

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 of 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.

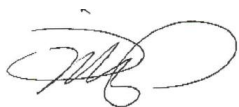
I have more than 30 years of experience translating thousands of technical, legal, and business documents from Korean to English submitted to, among others, Korean judicial authorities, various U.S. federal courts, the U.S. International Trade Commission (ITC), and the USPTO Patent Trial and Appeal Board (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 18th day of September 2023 in the Contra Costa County of the State of California.

By:



Alex N. Jo
Member, ATA

100080 LIU SHEN & ASSOCIATES 10th Floor, Building 1 (1+1 Plaza), 10 Caihefang Road Haidian District, Beijing, 100080, China Agent: Xing CHEN (62681616)	ISSUING DATE: Oct. 19, 2022
Application or Patent No.: 201610830364.1	Issuing No.: 2022101401181430
Case Number: 4W114231	
Title of the Invention: VACUUM CLEANER	
Patentee: DYSON TECHNOLOGY LTD.	
Invalidation Petitioner: Jingjing ZHANG	

REVIEW DECISION ON REQUEST FOR INVALIDATION
(No. 58695)

Pursuant to the provisions set forth in Article 46 Paragraph 1 of the Patent Law of China, China National Intellectual Property Administration (CNIPA) has reviewed the petitioner's request for invalidation of the above-referenced patent, and now made a decision as follows:

- ☐ declaring the patent invalid in whole.
☐ declaring the patent invalid in part.
☒ maintaining the validity of the patent.

Pursuant to the provisions set forth in Article 46 Paragraph 2 of the Patent Law of China, the Patentee or the invalidation requestor may, within three (3) months from the date of receiving this decision, appeal by filing a case with the Beijing Intellectual Property Court, and the opponent of the appellant appears as a third party in the legal proceedings.

Appendix: Text of the decision 2 pages (from the second page)

Panel Group Lead: Wenzhi LIU
Primary Reviewer: Junyan YANG
Participating Reviewer: Yan HU

Rereview and Invalidation Department of the CNIPA

[seal affixed: **CNIPA Rereview and Invalidation Dept.** 1101081361184]

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|--------|---|
| 201019 | Postal address for written request and reply: CNIPA Rereview and Invalidation Dept., 6#, Xitucheng Road, Jimenqiao, Haidian District, Beijing 100088, China |
| 2019.4 | All electronic requests must be filed in the form of electronic documents through the electronic patent application system. Unless otherwise provided, documents filed in any other form such as a hard copy shall be deemed not filed. |

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China National Intellectual Property Administration (CNIPA)
Review Decision on Request for Invalidation (No. 58695)

Case Number	No. 4W114231
Date of Decision	October 11, 2022
Title of the Invention	VACUUM CLEANER
International Classification Number	A47L5/24, A47L9/16, B04C5/08, B04C5/185
Invalidation Petitioner	Jingjing ZHANG
Patentee	DYSON TECHNOLOGY LTD.
Patent No.	201610830364.1
Filing Date	September 18, 2016
Priority Date	September 17, 2015
Granting Announcement Date	November 3, 2020
Date of Invalidation Request	April 22, 2022
Legal Basis	Article 22 Paragraphs 2 and 3, and Article 26 Paragraphs 3 and 4 of the Patent Law of China
Key points: If a claim has a distinctive technical feature over the closest prior art, and the prior art does not provide sufficient technical inspiration for the distinctive technical feature, then the claim is inventive (nonobvious).	

I. Cause of action

This Request for Invalidation involves Invention Patent No. 201610830364.1, titled “VACUUM CLEANER” (hereinafter referred to as “the Subject Patent”). Its filing date is September 18, 2016. Its priority date is September 17, 2015. Its date of announcement of grant of patent is November 3, 2020. The Patentee is Dyson Technology Limited. The claims of the Subject Patent are as follows at the time of the announcement of grant of patent right:

“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 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 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 claims 1-3, wherein the dirt collector is disposed forward of the handle.

8. The handheld vacuum cleaner of any one of 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.”

The petitioner for invalidation Jingjing ZHANG (hereinafter referred to as “the Petitioner”) filed a request for invalidation to China National Intellectual Property Administration against the above patent on April 22, 2022, on the ground that the description of the Subject Patent does not comply with Article 26 Paragraph 3 of the Patent Law of China, claims 5 and 6 are not in comport with Article 26 Paragraph 4 of the Patent Law of China, claims 1, 3, 7 and 8 are not in comport with Article 22 Paragraph 2 of the Patent Law of China, and claims 1-8 are not in comport with Article 22 Paragraph 3 of the Patent Law of China, requested to declare all of claims 1-8 of the Subject Patent invalid, and submitted the following exhibits at the same time:

Exhibit 1: Chinese patent document No. CN1178622C, published on December 8, 2004;

Exhibit 2: Chinese patent document No. CN102440717B, published on September 9, 2015;

Exhibit 3: Chinese patent document No. CN101489454A, published on July 22, 2009;

Exhibit 4: Chinese patent document No. CN1223843A, published on July 28, 1999;

Exhibit 5: Chinese patent document No. CN101489460A, published on July 22, 2009;

Exhibit 6: Chinese patent document No. CN101779936A, published on July 21, 2010;

Exhibit 7: Japanese patent document No. JP2003-139094A and Chinese translation thereof, published on May 14, 2003;

Exhibit 8: Chinese patent document No. CN103607939A, published on February 26, 2014;

Exhibit 9: “*Ergonomics in Product Design*”, written by Jicheng WANG, Chemical Industry Press Co., Ltd., Edition 2 of January 2011, copies of the cover, back cover, copyright page and pages 202-207 of the text; and

Exhibit 10: Chinese patent document No. CN1638878A, published on July 13, 2005.

In conjunction with the exhibits above, the Petitioner believes: (1) The disclosure of the “connector” is insufficient in the description of the Subject Patent; accordingly, the technical solutions in claims 5 and 6 involving the “connector” are not supported by the description. (2) Claims 1, 3, 7 and 8 lack novelty over the technical solution as disclosed by the fifth embodiment in Exhibit 1; the feature comparison of the first, third and fourth embodiments in Exhibit 1 is similar to that of the fifth embodiment. (3) Taking Exhibits 1, 3, 5, 6 and 7 as the closest prior art respectively, claims 1-8 of the Subject Patent lack inventiveness, wherein the exhibits submitted give the technical inspiration for the angle range setting and the feature of end dust removal of the cyclonic separator, for example, Exhibit 2, 4 or 10 involves the inclined angle of the handle; Exhibit 8 involves an end dust removal structure of a cyclonic separator; and furthermore, Exhibit 9, as a common general knowledge exhibit, proves that the angle range setting belongs to the conventional means in the art.

Upon formal examination, on June 10, 2022, the China National Intellectual Property Administration accepted the above request for invalidation and delivered the copies of the Request for Invalidation and exhibits to the Patentee, and established a Collegiate Panel to review this case.

On July 25, 2022, the Patentee submitted the Statement of Opinion against the Request for Invalidation, in which the Patentee believed: (1) The description of the Subject Patent has clearly and completely illustrated the connection manner and connection structure between the cleaning tool and the cyclonic separating unit, with sufficient disclosure; and corresponding claims 5 and 6 can be supported by the description. (2) The Subject Patent proposes an improved technical solution for the dirt emptying problem present in the existing handheld vacuum cleaner, and can particularly maximize the distance between a user and dirt; at the same time, the same handle gripping posture as that during normal cleaning can be used during the dirt emptying, which is very intuitive and ergonomic; however, the exhibits submitted by the Petitioner neither mention the above problem nor disclose the technical solution of the Subject Patent, and Therefore, the Subject Patent is novel and inventive.

On July 27, 2022, the Collegiate Panel issued the Notification of Oral Hearing to both parties to inform both of them that an oral hearing would be conducted for this case on September 9, 2022. On August 2, 2022, the Collegiate Panel issued the Notification of Transmittal of Documents to the Petitioner to transfer the Statement of Opinion submitted by the Patentee on July 25, 2022 to the Petitioner.

The oral hearing was conducted as scheduled, in which the Petitioner delegated a patent agent Huihui ZHANG and a citizen agent Danqing SONG to be present, and the Patentee delegated patent agents Ziqiu HE, Xing CHEN and Jiaen XIONG to be present. During the oral hearing, the Petitioner clarified that the grounds, scope and exhibit usage of the request for invalidation are the same as those in the written opinions. The Patentee had no objection to the authenticity of Exhibits 1-8 and 10 and the accuracy of Chinese translation of the foreign exhibit, but raised an objection to the authenticity of Exhibit 9 as the Petitioner did not provide the original document. The Petitioner stated that the original document of Exhibit 9 would be submitted after the hearing. Both parties agreed that the authenticity of Exhibit 9 would be determined by the Collegiate Panel. Both parties mainly discussed the novelty and inventiveness of the Subject Patent over Exhibit 1: the Patentee believed that Exhibit 1 is a rod-type cleaner which has a connection pipe 3 and a suction head 4, and its handle only has a pushing function, which is different from the handheld cleaner having the handle with a support effect as defined in the Subject Patent, and there is no comparability; furthermore, the dust collecting chambers 7 and 8 are disassembled from the cyclonic separator for dust emptying, without a motivation of improving the emptying operation as described in the Subject Patent; the Subject Patent is intended to improve the layout relationship of an integral handheld vacuum cleaner and can realize better emptying operation, which is not mentioned in the exhibits submitted by the Petitioner, and Therefore, the exhibits cannot give a technical inspiration. The Petitioner believed: the cleaner is a handheld type as long as the handle can achieve the effect of being held by a hand, therefore, Exhibit 1 discloses a handheld vacuum cleaner; whereas FIGS. 6 and 7

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of the Subject Patent also show a vacuum cleaner having a connecting rod and a suction head, and therefore the vacuum cleaner having the connecting rod and the suction head falls within the scope of protection of the Subject Patent, and belongs to a handheld cleaner. The Patentee stated that the description of the Subject Patent explicitly sets forth that FIGS. 6 and 7 belong to a rod type cleaner, which is an application scenario of the handheld cleaner; and the whole structure in FIGS. 6 and 7 is not the technical solution sought for protection by the Subject Patent.

The Petitioner submitted a colored scanned copy of corresponding portion of Exhibit 9 after the oral hearing.

In light of the above, the Collegiate Panel determines that the facts of the case have been clear for making a review decision.

II. Grounds for Decision

1. Evidentiary determination

Exhibits 1-8 and Exhibit 10 submitted by the Petitioner are all patent documents, and the Patentee has no objection to the authenticity thereof. Upon review, the Panel acknowledges the authenticity. And the publication dates of Exhibits 1-8 and Exhibit 10 are all before the priority date of the Subject Patent, and the disclosure thereof constitutes the prior art of the Subject Patent. The Patentee has no objection to the accuracy of the Chinese translation of the foreign text of Exhibit 7, and therefore the content of wording of Exhibit 7 is subject to the Chinese translation submitted by the petitioner.

For Exhibit 9, the Petitioner submits a colored scanned copy of the original documents. Upon review, the Panel deems that there is no obvious defect in the colored scanned copy, and acknowledges the authenticity of Exhibit 9. And the publication date of Exhibit 9 is before the priority date of the Subject Patent, and Exhibit 9 is a textbook, and thus can be used as common knowledge Exhibit of the present application.

2. Regarding Article 26 Paragraphs 3 and 4 of the Patent Law of China

According to Article 26 Paragraph 3 of the Patent Law of China, it is stipulated that the description shall set forth the invention or utility model in a manner sufficiently clear and complete so as to enable a person skilled in the art to carry out the invention or utility model.

According to Article 26 Paragraph 4 of the Patent Law of China, it is stipulated that the claims shall be supported by the description and shall define the extent of patent protection sought for in a clear and concise manner.

For the present application, the Petitioner argues that the content about a “connector” in the description of the patent is disclosed insufficiently; and accordingly, the technical solutions of claims 5 and 6 involving the “connector” cannot be supported by the description. With regard to this, upon review, the Panel deems: first, in Paragraph 0008 of the description of the Subject Patent, it is described “the handheld vacuum cleaner may further comprise a connector and a cleaning tool connectable to the connector”, from which those skilled in the art can understand that the expressed meaning is that the vacuum cleaner body has a connector structure to be connected to a cleaning tool, and after the cleaning tool is connected to the vacuum cleaner body through the connector structure, a cleaning operation can be performed; and as for the specific form of the connector structure, various structures present in the prior art can be adopted, as long as the cleaning tool can be securely connected to the vacuum cleaner body; secondly, in Paragraphs 0024-0027 of detailed description of the invention of the description of the Subject Patent, it is described “a central duct 30 extends from the end wall 26 to an inlet 32 of the cyclonic separation chamber 28”; “the cleaning tool 10 comprises a connector portion 33 and a nozzle portion 34”; and “the connector portion 33 has an outer diameter which is smaller than the inner diameter of the portion of the central duct 30 adjacent the end wall 26 such that the connector portion 33 can be inserted into the central duct 30 thereby ensuring a rigid connection between the cleaning tool and the cyclonic separating unit 8”, from which it can be seen that in the detailed description of the invention, the central duct 30 disposed on the cyclonic separating unit of the vacuum cleaner body is thus a “connector”, and the connector portion 33 of the cleaning tool 10 is inserted into the central duct 30, thereby realizing a rigid connection between the cleaning tool and the vacuum cleaner body. Therefore, the description of the Subject Patent has described the “connector” clearly and completely, and those skilled in the art know how to perform implementation. Thus the description complies with the provisions set forth in Article 26 Paragraph 3 of the Patent Law of China. Accordingly, claims 5 and 6 can also be supported by the description, and comply with the provisions set forth in Article 26 Paragraph 4 of the Patent Law of China.

3. Regarding Article 22 Paragraph 2 of the Patent Law of China

According to Article 22 Paragraph 2 of the Patent Law of China, it is stipulated that novelty means that, the invention or utility model does 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 declared after said filing date.

For the present application, the Petitioner argues that claims 1, 3, 7, and 8 of the Subject Patent lack novelty with respect to the technical solution disclosed in the fifth embodiment of Exhibit 1; and features of the first, third, and fourth embodiments of Exhibit 1 are compared to be similar to the fifth embodiment.

(3.1) Regarding claim 1

Exhibit 1 discloses a vacuum cleaner, where FIGS. 1-19 show a first embodiment, and FIG. 25 shows a fifth embodiment (refer to the description of these two parts of embodiments and the corresponding drawings); FIG. 25 is a diagram schematically showing the vacuum cleaner of a fifth embodiment; for convenience's sake, such members as find their counterparts in the first embodiment shown in FIG. 1 are identified with the same reference numerals; the coupling pipe 10b coupled to the cyclone dust collecting part 5 is directly coupled to the body 1; that is, the vacuum cleaner as a whole is structured as a vacuum cleaner of a so-called upright type; the handle 10a held by the user during cleaning is formed integrally with the body 1; a connection pipe 3 is connected to a suction port body 4 having a suction port facing the floor surface F, and the connection pipe 3 is coupled to a cyclone dust collecting part 5; when the electric blower is driven, suction air is taken in through the suction port of the suction port body 4; the suction air passes through the connection pipe 3 and flows into the cyclone dust collecting part 5 through an flow-in port 5a; dust is separated from the suction air and is collected in a first dust collecting chamber 7; under the first dust collecting chamber 7 is provided a second dust collecting chamber 8 substantially coaxially therewith, with a partition wall 9 placed in between; the partition wall 9 has a meshed opening part 9a having a large number of through holes, so fine particles of dust pass through the opening part 9a and are collected in the second dust collecting chamber 8. The cyclone dust collecting part 5 is so structured that the first and second dust collecting chambers 7 and 8 are integrally detachable by means of a coupling part 5e realized by screw engagement, with a bayonet, with a clamp, or by another means; as shown in FIG. 16 or 17, the first and second dust collecting chambers 7 and 8 are further separable by means of a coupling part 5f realized by screw engagement, with a bayonet, with a clamp, or by another means; furthermore, as shown in FIG. 18, the second dust collecting chamber 8 may be so structured that a lid 8c at its bottom is openable by means of a coupling part 5h realized by screw engagement, with a bayonet, with a clamp, or another means. Therefore, since fine particles of dust are collected in the second dust collecting chamber 8, it is possible to detach the first and second dust collecting chambers 7 and 8 integrally from the vacuum cleaner, and then separate the first and second dust collecting chambers 7 and 8 from each other above a trash can or the like which simplifies the transporting work and also helps prevent fine particles of dust from scattering and making the surroundings dirty.

By comparing the fifth embodiment of Exhibit 1 and claim 1 of the Subject Patent, both of them include a cyclonic separating unit, and a dirt collector is provided at the end of the cyclonic separating unit. And the two differ in: (1) the Subject Patent defines a handheld vacuum cleaner that is supported by a handle during use, whereas the fifth embodiment of Exhibit 1, in essence, still follows the concept of a vacuum cleaner of an upright type in the previous embodiment, that is, a rod type vacuum cleaner; and the connection pipe 3 and the suction port body 4 on the ground both have good supporting capability during use, and the handle 10a plays a role of giving support, and the vacuum cleaner is not supported by the handle 10a, and does not belong to a handheld vacuum cleaner; (2) the Subject Patent defines that dirt is retained within the dirt collector by the end portion of the cyclonic separating unit, that is, the dirt collector is located inside the cyclonic separating unit, and the end portion pivots and opens to empty the dirt directly when the dirt is to be emptied, whereas Exhibit 1 shows that the cyclone dust collecting part 5 is detachably mounted with the first and second dust collecting chambers 7 and 8, the dust collecting chamber is located outside the end of the cyclonic separating unit, the lid 8c pivoted at the bottom of the second dust collecting chamber 8 does not belong to the cyclonic separating unit, and during emptying, it is necessary to integrally detach the two dust collecting chambers and place them in a trash can for emptying; and (3) the Subject Patent further defines an angle range between the handle and the longitudinal axis of the cyclonic separating unit, whereas Exhibit 1 only shows the handle is set to be inclined with respect to the cyclone dust collecting part 5.

The Petitioner argues that the cleaner is a handheld type as long as the handle can achieve the effect of being held by a hand, therefore, Exhibit 1 discloses a handheld vacuum cleaner, whereas FIGS. 6 and 7 of the Subject Patent also show a vacuum cleaner having a connecting rod and a suction head, and therefore the vacuum cleaner having the connecting rod and the suction head falls with the scope of protection of the Subject Patent, and belongs to a handheld vacuum cleaner. The Patentee states that the description of the Subject Patent explicitly records that FIGS. 6 and 7 belong to a rod type vacuum cleaner, and is an application scenario of the handheld vacuum cleaner; and the whole structure of FIGS. 6 and 7 is not the technical solution sought for protection by the Subject Patent, and therefore Exhibit 1 does not belong to a handheld vacuum cleaner, and cannot be comparable with the Subject Patent. With regard to this, upon review, the Panel deems: claim 1 of the Subject Patent defines that the subject matter is “a handheld vacuum cleaner”, and the characterizing portion also defines “a handle by which the vacuum cleaner is supported during normal use”, from which it can be seen that the handheld vacuum cleaner defined in the Subject Patent is a type of vacuum cleaner in which a handle mainly plays the role of supporting during use, and is not the same as a rod type vacuum cleaner or a vacuum cleaner of an upright type having other supporting structures, and the other cleaners shall not be categorized into the scope of “a handheld vacuum cleaner” sought for protection by the Subject Patent only because the vacuum cleaner structure thereof includes a handle that can be held; and in Paragraph 0036 of the description of the Subject Patent, it is described “this is particularly advantageous when the cleaning tool 10 is replaced with a wand 110 and a cleaner head 112 to form a rod vacuum cleaner 102, as shown in Figure 6”, from which it can be seen that FIGS. 6 and 7 of the Subject Patent show an application scenario in which a cleaning tool is replaced with a wand and a cleaner head, and in this application scenario, the main body of the vacuum cleaner, the wand and the cleaner head form a rod vacuum cleaner in a whole, which is distinct from a handheld vacuum cleaner in other examples, and does not fall with the scope of protection of the claims of the Subject Patent. Therefore, the observation of the Petitioner is not supported by the Panel.

To sum up, with respect to the technical solution described in the fifth embodiment of Exhibit 1, claim 1 of the Subject Patent has distinctive technical features, and is not the same technical solution, and thus possesses novelty, and complies with the provisions set forth in Article 22 Paragraph 2 of the Patent Law of China.

In Exhibit 1, FIGS. 1-19 show a first embodiment, FIG. 22 shows a third embodiment, and FIGS. 23-24 show a fourth embodiment. As can be seen from the corresponding wording and figures, it can be seen that all relate to a vacuum cleaner of an upright type, which is different from the handheld vacuum cleaner of claim 1 of the Subject Patent; and claim 1 of the Subject Patent also has the distinctive technical features described above over the technical solutions of these embodiments, is not the same technical solution, and therefore, claim 1 of the Subject Patent also possesses novelty with respect to the first, third, and fourth embodiments of Exhibit 1, and complies with the provisions set forth in Article 22 Paragraph 2 of the Patent Law of China.

(3.2) Regarding claims 3, 7, and 8

Claims 3, 7, and 8 are all dependent claims of claim 1. When claim 1 possesses novelty, claims 3, 7, and 8 also possess novelty with respect to the above embodiments of Exhibit 1, and comply with the provisions set forth in Article 22 Paragraph 2 of the Patent Law of China.

4. Regarding Article 22 Paragraph 3 of the Patent Law of China

According to Article 22 Paragraph 3 of the Patent Law of China, it is stipulated that inventiveness means that, as compared with the prior art, the invention has prominent substantive features and represents a notable progress.

(4.1) Regarding claim 1

A. Exhibit 1 is regarded as the closest prior art.

As described above, compared with the first, third, fourth, and fifth embodiments of Exhibit 1, the Subject Patent has three distinctive technical features as described above, and the technical problem to be actually solved is to improve the emptying operation of a handheld vacuum cleaner. The Petitioner argues that the range of angles therein is a conventional setting (as shown in Exhibit 9), and Exhibit 10 proves that this can be easily thought of on the basis of the prior art; and Exhibits 2-4 also prove that a handle having a pistol grip configuration belong to prior art.

With regard to this, upon review, the Panel deems: first, the first, third, and fourth embodiments of Exhibit 1 are a vacuum cleaner of an upright type, and the fifth embodiment is a rod type vacuum cleaner, which is also evolved from the vacuum cleaner of the upright type in other embodiments, and follows the concept of the vacuum cleaner of the upright type; and in solutions of these embodiments, the handle is not used for supporting during operation, and it is difficult for those skilled in the art to regard it as a handheld vacuum cleaner and make improvement on this basis; second, two dust collecting chambers in Exhibit 1 are disposed outside the cyclonic separating unit, and are detachably connected to the cyclonic separating unit, and need to be removed integrally so as to perform an emptying operation, which means it is not suitable to perform emptying when they are connected to the cyclonic separating unit and the handle; and there is no such emptying operation problem suffered by a cyclonic separating unit of the handheld vacuum cleaner with a dust collecting chamber; and lastly, based on the above two points, it can be seen that the emptying process of Exhibit 1 is unrelated with the holding state of the handle; and therefore, whether or not a handle having a pistol grip configuration or a handle configured with a specific inclination angle belong to prior art, the above Exhibit cannot provide technical inspiration of achieving such an emptying operation, through setting the range of an angle between a handle and a cyclonic separating unit, in which a handheld vacuum cleaner is held conveniently. Therefore, with respect to the combination of Exhibit 1 as the closest prior art, claim 1 of the Subject Patent is inventive (nonobvious), and complies with the provisions set forth in Article 22 Paragraph 3 of the Patent Law of China.

B. Exhibit 3 and Exhibit 5 are regarded as the closest prior art, respectively.

Exhibit 3 and Exhibit 5 both relate to a handheld cleaning appliance. Exhibit 3 specifically discloses the following content (see detailed description of embodiments and FIGS. 1-3 of the description): the hand-held vacuum cleaner 10 comprises a main body 12; the main body 12 includes a suction conduit 14 having a suction opening 16, cyclonic separating apparatus 18 and a motor housing 24; the cyclonic separating apparatus 18 is in communication with the suction conduit 14 and the suction opening 16; a handgrip 28 is located below the motor housing 24 for manipulating the hand-held vacuum cleaner 10 when in use; the handgrip 28 is arranged so that the cyclonic separating apparatus 18 is located between the handgrip 28 and the suction opening 16; the handgrip 28 takes the form of an elongate handle and has an axis X-X; the axis X-X is arranged at an angle to the longitudinal axis Y-Y extending through the suction opening 16, which angle is close to 90 degrees; this arrangement feels comfortable for a user. Exhibit 5 specifically discloses the following content (see detailed description of embodiments and FIGS. 1-3 of the description): the hand-held vacuum cleaner 10 has a main body 12 which houses a motor and fan unit; a handle 16 is provided on the main body 12 for manipulating the hand-held vacuum cleaner 10 in use; cyclonic separating apparatus 100 is attached to the main body 12; an inlet pipe 18 extends from a portion of the cyclonic separating apparatus 100 remote from the main body 12; a dirty air inlet 20 is formed at the distal end of the inlet pipe 18; the cyclonic separating apparatus 100 comprises a cyclone 102 which has a longitudinal axis X-X and a wall 104; a base 116 closes one end of the cyclone 102; the base 116 is pivotably mounted on the lower end of the wall 104 by means of a hinge, and is retained in a closed position by means of a catch 120; in use, larger dirt and dust particles are collected at the base 116 of the cyclone 102; and the catch 120 is released to allow the base 116 to pivot about the hinge 118 so that the separated dirt and dust can fall away from the cyclonic separating apparatus 100.

For claim 1 of the Subject Patent and Exhibit 3 or Exhibit 5, both relate to a handheld vacuum cleaner having a cyclonic separating unit and manipulated by a handle during use, where the vacuum cleaner is supported by the handle; and the handle is located below the motor housing and has a pistol grip configuration; and Exhibit 5 further discloses that the end of the cyclonic separating unit can be used for collecting a dirt, and is closed or pivotably opened through the base 116 closing the end so as to retain or remove the dirt collected in the end of the cyclonic separating unit. Claim 1 of the Subject Patent mainly differs from Exhibit 3 or Exhibit 5 in: in the Subject Patent, the longitudinal axis of the cyclonic separating unit extends in a plane which is located above the handle; and an angle of not less than 85 degrees and not greater than 140 degrees is formed between the handle and the longitudinal axis of the cyclonic separating unit, whereas in Exhibit 3 and Exhibit 5, the cyclonic separating unit is arranged to be upright, and the longitudinal axis of the cyclonic separating unit extends in a substantially upright direction; and although the handle is slightly inclined with respect to the cyclonic separating unit, the longitudinal axis of the cyclonic separating unit is in a substantially parallel position relationship with the handle.

With regard to the above distinctive technical features, the technical problem to be actually solved is to improve the operation of emptying a dirt by a handheld vacuum cleaner and reducing the risk of exposure to the dirt by a user. The Petitioner argues that Exhibit 1 provides technical inspiration in this aspect. Upon review, the Panel deems: as described above, the fifth, third, and fourth embodiments of Exhibit 1 show an upright vacuum cleaner, and the fifth embodiment shows a rod type vacuum cleaner, and the essence is still following the concept of a vacuum cleaner of an upright type; and the vacuum cleaner is not supported by the handle 10a, and does not belong to a handheld vacuum cleaner; moreover, for the operation of detaching the first and second dust collecting chambers 7 and 8 integrally from the cyclone dust collecting part 5 to perform an operation of emptying a dirt in Exhibit 1, the emptying process is unrelated with the holding state of the handle; and therefore, Exhibit 1 cannot provide technical inspiration of improving the emptying operation suffered by a handheld vacuum cleaner in a holding state to Exhibit 3 or Exhibit 5. Therefore, with respect to the combination of Exhibit 3 or Exhibit 5 as the closest prior art, claim 1 of the Subject Patent is inventive (nonobvious), and complies with the provisions set forth in Article 22 Paragraph 3 of the Patent Law of China.

C. Exhibit 6 and Exhibit 7 are regarded as the closest prior art, respectively.

Exhibit 6 and Exhibit 7 both relate to the structure of an upright vacuum cleaner. Exhibit 6 specifically discloses (see Paragraphs 0032-0039 and FIGS. 1-6 of the description): a vacuum cleaner 1 (it can be seen from FIG. 1 that it is an upright vacuum cleaner) comprises a triangular suction device 2 connected to a handle 4 by an intermediate connective section 3; the handle refers not only to the elongate part of the device ending in a handle 8 at its upper end, but also includes a battery 5, a motor 6 and a cyclonic debris separation and storage device 7 (that is, a cyclonic separating unit); the cyclonic separation device 7 is positioned in a chamber 35 in the handle 4 in an upright manner; the cyclonic separation device 7 consists of an exterior main body, which shall be called the bowl portion 10; the bowl portion 10 is in the form of a roughly cylindrical structure; the lower face of the bowl portion 10 is closed by a door 14 attached by a hinge 15 for emptying dust and debris that accumulates in the lower portion 16. Exhibit 7 specifically discloses (see the disclosure of embodiment 5 and FIG. 14 of the description): the cleaner body configuration is an upright configuration; reference numeral 82 denotes a dust collector, which has a cyclone-type centrifugal separation mechanism; reference numeral 84 denotes a dust collecting box; reference numeral 87 denotes a suction nozzle; and the dust is stored in the space 91 between the inlet guide and the dust collecting box side wall 84a.

For claim 1 of the Subject Patent and Exhibit 6 or Exhibit 7, both include a cyclonic separating unit having a dirt collector at one end of the cyclonic separating unit; and Exhibit 6 further discloses that the end of the cyclonic separating unit can retain or remove the dirt collected inside the cyclonic separating unit by pivotally closing or opening the door at the end of the cyclonic separating unit. Similar to the situation of Exhibit 1, Exhibit 6 and Exhibit 7 both relate to an upright vacuum cleaner, of which the handle portion does not play a role of supporting, and the handle is not needed to be held during an emptying operation, the handle has nothing to do with the emptying operation of the cyclonic separating unit. Therefore, claim 1 of the Subject Patent also mainly differs from Exhibit 6 and Exhibit 7 in: the Subject Patent defines a handheld vacuum cleaner in which a handle plays a role of supporting, and the handle has a special position relationship with the cyclonic separating unit so as to be able to use a holding gesture in a cleaning operation as well during the emptying operation and reduce the risk of exposure to a dirt by a user. With regard to the above distinctive technical features, as described above, first, it is difficult for those skilled in the art to regard these upright vacuum cleaner as a handheld vacuum cleaner and make improvement on this basis; second, the dust collection part of an upright vacuum cleaner does not require a handle for holding during an emptying operation, and the emptying operation is unrelated with the handle; therefore, even if a handle having a pistol grip configuration or a handle configured with a specific inclination angle (as shown in Exhibits 2-4 or Exhibits 9-10) has been present in the prior art, and a structure that the end of the cyclonic separating unit can pivot to remove dust (as shown in Exhibits 5-6) has also been present in the prior art, none of them provides technical inspiration of improving an emptying operation of a handheld vacuum cleaner by designing the position relationship between the handle and the cyclonic separating unit on the basis of Exhibits 6 and 7. In addition, Exhibit 1 relates to an upright or rod type vacuum cleaner, and Exhibit 8 relates to a canister vacuum cleaner, dust collecting parts of which have nothing to do with the handle during an emptying operation. Thus the exhibits above cannot provide technical inspiration of improving the structure when a handheld vacuum cleaner holds a handle to perform an emptying operation. Therefore, with respect to the combination of Exhibit 6 or Exhibit 7 as the closest prior art, claim 1 of the Subject Patent is inventive (nonobvious), and complies with the provisions set forth in Article 22 Paragraph 3 of the Patent Law of China.

(4.2) Regarding claims 2-8

Claims 2-8 are dependent claims of claim 1. When claim 1 is inventive (nonobvious), claims 2-8 also possess inventiveness with respect to the exhibits above, and comply with the provisions set forth in Article 22 Paragraph 3 of the Patent Law of China.

III. Decision

The patent of the invention with the number 201610830364.1 is maintained to be valid.

Pursuant to the provisions set forth in Article 46 Paragraph 2 of the Patent Law of China, the Patentee or the invalidation requestor may, within three (3) months from the date of receiving this decision, appeal by filing a case with the Beijing Intellectual Property Court, and the opponent of the appellant appears as a third party in the legal proceedings.

Panel Group Lead: Wenzhi LIU
Primary Reviewer: Junyan YANG
Participating Reviewer: Yan HU

Rereview and Invalidation Department of the CNIPA

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