

# Mock Trial

- **SCENE 1**

**2<sup>nd</sup> Date for Oral Argument**

**Explanatory Session**

- **SCENE 2**

**Expression of Court's View**

# SCENE 1

## 2<sup>nd</sup> Date for Oral Argument

September 24, 2024

## Explanatory Session

# Dispute in this Case

## ● Point at Issue

- 1 Whether the Defendant's Product falls within the technical scope of the Invention (Whether the "through hole" of the Defendant's Product falls under the "through hole" of the Invention.)
- 2 Whether the Patent is invalid because the Invention could have been easily invented based on the First prior art invention.

## Plaintiff's Arguments (1) Fulfilment of Patented Elements

**Prior art** = Invention with regard to **storage containers** in which stored food can be **heated in a microwave oven**.

[0005] ... A **through hole 911** is formed in the top plate portion 91 **to release excessive pressure inside the storage container 7 due to heating in a microwave oven**.

[0011] After heating the food stored in the storage container 7 in a microwave oven, **there are cases where it is desired to remove only the excess water that has accumulated in the storage container 7**. ... when tilted to drain water through the through hole 911 as shown in Figure 8, the flap 93 was located below the through-hole 911, so there was **a problem in that the water drained from the through hole 911 hits the flap and splatters**.

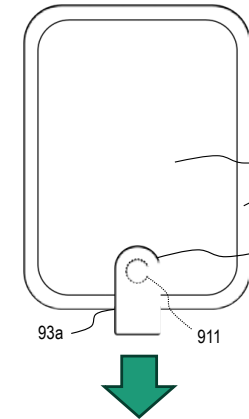
### Effect of the Invention

[0012] One aspect of the present disclosure is to provide **a lid that can prevent water discharged from the through hole from hitting the flap**.

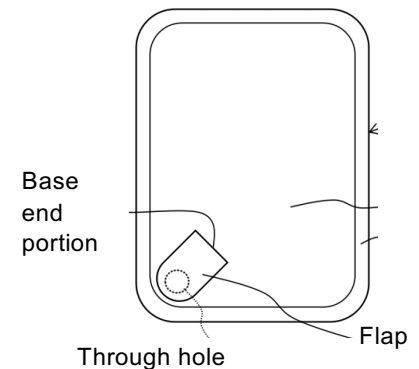
⇒ **The size of the through hole is not limited.**

⇒ **Discharging water is not a patented element.**

Prior art

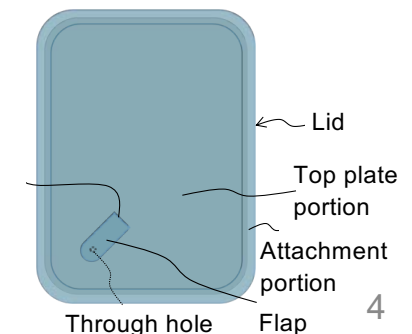


Invention



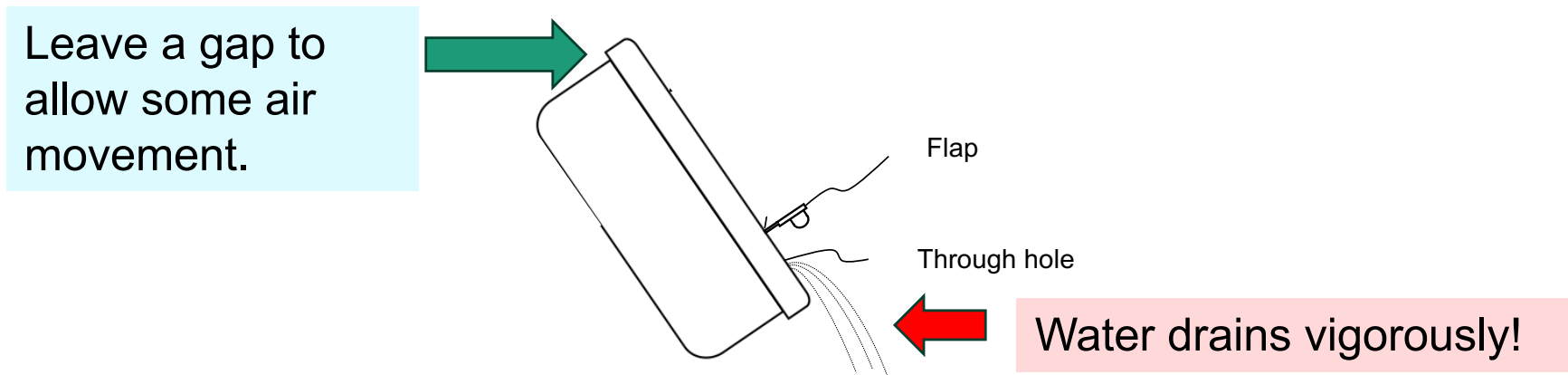
The through hole is formed outside the base end portion

Defendant's Product



## Plaintiff's Arguments (1) Fulfilment of Patented Elements

Note that the Defendant's Product is able to drain water.



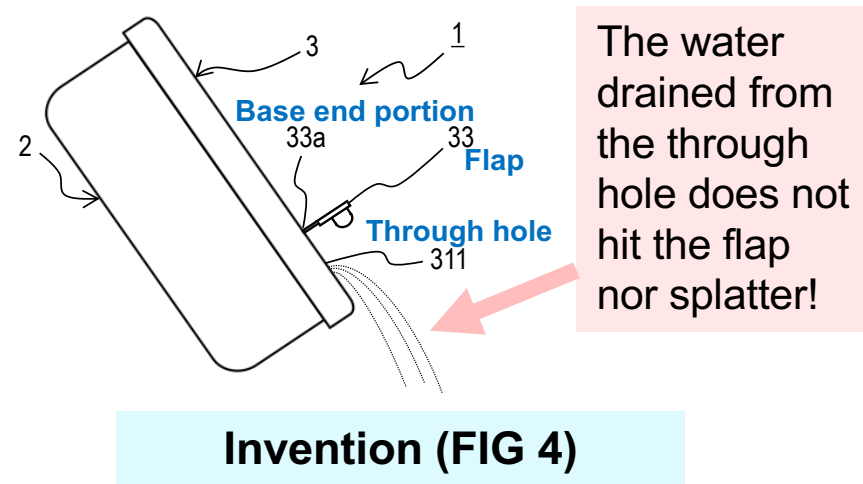
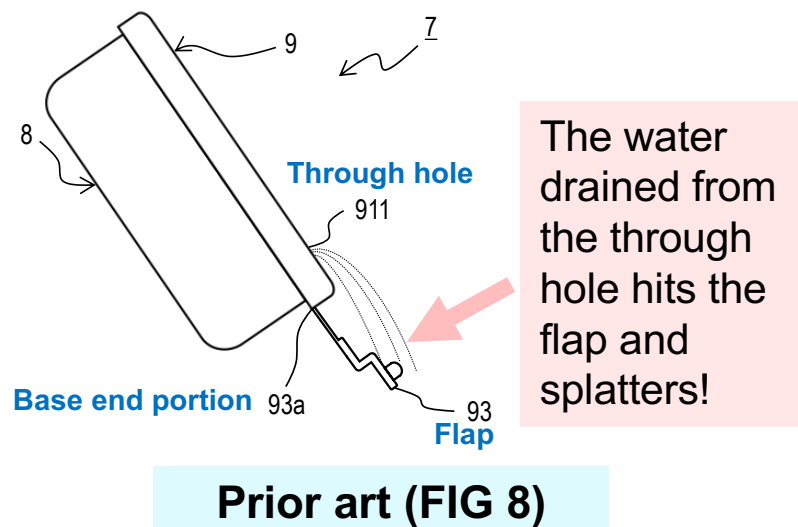
When the Defendant's Product was tilted with the upper part of the lid ajar to allow some air movement, water drained vigorously from the through hole.

⇒ **Even with the Defendant's Product it is possible to remove excess water inside the storage container from the through hole.**

⇒ **Defendant's product fulfils the elements of the Invention.**

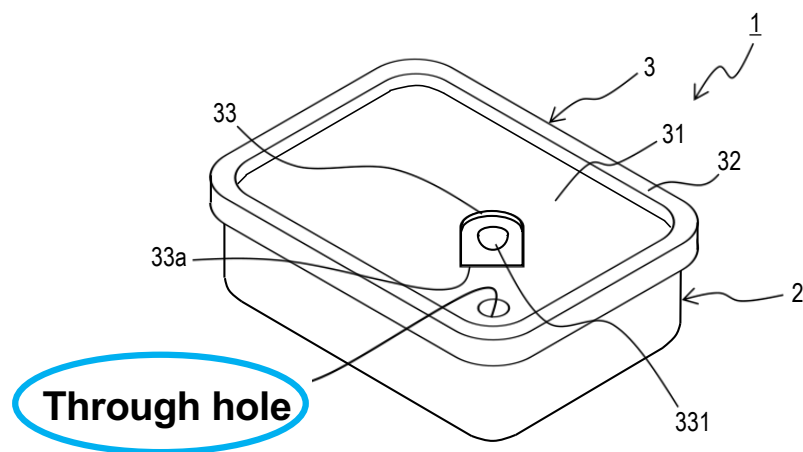
## Defendant's Arguments (1) Fulfilment of Patented Elements

- The Prior art has a **problem**, which is “when tilted to drain water through the through hole 911 as shown in Figure 8, the flap 93 was located below the through-hole 911, so the water drained from the through hole 911 hits the flap and splatters.” The Invention adapts a **structure** “wherein the through hole is formed outside a base end portion of the flap in plan view of the lid” as a means for solving the problem, and have an **effect** that can “provide a lid that can prevent water discharged from the through hole from hitting the flap.”
- “Through hole” of the Invention (311 in FIG 4) has to be considered to have the technical significance of discharging water within the storage container.
- **“Through hole” of the Invention should be understood as a through hole suitable for discharging water within the storage container.**

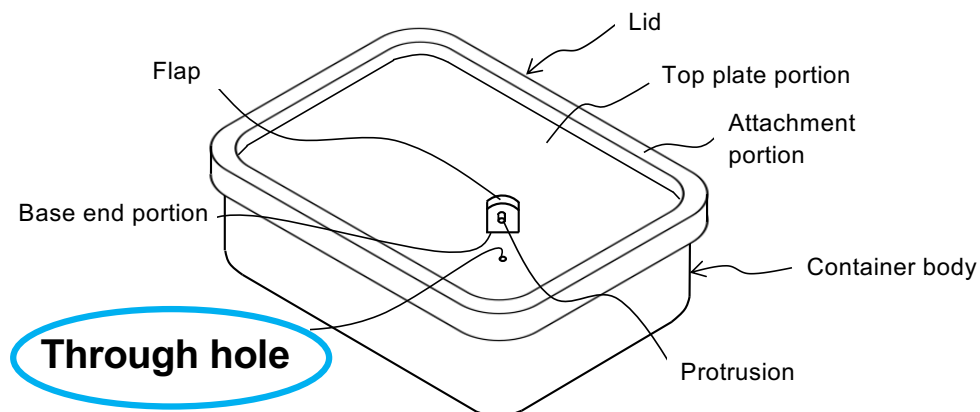


## Defendant's Arguments (1) Fulfilment of Patented Elements

- **The through hole of the Defendant's Product is not suitable for discharging water within the storage container.**
- The through hole of the Defendant's Product is intended to release an excessive pressure within the storage container due to heating in a microwave oven and is not designed to discharge water within the storage container.
- the through hole of the Defendant's Product is circular and 3mm in diameter, which is too small to discharge water.
- A test conducted by a third-party organization became clear that it took 60 seconds or more to discharge 100 cc of water.
- **the Defendant's Product does not have any "through hole" referred to in patented elements B, and D-F of the Invention and therefore does not fall within the technical scope of the Invention.**



**Invention**



**Defendant's Product**

## Plaintiff's Arguments (2) Invalidity

### Difference (1)

The Invention is used to heat food in a microwave oven, while the First prior art invention is used to defrost food in a microwave oven.

### Difference (2)

In the Invention, the through hole is manually opened and closed by a flap and the through hole is blocked by a protrusion on the flap, whereas in the First prior art invention, the through hole is blocked or opened depending on the pressure difference between inside and outside the storage container.

### More about Difference (1)

The storage container of the First prior art invention is “made of plastic with a heat-resistant temperature range of -40 to 100°C” ([0008]).

- ⇒ It is intended to be used for freezing food and defrosting in a microwave oven.
- ⇒ **It is not a “storage container in which stored food can be heated in a microwave oven.”**



## Plaintiff's Arguments (2) Invalidity

### More about Difference (2)

**Invention: Opens and closes the through hole manually.**

- ⇒ Requires a **protrusion that blocks the hole.**  
In **natural condition**, the protrusion is **spaced apart** from the through hole.

**First prior art invention : Non-return valve that prevents airflow back into the storage container (opened or closed with the vacuum pump).**

- ⇒ Requires a **seal surface (no protrusion) to be able to make it closed.**

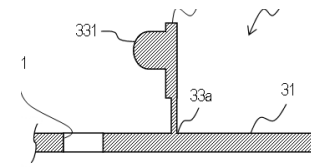
In **natural condition**, the seal surface is **in contact with** the area around the through hole.

⇒ **Difference in structure comes from difference in function, which is not a design variation.**

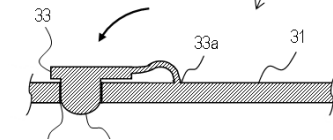
⇒ If the flap of the First prior art invention is replaced with a well-known flap having a protrusion that can block the through hole, even when suction by the vacuum pump ends, **the through hole would not automatically close**, and air outside the storage container would flow into the storage container, **which would be teaching away for such a replacement.**

⇒ **The Patent has no grounds for Invalidity.**

Manually Opened/Closed

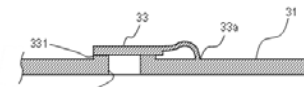


Natural Condition/  
Open State

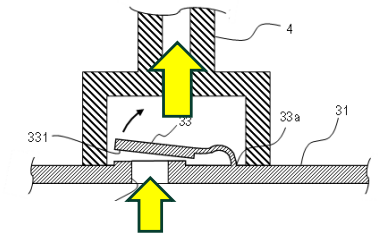


Fitting Condition/  
Closed State

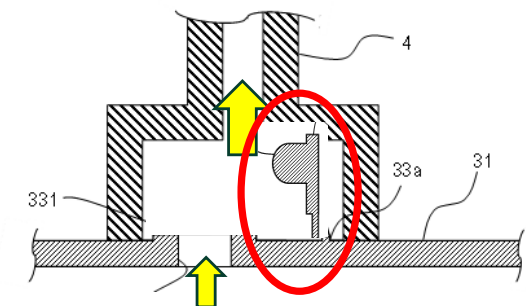
Opened/Closed with vacuum pump



Natural Condition/  
Closed State



Pressure Difference  
Condition/ Open State

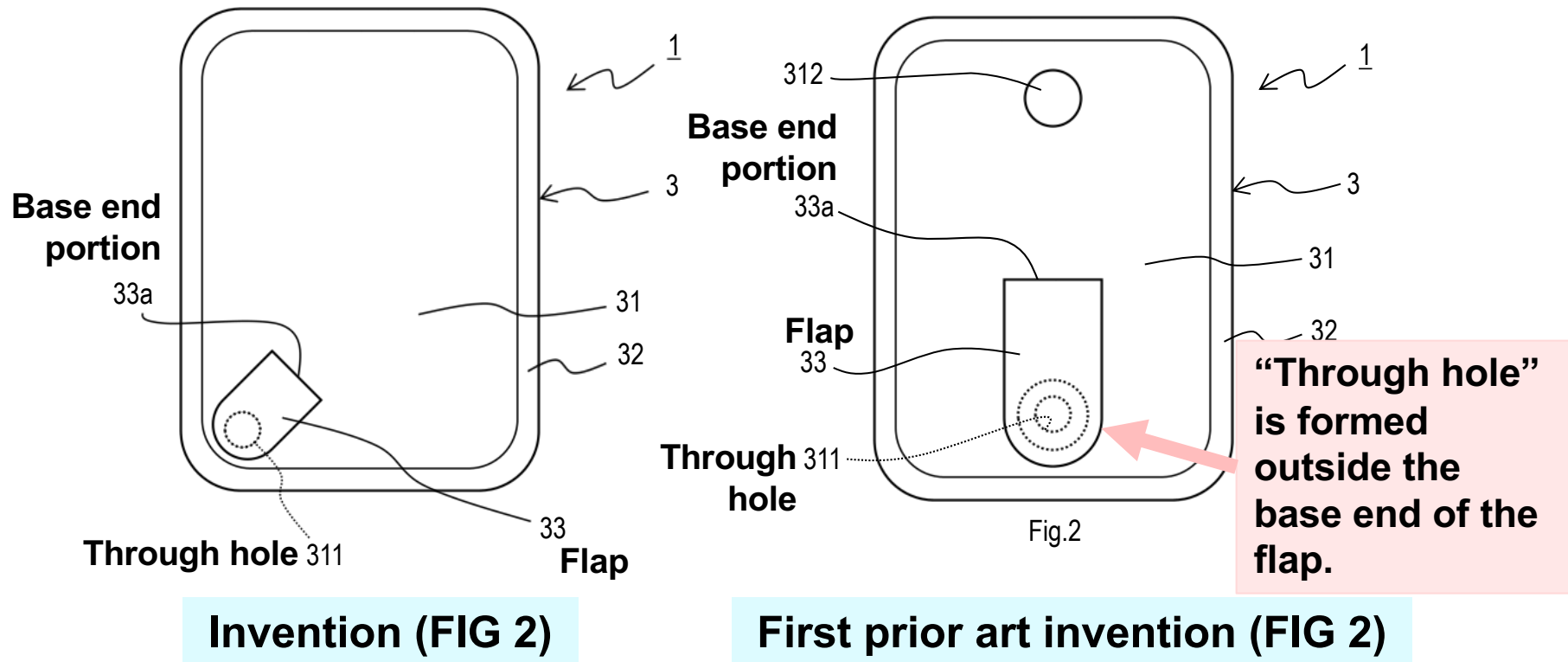


First prior art invention +  
Well-known flap

⇒ **Not Closed State**

## Defendant's Arguments (2) Invalidity

- Because the base end of the flap is positioned outside the through hole in a storage container of the Prior art, water discharged from the through hole would hit the flap and splatter. The invention addresses this issue by forming the "through hole" outside the base end of the flap.
- The First prior art invention discloses the structure that the Invention employs to solve the problem.



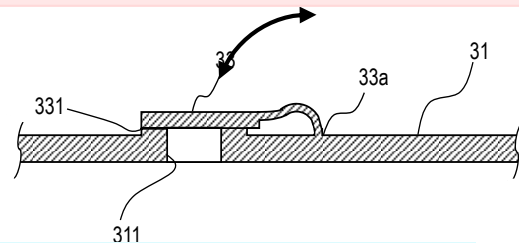
## Defendant's Arguments (2) Invalidity

- The differences between the Invention and the First prior art invention are not substantial.

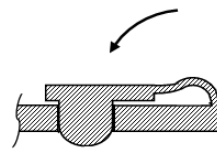
**Difference 1:** The reason frozen food defrosts is that it is subjected to “heating,” and thus, “defrosting” is encompassed by “heating.”

**Difference 2:** (1) The flap of the First prior art invention has the function of opening and closing the through hole in common with the flap of the Invention. The presence or absence of a protrusion and the difference in the structure in the natural condition are merely design matters. (2) a flap which is configured such that the protrusion is spaced apart from the through hole in the natural condition and the through hole is maintained closed by the protrusion is a well-known technology, so it is extremely easy to apply such a structure to the first prior art invention.

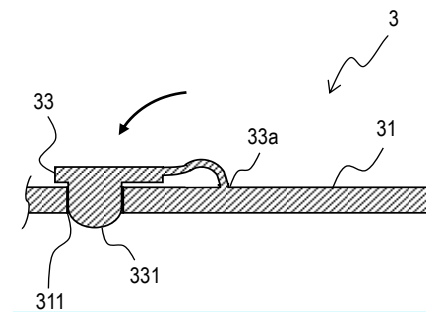
The function of opening and closing the through hole



**First prior art invention**



**Well-known technology**



**Invention**

**The Patent should be judged as invalid because it could have been easily invented based on the First prior art invention.**

# Q&A

## Q1: Size of the through hole

- **The actual situation regarding the plaintiff's product**
- **Regarding the experimental results submitted by the defendant**

# Q&A

## Q2: The actual situation regarding the production

- Does the defendant sell vacuum storage products similar to the First prior art invention in addition to the Defendant's Products?
- Differences between standard products and vacuum storage products

# Q&A

**Q3: Does the defendant sell vacuum pumps?**

# Q&A

## Q4: Customer base for vacuum storage products

# Q&A

**Q5: The technical significance of the flap of the  
First prior art invention**



# SCENE 2

## Expression of Court's View

# Expression of Court's View

1. Whether the Defendant's Product falls within the technical scope of the Invention

(Conclusion)

The Defendant's Product falls within the technical scope of the Invention.

(Summary of Reasons)

- 1 The technical scope of a patented invention shall be determined based on the claims (Patent Act, Article 70, Paragraph 1). The Claim of the Invention do not specify the size of the through hole or the time for draining water.
- 2 Even considering the problem stated in the Description when interpreting the Claim, the Defendant's Product also drains water through the through hole, which creates the same problem as that of the Prior art, and it is solved.

# Expression of Court's View

2. Should the Patent to the Invention be invalidated due to obviousness?

(Conclusion)

The Patent to the Invention should not be invalidated due to obviousness.

(Summary of Reasons)

Regarding Difference 1, the “defrosting” of the First prior art invention is a form of “heating” of the Invention. Therefore, Difference 1 is not a substantial difference.

Regarding Difference 2, the flap of the First prior art invention for vacuum storage differs from the flap of the Invention in terms of the problem, function and effect. There is no motivation to adopt well-known technology. Replacing the flap of the First prior art invention with that of the Invention would result in a loss of vacuum storage capability, which is teaching away.

# Expression of Court's View

## 3. Remedy (Injunction, Destruction and Damages)

### (Conclusion)

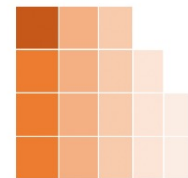
In addition to claims for injunction and destruction, a claim for damages is also granted. The issue on damages will continue to be reviewed and will be adjudicated together with the overall judgment.

### (Summary of Reasons)

In patent infringement suits in Japan, a two-phase proceedings system is adopted. The court first conducts proceedings on whether the patent has been infringed or not (phase for examination on infringement) and, if the court finds that infringement has actually occurred, second-phase proceedings will be conducted on the amount of damages (phase for examination on damages).



**Thank you.**



IPHC