freely detachably integrated with the first dust chamber 7 and the second dust chamber 8 through a connection portion 5e composed of a threaded portion, a bayonet or a clamp, etc. The first and second dust chambers 7 and 8 can be separated from each other by a connection portion 5f composed of a threaded portion, a bayonet or a clamp, etc., as shown in FIG. 16 or 17. Furthermore, the second dust chamber 8 may also open and close the bottom cover 8c through a connection portion 5h composed of a threaded portion, a bayonet or a clamp, etc., as shown in FIG. 18. In this way, since the fine dust is collected into the second dust chamber 8, handling is simplified without spreading the fine dust by removing the first and second dust chambers 7 and 8 as a whole and separating them on the dust bin, etc., which can prevent environmental pollution.

Exhibit 3: Chinese Patent No. CN101489451A, published on July 22, 2009. Exhibit 3 specifically discloses the following specifics (see the Detailed Description of the Specification and FIGS. 1-3):

The handheld vacuum cleaner 10 comprises main body 12, which comprises a suction pipe 14 having a suction opening 16, a cyclone separation unit 18 and a motor housing 24. The cyclone separation device 18 is connected to the suction pipe 14 and the suction opening 16. A handle 28 is located below the motor housing 24 for maneuvering the handheld vacuum cleaner 10 during use. The handle 28 may be arranged such that the cyclone separation device 18 is located between the handle 28 and the suction opening 16. The handle 28 is in an elongated form having an axis x-x, which can be set to be at an angle with a longitudinal axis Y-Y passing through the suction opening 16. This angle is approximately 90°. Such configuration makes a user feel comfortable.

Exhibit 5: Chinese Patent No. CN101489460A, published on July 22, 2009. Exhibit 5 specifically discloses the following specifics (see the Detailed Description of the Specification and FIGS. 1-3): A handheld vacuum cleaner 10 comprises a main body 12, which houses a motor and a fan unit. A handle 16 is provided on the main body 12 to maneuver the handheld vacuum cleaner during use. A cyclone separation device 100 is connected to the main body 12: an inlet pipe 18 extends from a portion of the cyclone separation device 100 away from the main body 12, and a dirty air inlet 20 is formed at the tail end of the inlet pipe 18. The cyclone separation device 100 comprises a cyclone 102, which has a longitudinal axis x-x and a wall 104. A base 116 encloses an end of the cyclone 102 and is pivotally mounted at the lower end of wall 101 through a hinge device and held in the closed position by a hook 120. During use, the large dust particles are collected at the base 116 of the cyclone 102, and the hook 120 is released to allow the base 116 to pivot around the hinge 118 so that separated dust can fall out from the cyclone separation device 100.

Exhibit 6: Chinese Patent No. CN101779936A, published on July 21, 2010. Exhibit 6 specifically discloses the following specifics (see paragraphs 0032-0039 of its Specification and FIGS. 1-6):

A cleaner 1 (which is an upright one as shown in FIG. 1), comprises a triangular suction apparatus 2 connected to a handle 4 through a middle connection portion 3. The handle does not only refer to the elongated portion terminating on the handle 8 at the upper end, but also comprises a battery 5, a motor 6 and a device 7 for separating and storing waste (i.e., the cyclone separation unit). The cyclone separation device 7 is vertically provided in a cavity 35 of the handle 4 and comprises an external main body known as a bowl portion 10. The bowl portion 10 is presented as a cylindrical main body. The lower surface of the bowl portion 10 is closed by a door 14 that is hinged through a hinge 15 to allow emptying the dust and waste accumulated at a lower portion 16.

Exhibit 7: Japanese Patent No. JP2003-139094A, published on May 14, 2003, and its Chinese translation. Exhibit 7 specifically discloses (see the recitation concerning Embodiment 5 in the specification and FIG. 14): the main structure of the cleaner is an upright structure; 82 is a dust collection portion having a cyclone type centrifugal separation mechanism; 84 is a dust container; and 87 is a suction nozzle. The dust accumulates in a space 91 between an inlet guiding piece and a side wall 84a of the dust container.

The authorized publication document of the Subject Patent.

III. Other facts

During the court hearing, the Plaintiff clearly testified that it had no objection against the procedure for making the decision under appeal and the “I. Cause of Action” part of the decision under appeal.

The above facts were supported by the decision under appeal, the publication document of the Subject Patent, the exhibits submitted by the parties, and the testimonies of the parties, etc.

This Court believed that according to the pleadings of the parties, the disputes in this case are: 1. whether claim 1 of the Subject Patent complies with Paragraph 2 of Article 22 of the PRC Patent Law concerning novelty relative to Exhibit 1; and 2. whether claim 1 of the Subject Patent complies with Paragraph 3 of Article 22 of the PRC Patent Law concerning inventive step (nonobviousness) versus the exhibit’s combination mode claimed by the Plaintiff.

I. Regarding the novelty of claim 1

Pursuant to the provisions set forth in Paragraph 2 of Article 22 of the PRC Patent Law, novelty means that an invention or utility model shall not form part of the prior art; nor has any entity or individual filed previously before the date of filing with the patent administration department under the State Council an application relating to the identical invention or utility model disclosed in patent application documents published or patent documents announced after the said date of filing.

The differences between claim 1 of the Subject Patent and the fifth embodiment in Exhibit 1 lie in that: (i) The way of supporting the cleaner is different. The Subject Patent is a handheld cleaner, whereas in fifth embodiment in Exhibit 1, the cleaner is mainly supported by a connection pipe and a suction nozzle. (ii) The way of cleaning the dirt is different. In the Subject Patent, the dirt is kept in the dirt collector by the end portion of the cyclone separation unit, i.e., the dirt collector was located inside the cyclone separation unit, and the dirt is emptied directly by pivotally opening the end portion. On the contrary, Exhibit 1 clearly indicates that the garbage is emptied by disassembling the first and the second dust chambers. (iii) The Subject Patent also defines the range of the angle between the handle and the longitudinal axis of the cyclone separation unit.

The Plaintiff claimed that the fifth embodiment in Exhibit 1 is identical to the Subject Patent and is a handheld cleaner. In this regard, this Court held that the fifth embodiment in Exhibit 1 is different from the Subject Patent in the way of supporting the cleaner, and the Plaintiff's claim lacks factual and legal basis and is not supported by this Court.

The Plaintiff claimed that the emptying operation is not disclosed in claim 1 and that the fifth embodiment in Exhibit 1 is identical to the dirt collector of the Subject Patent. In this regard, this Court holds that from the definition in claim 1, it could be clearly seen that they are different in the way of cleaning the dirt. Therefore, the Plaintiff's claim lacks factual and legal basis and is not supported by this Court.

In conclusion, claim 1 of the Subject Patent and the fifth embodiment of Exhibit 1 do not fall under the same technical solution, and claim 1 of the Subject Patent is novel.

II. Regarding the inventive step (nonobviousness) of Claim 1

In Paragraph 3 of Article 22 of the PRC Patent Law, it is specified that an inventive step (nonobviousness) means that, as compared to the prior art, the invention has prominent substantive features and represents a notable progress and that the utility model has substantive features and represents progress.

With regard to these three points of difference between claim 1 and Exhibit 1, the technical problem to be solved concerns how to improve the emptying operation of the handheld vacuum cleaner. This Court believes that Exhibit 1, as the closest prior art, has no technical problem of improving the dust emptying operation in the handheld case. Secondly, the way of emptying the dust in Exhibit 1 is different from that of the Subject Patent. When emptying the dust, the cyclone separator of the Subject Patent comprises an end portion, which is a dirt collector. In the Subject Patent, the cyclone separator is integral, while the separator and collector in Exhibit 1 are separate and detachable. This difference is not a conventional technical means in the art, and it is difficult to prove with the evidentiary documents that those skilled in the art are spurred to make an improvement based on Exhibit 1 to obtain the technical solution of claim 1. Thirdly, since Exhibit 1 requires the removal of the dust chamber for dust emptying, the prior art is unable to give an inspiration of setting the range of the angle between the handle and the longitudinal axis of the cyclone separation unit.

When taking Exhibit 3 and Exhibit 5 as the closest prior art, the Plaintiff claims that Exhibit 1 provides inspiration. In this regard, this Court believes that the handheld vacuum cleaners given in Exhibits 3 and 5 are handheld and integral and are different from the configuration in the Subject Patent in the directions of the cyclone separator and the handle. Exhibit 1 has no demand for solving the technical problem of the Subject Patent and cannot provide inspiration for the emptying operation with the handheld vacuum cleaner held in position. The Plaintiff's claim lacks a factual and legal basis and is not supported by this Court.

When taking Exhibit 6 and Exhibit 7 as the closest prior art, the Plaintiff claims that both are hand-held vacuum cleaners. In this regard, this Court holds that Exhibits 6 and 7 do not disclose the hand-held vacuum cleaner nor provides inspiration for the positional relationship between the separator and the handle. Therefore, the Plaintiff's claim lacks a factual and legal basis and is not supported by this Court.

The Plaintiff did not put forth any specific opinion for other elements of the decision under appeal. After hearing the case, this Court affirms without further elaboration that the decision under appeal is correct.

In conclusion, the decision under appeal is clear in its facts found, correct in its application of the law, and procedurally lawful in its trial proceedings. In accordance with Article 69 of the *Administrative Procedure Law of the People's Republic of China*, this Court's judgment is made as follows:

Plaintiff Jingjing Zhang's litigation claims are dismissed.

The case handling fee of RMB 100 shall be borne by the Plaintiff Jingjing Zhang (which has been paid).

To appeal this judgment, the Plaintiff and/or the Defendant may, within fifteen (15) days from the date of service of this judgment, and the Third Party, Dyson Technology Limited, may, within thirty (30) days from the date of service of this judgment, file an appeal with a written statement of appeal together with the case handling fee of RMB 100 to the Supreme People's Court of the People's Republic of China.

Presiding Judge	Aiyuan Lu
People's Assessor	Yingmei Wu
People's Assessor	Ruobing Zheng

This is a true and correct copy of the original.

[seal affixed: _Beijing Intellectual
Property Court]

October 25, 2023

Judge Assistant	Qian Zhang
Clerk	Yuze Shi

Attached Figure:



If you are to file an appeal, please scan the QR code above, enter your case information, and send a scanned (or photographed) copy of the **original appeal petition** to bzssz@bjcourt.gov.cn **within the appeal period**. If you do so, no hard copy material needs to be mailed separately. Thank you for your support and cooperation!