Trial decision

Invalidation No. 2012-800143

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There had been a court decision of revocation of the trial decision held by the Intellectual Property High Court (2014 (Gyo-Ke) No. 10236, and rendition of the

judgement on Jun. 30, 2015) about a trial decision dated Sep. 30, 2014 as to the case of the patent invalidation trial of Japanese Patent No. 3477995, entitled "pointer device for vehicle" between the parties above, and, therefore, the case was proceeded further, and another trial decision was handed down as follows:

Conclusion

The correction shall be approved as requested.

The trial of the case was groundless.

The costs in connection with the trial shall be borne by the demandant.

Reason

No. 1 History of the procedures

The demandee made patent application about an invention entitled "Pointer device for vehicle" on May 23, 1996 (Japanese Patent Application No. H8-128704, Japanese Unexamined Patent Application Publication No. H9-311058), and was granted establishment of the patent right on Oct. 3, 2003 (Japanese Patent No. 3477995 (hereinafter, referred to as "the Patent")) (hereinafter, the description of the Patent is referred to as "the Description of the Patent").

Against this, the demandant requested a trial on Sep. 3, 2012 with an object of the request to demand a trial decision that the patents about the inventions according to claims 1 to 3 of the scope of claims of Japanese Patent No. 3477995 shall be invalidated, and the costs in connection with the trial shall be borne by the demandee (hereinafter, referred to as "the Invalidation trial").

The subsequent history of the procedures related to the Invalidation trial is roughly as follows.

Nov. 21, 2012:	a written reply (hereinafter, referred to as "Written reply 1")
Feb. 27, 2013:	notification of matters to be examined
Mar. 15, 2013:	an oral proceedings statement brief (the demandee)
Mar. 18, 2013:	an oral proceedings statement brief (the demandant)
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- Mar. 27, 2013: an oral proceeding
- Apr. 11, 2013: notice of conclusion of trial proceedings
- Apr. 26, 2013: a trial decision

(hereinafter referred to as "the First trial decision")

- Jun. 4, 2013: access to the court (2013 Gyo-Ke No. 10154)
- Dec. 24, 2013: a court decision

(hereinafter referred to as "the First court decision")

Jan. 9, 2014: a written motion for request for correction

Feb. 28, 2014: a written correction request

(Hereinafter, the correction according to this written correction request is referred to as "Correction request 1")

- Apr. 10, 2014: a written refutation
- Apr. 22, 2014: a decision on acceptance or non-acceptance of amendment
- May 22, 2014: a written reply (hereinafter, referred to as "Written reply 2")
- May 22, 2014: a written correction request

(Hereinafter, the correction according to this Written correction request is referred to as "Correction request 2")

Jun. 25, 2014: advance notice of a trial decision

Jul. 25, 2014: a written correction request

(Hereinafter, this written correction request is referred to as "the Written correction request," and the correction request according to the Written correction request "the Correction request")

Sep. 12, 2014:	notice of conclusion of trial proceedings
Sep. 30, 2014: decision")	a trial decision (hereinafter, referred to as "the Second trial
Oct. 30, 2014:	access to the court (2014 (Gyo-Ke) No. 10236)
Jun. 30, 2015: decision")	a court decision (hereinafter, referred to as "the Second court
Jul. 24, 2015:	a written statement (the demandant)
Nov. 24, 2015:	a decision on acceptance or non-acceptance of amendment
Nov. 24, 2015:	notice of conclusion of trial proceedings

Meanwhile, since the Correction request was made on Jul. 25, 2014, it is construed as Correction request 1 and Correction request 2 were withdrawn under the provisions of Article 134-2(6) of the Patent Act.

No. 2 Regarding correction request

1 Object of request for correction and the contents of correction

The correction requested by the demandee by the Written correction request dated Jul. 25, 2014 (hereinafter, referred to as "the Correction) is a correction to request correction of the scope of claims and the detailed description of the invention of the Description of the Patent for each group of claims as described in the corrected description attached to the Written correction request.

The contents of the correction are as follows (underlines indicate the corrected portions).

(1) The correction about a group of claims constituted of claims 1 and 4 (hereinafter, referred to as "Matters of correction 1")

A The matters of correction a

To correct

"A pointer device for a vehicle, comprising: a scale plate (20); a pointer (30) to perform

indication display on the scale plate; and an irradiation means (50) for irradiating the scale plate by light, the pointer device for a vehicle further comprising,

a control means (112, 112A, 113, 113A, 121-124, 130, 130A) for controlling luminance of irradiation light of the scale plate irradiation means so as to be lowered gradually when a key switch (IG) of the vehicle is turned off." stated in claim 1 of the scope of claims to

"A pointer device for a vehicle, comprising: a scale plate (20); a pointer (30) to perform indication display on the scale plate; and an irradiation means (50) for irradiating the scale plate by light, the pointer device for a vehicle further comprising,

a control means (112, 112A, 113, 113A, 121-124, 130, 130A)

for controlling luminance of irradiation light of the scale plate irradiation means along with turning-off of a key switch of a vehicle (IG) so as to make the luminance be lowered gradually from initial luminance of the irradiation light of the scale plate irradiation means in an ON state of the key switch, and,

for controlling, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of turning on the key switch."

B The matters of correction b

To correct

"The pointer device for a vehicle according to any one of claims 1 to 3, further comprising

a seating detection means (SW) for detecting that a crew is not seating in a seat of a vehicle, wherein

the control means stops its control along with detection by the seating detection means." stated in claim 4 of the scope of claims to

"The pointer device for a vehicle according to claim <u>1</u>, further comprising

a seating detection means (SW) for detecting that a crew is not seating in a seat of a vehicle, wherein

the control means stops its control along with detection by the seating detection means."

C The matters of correction c

To correct

"[Means for solving the problem]

To achieve the above-mentioned object, according to the inventions described in claims 1 and 4, a control means performs control of luminance of irradiation light of a scale plate irradiation means so as to be lowered gradually along with turning-off of a key switch. By this, brightness of a scale plate is gradually lowered after the key switch is turned off, and, therefore, novel visibility in this type of pointer devices after the key switch is turned off can be provided to a crew." of paragraph [0004] of the description attached to the application to

"[Means for solving the problem]

To achieve the above-mentioned object, according to the inventions described in claims 1 and 4, a control means controls luminance of irradiation light of a scale plate irradiation means along with turning-off of a key switch so as to make the luminance be lowered gradually from initial luminance of irradiation light of the scale plate irradiation means in an ON state of the key switch, and, controls, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, so as to make luminance of irradiation light of the scale plate irradiation means be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means return to the initial luminance with a delay from the timing of turning on the key switch. By this, brightness of a scale plate is gradually lowered after the key switch is turned off, and, therefore, novel visibility in this type of pointer device after the key switch is turned off can be provided to a crew."

D The matters of correction d

To correct

"Meanwhile, in the above-mentioned first embodiment, when the ignition switch IG is turned on in a state that light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered, the timing of returning light emitting luminance of the light source 50 to the initial luminance A may be delayed compared with that of the light emitting luminance of the light emitting bright element 31 by a predetermined time T2 as shown in Fig. 6. In this case, also on the occasion of turning-on of the ignition switch IG, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided." of paragraph [0021] of the description attached to the application to

"Meanwhile, in the above-mentioned first embodiment, when the ignition switch IG is turned on in a state that light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered, the timing of returning light emitting luminance of the light source 50 to the initial luminance A may be delayed compared with that of the light emitting luminance of <u>the light emitting element 31</u> by a predetermined time T2 as shown in Fig. 6. In <u>this way, when the ignition switch IG is turned on in a state that light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered, even on the occasion of turning on the ignition switch IG <u>after turning-off</u>, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided."</u>

(2) The correction about a group of claims of claims 2, 3, and 5 (hereinafter, referred to as "Matters of correction 2")

A The matters of correction e

To correct

"A pointer device for a vehicle, comprising: a scale plate (20); a light emitting pointer (30) to perform indication display on the scale plate; a scale-plate irradiation means (50) for irradiating the scale plate by light; and a pointer irradiation means (31) for making the light emitting pointer emit light by irradiating light to the light emitting pointer, the pointer device for a vehicle further comprising

a control means (112, 112A, 113, 113A, 121-124, 130, 130A) for controlling luminance of irradiation light of the scale plate irradiation means and luminance of irradiation light of the pointer irradiation means so as to be respectively lowered gradually when a key switch (IG) of the vehicle is turned off." of claim 2 of the scope of claims to

"A pointer device for a vehicle, comprising: a scale plate (20); a light emitting pointer (30) to perform indication display on the scale plate; a scale-plate irradiation means (50) for irradiating the scale plate by light; and a pointer irradiation means (31) for making the light emitting pointer emit light by irradiating light to the light emitting pointer, the pointer device for a vehicle further comprising

a control means (112, 112A, 113, 113A, 121-124, 130, 130A)

for controlling so as to make luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means be lowered gradually from initial luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means in an ON state of a key switch of a vehicle (IG) along with turning-off of the key switch, and,

for controlling, when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means is gradually lowering along with turning-off of the key switch, so as to make

luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch, and

<u>luminance of irradiation light of the scale plate irradiation means be zero at the</u> <u>timing of turning on the key switch, and make luminance of the scale plate irradiation</u> <u>means return to the initial luminance with a delay from the timing of returning luminance</u> <u>of the pointer irradiation means to the initial luminance</u>."

B The matters of correction f

To add the following claim 5 to the scope of claims.

"[<u>Claim 5]</u>

The pointer device for a vehicle according to any one of claim 2 or 3, further comprising

<u>a seating detection means (SW) for detecting that a crew is not sitting in a seat of a vehicle, wherein</u>

the control means stops its control along with detection by the seating detection means."

C The matters of correction g

To correct

"Furthermore, according to the inventions described in claims 2-4, a control means performs control of a scale plate irradiation means and a pointer irradiation means so as to make luminance of irradiation light of each of them be lowered gradually along with turning-off of a key switch. By this, brightness of each of the scale plate and the light emitting pointer is lowered gradually after the key switch is turned off, and, thus, novel visibility in this type of pointer devices after the key switch is turned off can be provided to a crew." of paragraph [0006] of the description attached to the application to

"Furthermore, according to the inventions described in claims 2, 3, and 5, a control means performs control of a scale plate irradiation means and a pointer irradiation means so as to make luminance of irradiation light of each of them be lowered gradually from initial luminance along with turning-off of a key switch, and performs control, when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, so as to make luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch, and luminance of irradiation light of the scale plate irradiation means be zero at the timing of turning on the

key switch, and make luminance of the scale plate irradiation means return to the initial luminance with a delay from the timing of returning luminance of the pointer irradiation means to the initial luminance. By this, brightness of each of the scale plate and the light emitting pointer is lowered gradually after the key switch is turned off, and, thus, novel visibility in this type of pointer devices after the key switch is turned off can be provided to a crew.

D The matters of correction h

To correct

"Here, as is the case with the invention described in claim 3, when a control means performs its control in a manner that a degree of decline of luminance of irradiation light of the scale plate irradiation means and that of the pointer irradiation means are made to differ from each other, novel visibility different from the novel visibility according to the invention described in claim 2 can be provided. In addition, as with the invention described in claim 4, if a control means stops the control along with a detection by a seating detection means, a wasteful operation such as to perform the above-mentioned luminance lowering control even after the crew has left the vehicle can be prevented." of paragraph [0008] of the description attached to the application to

"Here, as is the case with the invention described in claim 3, when a control means performs its control in a manner that, a degree of decline of luminance of irradiation light of the scale plate irradiation means and that of the pointer irradiation means are made to differ from each other, novel visibility different from the novel visibility according to the invention described in claim 2 can be provided. In addition, as with the invention described in claims 4 or 5, if a control means stops the control along with a detection by a seating detection means, a wasteful operation such as to perform the above-mentioned luminance lowering control even after the crew has left the vehicle can be prevented.

2 Judgment on propriety of correction

(1) Regarding Matters of correction 1

A About the matters of correction a

(A) The matters of correction a are a set of corrections including the following (the matters of correction a-1) and (the matters of correction a-2). (The matters of correction a-1)

To add, about "luminance of irradiation light of the scale plate irradiation means"

"controlled so as to be lowered gradually" "along with turning-off of the key switch of a vehicle (IG)" of claim 1 before the Correction, the limitation that it is made to be lowered gradually "from initial luminance of the irradiation light of the scale plate irradiation means in an ON state of the key switch".

(The matters of correction a-2)

To add, about "a control means (112, 112A, 113, 113A, 121-124, 130, 130A) for controlling luminance of irradiation light of the scale plate irradiation means so as to be lowered gradually when a key switch (IG) of the vehicle is turned off" of claim 1 before the Correction, the limitation of "for controlling, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of turning on the key switch".

Therefore, the matters of correction a are a set of corrections aimed at the matter prescribed in the first item of the proviso to Article 134-2(1) of the Patent Act (restriction of the scope of claims).

(B) It will be judged about whether the matters of correction a were made within a range of the matters described in the Description of the Patent or drawings before the Correction (Hereinafter, referred to as "the Description, etc.") a About (the matters of correction a-1)

a About (the matters of correction a-1)

It is described, in paragraph [0014] of the Description of the Patent, that "the light emitting luminance Y indicates light emitting luminance of the light emitting element 31 and the light source 50.", and, in paragraph [0015] of the Description of the Patent, it is described that "the scale plate 20 is irradiated by each light-emitting diode 50a of the light source 50 at the initial luminance A.", and, in paragraphs [0016]-[0017] of the Description of the Patent, it is described that "In such state, when the ignition switch IG is turned off (refer to FIG. 5)", "time data t is cleared to t=0", "according to time data t=t+1 to be updated in an added manner over and over again, the light emitting luminance Y is calculated in step 112 based on the following Expression 1, and, based on this light emitting luminance Y, light-emission drive processing of each the light-emitting diodes 31a and 50a is performed in step 130."

"[Expression 1] $Y=A\{1-(t/T)\}$

where, in the formula of Expression 1, symbol T corresponds to a value that specifies a

ratio to lower light emitting luminance of each of the light emitting element 31 and the light source 50.", "In addition, the drive circuit 90b performs light-emission drive of each light-emitting diode 50a so as to make the light source 50 emit light at each value of calculated luminance Y in step 112." Furthermore, in paragraph [0018] of the Description of the Patent, it is described that "as shown in FIG. 5, along with turning-off of the ignition switch IG, light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered along each of the straight lines L1 and L2 in series."

From these statements and the statements of Fig. 5, it can be said that it is described in the Description, etc. that, when the ignition switch IG is turned off, light emitting luminance of the light source 50 to irradiate the scale plate 20 is made to be lowered in series along the straight line L1 from the initial luminance A; that is, that, about "luminance of irradiation light of the scale plate irradiation means" "controlled so as to be lowered gradually" "along with turning-off of the key switch of a vehicle (IG)", it is made to be lowered gradually "from initial luminance of the irradiation light of the scale plate irradiation means in an ON state of the key switch."

Therefore, in relation with the technical matters derived by summing up all the statements of the description or drawings by a person skilled in the art, the matters of correction a-1 do not introduce a new technical matter.

b About (the matters of correction a-2)

As the above-mentioned "(A)" "(The matters of correction a-2)," the constituent component of "for controlling, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of turning on the key switch" is added to claim 1 before correction. However, the Second court decision held that "In the Invention 1 that does not include a pointer irradiation means in its constitution, there is no statement indicating a technical significance of making behavior timing of the light source 50 match behavior of the light emitting element 31, not turning-on of ignition switch." (the Second court decision, the written court decision, page 34, lines 1-3), "It can be understood that, technically, luminance control of a scale plate is not controlled in collaboration with luminance control of a pointer." (the Second court decision, the written court decision, page 34 lines 6-7), "it is recognized that a person skilled in the art who comes in contact with the statements of Fig. 6 would read that,

in Fig. 5, timing that light emitting luminance of the scale plate irradiation means is gradually lowered is made to relate to turning off of an ignition switch, and, in a similar fashion, that, in the constitution of the Invention 1 targeting only a scale plate irradiation means, when the ignition switch IG is turned on in a state that light emitting luminance of the scale plate irradiation means is gradually lowering, light emitting luminance of the light source 50 becomes zero taking this as momentum, and, after the lapse of time T2 from that, its luminance returns to the initial luminance A." (the Second court decision, the written court decision, page 34, line 23 to page, 35, line 4), "Therefore, it is found that the above added constituent component is sufficiency supported by the statements of Fig. 6, and thus it is recognized that the matters of correction a were made within the range of the matters described in the Description before the Correction." (the Second court decision, the written court decision, page 35, lines 5-7) ("No. 5 Judgment of this court" "1 Grounds for revocation 1 about (an error of judgment for Matters of correction").

Then, under the provisions of Article 33(1) of the Administrative Case Litigation Act, the Second court decision that cancelled the Second trial decision binds the body.

Therefore, the matters of correction a were made within the range of the matters described in the Description, etc. before the Correction.

(C) As above, the matters of correction a are a set of corrections made within the range of the matters described in the Description, etc. before the Correction, and, in addition, it does not expand or change the scope of claims substantially.

Therefore, the matters of correction a aim at the matter provided in the first item of the proviso to Article 134-2(1) of the Patent Act (restriction of the scope of claims), and, in addition, complies with the provisions of Article 126(5) and (6) of the same Act as applied mutatis mutandis pursuant to the provisions of Article 134(9) of the same Act.

B About the matters of correction b

Claim 1 and claims 2 and 3 were in a state that they were handled in a unified manner as a group of claims, because claim 4 before the Correction refers to claims 1 to 3, and, therefore, the matters of correction b are a set of corrections for the purpose of solving the dependency relation with claim 2 and 3 so as not to be handled as a group of claims in a unified manner.

In addition, since the matters of correction b are a set of corrections to make a claim made by reducing claims referred to by claim 4 before the Correction be claim 4 after the Correction, the matters of correction b are a set of corrections made within the matters described in the Description, etc. of the Patent, and, in addition, do not substantially extend or change the scope of claims.

Therefore, the matters of correction b fit the purpose of the fourth item of the proviso to Article 134-2(1) of the Patent Act (to make the statement of a claim that refers to the statement of another claim be a statement that does not refer to the statement of the another claim in question) in a point that it aims at canceling dependency relation with claims 2 and 3, and, in addition, complies with the provision of Article 126(5) and (6) of the same Act as applied mutatis mutandis pursuant to the provisions of Article 134(9) of the same Act.

Furthermore, the invention according to claim 4 after the Correction refers to claim 1 after the Correction having the correction purpose as the matter provided in the first item of the proviso to Article 134-2(1) of the Patent Act (restriction of the scope of claims), and thus substantially it is an invention restricted from claim 4 before the Correction. Then, since claim 4 after the Correction is a claim for which a demand for the Invalidation trial is not requested, when an examination is made as to whether the invention according to claim 4 after the Correction satisfies the requirement stipulated in Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the Patent Act (so-called independent requirements for patentability), as will be described in "No. 6" "2" "(3) About the Invention 1 after the Correction," the invention according to claim 1 after the Correction has an inventive step, and, therefore, it is obvious that the invention according to claim 4 after the Correction has an inventive step.

In addition, other reasons that support that the demandee should not be granted a patent for the invention according to claim 4 after the Correction independently cannot be found.

Therefore, the matters of correction b also conform to Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act.

C About the matters of correction c

Since the matters of correction c are a set of corrections for the purpose of matching statements of the scope of claims and statements of the detailed description of the invention, it is a correction aimed at the matter prescribed in the third item of the proviso to Article 134-2(1) of Patent Act (clarification of ambiguous statements).

In addition, since the matters of correction c are a set of corrections to perform correction in a similar manner to the matters of correction a, they are a set of corrections made within the range of the matters described in the Description, etc., and it does not expand or change the scope of claims substantially, by a reason similar to the judgment for the matters of correction a.

Therefore, the matters of correction c comply with the provision of Article 126(5) and (6) of the same Act as applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the Patent Act.

D About the matters of correction d

The matters of correction d are a set of corrections: to correct "the emitting bright element 31" described in paragraph [0021] of the Description of the Patent to "the light emitting element 31" for the purpose of the matter provided in the second item of the proviso to Article 134-2(1) of the Patent Act (correction of errors); to correct "in this case" described in the same paragraph [0021] to "when the ignition switch IG is turned on in a state that light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered" with the aim of the matter provided in the third item of the proviso to Article 134-2(1) of the Patent Act (clarification of ambiguous statement); and to correct "also on the occasion of turning-on of the ignition switch IG, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided." described in the same paragraph [0021] to "even on the occasion of turning on the ignition switch IG after turning-off, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided." with the aim of the matter provided in the third item of the same paragraph [0021] to "even on the occasion of turning on the ignition switch IG after turning-off, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided." described in the scale plate 20 can be provided." described in the scale plate 20 can be provided." described in the same paragraph [0021] to "even on the occasion of turning on the ignition switch IG after turning-off, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided." described in the scale plate 20 can be provided." with the aim of the matter provided in the third item of the proviso to Article 134-2(1) of the Patent Act (clarification of ambiguous statement).

Then, as seen from the whole statements of paragraph [0021] of the Description of the Patent and Fig. 6, it is obvious that "the emitting bright element 31" is an error of "the light emitting element 31", "in this case" described in the same paragraph [0021] is a statement corresponding to "when the ignition switch IG is turned on in a state that light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered" of the previous sentence, and "on the occasion of turning-on of the ignition switch IG" in the statement of "also on the occasion of turning-on of the ignition switch IG, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided." of the same paragraph [0021] means "on the occasion of turning-on of the ignition switch IG after its turning-off."

Therefore, the matters of correction d are a set of corrections made within the range

of the matters described in the Description, etc., and, in addition, do not expand or change the scope of claims substantially. As a result, they comply with the provision of Article 126(5) and (6) of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act.

In addition, it cannot be said that, by correction of the error of "the emitting bright element 31" described in paragraph [0021] of the Description of the Patent to "the light emitting element 31" by the matters of correction d, the demandee comes not to be able to be granted a patent independently for the invention according to claim 4 after the Correction (that is a claim for which a demand for the Invalidation trial was not made), and, therefore, the matters of correction d also conform to the provisions of Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act.

E Summary

As described above, the matters of corrections a to d comply with the provisions of the proviso to Article 134-2(1) of the Patent Act together, and, in addition, also conform to provisions of Article 126(5) and (6) of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act (regarding the matters of correction b, and the correction matters of the matters of correction d for the purpose of "correction of errors", these also conform to the provisions of Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 134-2(9). Therefore, the corrections are admitted.

(2) Regarding Matters of correction 2

A About the matters of correction e

(A) The matters of correction e are a set of corrections made up of the following (the matters of correction e-1) and (the matters of correction e-2).(The matters of correction e-1)

To add, about "luminance of irradiation light of the scale plate irradiation means and luminance of irradiation light of the pointer irradiation means" "controlled so as to be lowered gradually" "when a key switch (IG) of the vehicle is turned off" of claim 2 before the Correction, the limitation that they are made to be lowered gradually "from initial luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means in an ON state of said key switch."

(The matters of correction e-2)

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To add, about "a control means (112, 112A, 113, 113A, 121-124, 130, 130A) for controlling luminance of irradiation light of the pointer irradiation means so as to be respectively lowered gradually when a key switch (IG) of the vehicle is turned off" of claim 2 before the Correction, the limitation that "for controlling, when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means is gradually lowering along with turning-off of the key switch, so as to make luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch, and luminance of irradiation light of turning turn

Therefore, the matters of correction e are aimed at matters prescribed in the first item the proviso to Article 134-2(1) of Patent Act (restriction of the scope of claims).

(B) Whether the matters of correction e were made within the range of the matters described in the Description, etc. will be judged.

(The matters of correction e-1)

From the statements of paragraphs [0014]-[0018] and Fig. 5 of the Description of the Patent, it can be said that there is described in the Description, etc. that, when the ignition switch IG is turned off, light emitting luminance of the light source 50 that irradiates the scale plate 20, and light emitting luminance of the light emitting element 31 that irradiates the self-emitting pointer 30 are made to be lowered in series along the respective straight lines L1 and L2 from the initial luminance of irradiation light of the scale plate irradiation means and luminance of irradiation light of the scale plate irradiation means and luminance of irradiation light of the scale plate irradiation means and luminance of gradually" "along with turning-off of the key switch of a vehicle (IG)," they are made to be lowered gradually "from initial luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means in an ON state of said key switch (IG)."

Therefore, the matters of correction e-1 do not introduce a new technical matter in relation to the technical matters derived by summing up all the statements of the description or drawings by a person skilled in the art.

(The matters of correction e-2)

Next, it is described in paragraph [0021] of the Description of the Patent that

"Meanwhile, in the above-mentioned first embodiment, when the ignition switch IG is turned on in a state that light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered, the timing of returning light emitting luminance of the light source 50 to the initial luminance A may be delayed compared with that of the light emitting luminance of the light emitting luminance of the light emitting bright element 31 by a predetermined time T2 as shown in Fig. 6."

Then, it is recognized that there is described in Fig. 6 an aspect that, at the time point when the ignition switch IG is turned on in a state that luminance of irradiation light of the light source 50 (scale plate irradiation means) is gradually lowering along with turning-off of the ignition switch IG, the light emitting element 31 (pointer irradiation means) immediately returns to the initial luminance A, and, on the other hand, luminance of irradiation light of the light source 50 (scale plate irradiation means) becomes zero, and, that, being delayed from that time of point by a predetermined time T2, luminance of irradiation light of the light source 50 (scale plate irradiation means) returns to the initial luminance A.

Therefore, since it is described in the Description, etc. that "for controlling, when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means is gradually lowering along with turning-off of the key switch, so as to make luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch, and luminance of irradiation light of the scale plate irradiation means be zero at the timing of turning on the key switch, and make luminance of the scale plate irradiation means return to the initial luminance with a delay from the timing of returning luminance of the pointer irradiation means to the initial luminance," the matters of correction e-2 do not introduce a new technical matter in relation to the technical matters derived by summing up all the statements of the description or drawings by a person skilled in the art.

(C) As above, the matters of correction e are a set of corrections made within the matters described in the Description, etc., and, in addition, do not substantially expand or change the scope of claims. Therefore, they comply with the provisions of Article 126(5) and (6) of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act.

B About the matters of correction f

The matters of correction f are a set of corrections in which, although claim 1 and

claims 2 and 3 were in a state that they were handled in a unified manner as a group of claims because claim 4 before the Correction refers to claims 1 to 3, claim 5 is added newly for the purpose of solving the dependency relation with claim 1 so as not to be handled as a group of claims in a unified manner.

In addition, since the matters of correction f are a set of corrections to make a claim made by reducing claims referred to by claim 4 before the Correction and add claim 5 after the Correction, the matters of correction f are a set of corrections made within the matters described in the Description, etc. of the Patent, and, in addition, do not substantially extend or change the scope of claims.

Accordingly, the matters of correction f comply with, in a point of aiming at canceling dependency relation with claim 1, the object cited in Article 134-2(1)(ix) of the Patent Act (to make the statement of a claim that refers to the statement of another claim be a statement that does not refer to the statement of the another claim in question) and, in addition, comply with the provision of Article 126(5) and (6) of the same Act as applied mutatis mutandis pursuant to the provisions of Article 126(9).

Furthermore, the invention according to claim 5 after the Correction refers to claim 2 and 3 after the Correction taking the matter provided in the second item of the proviso to Article 134-2(1) of Patent Act (restriction of the scope of claims) as the object of correction, and, therefore, it is an invention restricted substantially from claim 4 before the Correction. Since claim 5 after the Correction is a claim for which the Invalidation trial is not demanded, whether or not the invention according to claim 5 after the Correction satisfies the requirement stipulated in Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the Patent Act (so-called independent requirements for patentability) will be examined. Then, as will be described in "No. 6" "2" "(4) Regarding the Invention-after-Correction 2," and "(5) Regarding the Invention-after-Correction 3," the inventions according to claims 2 and 3 after the Correction are ones having inventive step together, and, therefore it is obvious that the invention according to claim 5 after the Correction made by adding a technical limitation to the invention according to any one of claims 2 and 3 after the Correction has an inventive step.

In addition, other reasons that indicate that the demandee should not be granted a patent for the invention according to claim 5 after the Correction independently cannot be found.

Therefore, the matters of correction f also conform to the provisions of Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of

Article 134-2(9) of the same Act.

C About the matters of correction g

The matters of correction g are a set of corrections for the purpose of matching statements of the scope of claims and statements of the detailed description of the invention, and, therefore, they are a set of corrections aimed at the matter prescribed in the third item of the proviso to Article 134(1) of the Patent Act (clarification of ambiguous statement).

Then, since the matters of correction g are a set of corrections made within the matters described in the Description, etc., and, in addition, do not expand or change the scope of claims substantially, they comply with the provision of Article 126(5) and (6) of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act.

D About the matters of correction h

Since the matters of correction h are a set of corrections for the purpose of matching statements of the scope of claims and statements of the detailed description of the invention, and thus they are a set of corrections aimed at the matter prescribed in the third item of the proviso to Article 134 (1) (clarification of ambiguous statement). Then, since the matters of correction h are a set of corrections made within the matters described in the Description, etc., and, in addition, do not expand or change the scope of claims substantially, they comply with the provisions of Article 126(5) and (6) of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act.

E Summary

As described above, the matters of corrections e to h comply with the provisions of the proviso to Article 134-2(1) of Patent Act together, and, in addition, also conform to the provisions of Article 126(5) and (6) of the same Act as applied mutatis mutandis pursuant to the provisions of Article 134-2(9) (regarding the matters of correction f, they further conform to the provisions of Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act. Therefore, the correction shall be admitted.

(3) Summary about the request for correction

Matters of correction 1 and Matters of correction 2 are admitted because both conform to the requirements stipulated in the Patent Act, and, therefore, the Correction is

permitted.

3 Demandant's allegation

The demandant alleges, in the written refutation, the following points as reasons why the matters of correction f in Correction request 1 made by the written correction request dated Feb. 28, 2014, and the matters of correction i in the same Correction request 1 do not fall under any item of the proviso to Article 134-2(1) of Patent Act, and in addition, violate the provisions of Article 126(5) of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 134-2(9) of the same Act.

(1) Regarding the matters of correction f in Correction request 1, it is unclear which one of "a scale plate irradiation means" and "a pointer irradiation means" is indicated by the statement corresponding to "the irradiation means" of claim 2 in the corrected description in Correction request 1.

Even if "the irradiation means" of claim 2 in the corrected description in Correction request 1 means "scale plate irradiation means," "it is not prescribed that luminance of the scale plate irradiation means that corresponds to the light source 50 is made to return to initial luminance immediately with a delay in relation with light emitting luminance of the light emitting element 31," and, in addition, there is no description at all regarding, when a key switch is turned on in a state that luminance of irradiation light is gradually lowering, in what way luminance of irradiation light of a pointer irradiation means is controlled. Therefore, that control includes a constitution that is not described in the description.

(2) Regarding the matters of correction i in Correction request 1, about the correction of the statements in paragraph [0006] of the Description of the Patent in order for matching statements of the scope of claims and statements of the detailed description of the invention, the situation is similar to the above-mentioned (1).

However, due to the Correction request, claim 2 of the scope of claims and paragraph [0006] of the Description of the Patent were corrected as the above-mentioned "1" "(2)" "A The matters of correction e" and "C The matters of correction g," and, by the corrections in question, the following matters have been raised.

A By the matters of correction e, the term "the irradiation means" came not to be used in claim 2 after the Correction. In addition, since, by the Correction, the limitation of "for controlling, when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means is gradually lowering along with turning-off of the key switch, so as to make luminance of the pointer

irradiation means return to the initial luminance at timing of turning on the key switch, and luminance of irradiation light of the scale plate irradiation means be zero at the timing of turning on the key switch, and make luminance of the scale plate irradiation means return to the initial luminance with a delay from the timing of returning luminance of the pointer irradiation means to the initial luminance" is added to claim 2, the point indicated by the demandant in (1) has been resolved.

B Due to the matters of correction g, also paragraph [0006] of the Description of the Patent was corrected in a manner being matched with the statement of claim 2 after the Correction, and thus the point indicated by the demandant in (2) has been solved.

Therefore, the allegation of the above-mentioned (1) and (2) by the demandant became groundless.

No. 3 The Patent Invention

As indicated in the above-mentioned "No. 2," the Correction is admitted, and thus the inventions according to claims 1 to 3 of the Patent to which demand for the Invalidation trial has been made are as follows as specified by the matters described in claims 1 to 3 of the scope of claims of the description of the Correction (hereinafter, referred to as "the Invention-after-Correction 1" to "the Invention-after-Correction 3," respectively).

"[Claim 1] A pointer device for a vehicle, comprising: a scale plate (20); a pointer (30) to perform indication display on the scale plate; and an irradiation means (50) for irradiating the scale plate by light, the pointer device for a vehicle further comprising,

a control means (112, 112A, 113, 113A, 121-124, 130, 130A)

for controlling luminance of irradiation light of the scale plate irradiation means along with turning-off of a key switch of a vehicle (IG) so as to make the luminance be lowered gradually from initial luminance of the irradiation light of the scale plate irradiation means in an ON state of the key switch, and,

for controlling, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of turning on the key switch.

[Claim 2] A pointer device for a vehicle, comprising: a scale plate (20); a light emitting pointer (30) to perform indication display on the scale plate; a scale-plate irradiation means

(50) for irradiating the scale plate by light; and a pointer irradiation means (31) for making the light emitting pointer emit light by irradiating light to the light emitting pointer, the pointer device for a vehicle further comprising

a control means (112, 112A, 113, 113A, 121-124, 130, 130A)

for controlling so as to make luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means be lowered gradually from initial luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means in an ON state of a key switch of a vehicle (IG) along with turning-off of the key switch, and,

for controlling, when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means is gradually lowering along with turning-off of the key switch, so as to make

luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch, and

luminance of irradiation light of the scale plate irradiation means be zero at the timing of turning on the key switch, and make luminance of the scale plate irradiation means return to the initial luminance with a delay from the timing of returning luminance of the pointer irradiation means to the initial luminance.

[Claim 3] The pointer device for a vehicle according to claim 2, wherein the control means performs control so as to make a degree of decline of luminance of irradiation light of the scale plate irradiation means and that of irradiation light of the pointer irradiation means differ from each other."

No. 4 Demandant's allegation and means of proof

1 Outline of the gist of the demandant's allegation

When the statement contents of the written demand for trial, the oral proceedings statement brief (the demandant), the written refutation, and the written statement are put together, Demandant's allegation is that, regarding the Invention-after-Correction 1 to the Invention-after-Correction 3, the patents should be invalidated due to the following reasons (meanwhile, the following reason for invalidation 1 of (1) is a ground of the request added in the written refutation and the amendment is admitted for it by "decision on acceptance or non-acceptance of amendment" dated Apr. 22, 2014. In addition, regarding "5" "5-2" "(1)" "E additional allegation" made in the written statement dated Jul. 24, 2015, amendment was not admitted by "decision on acceptance or non-acceptance of amendment" dated Nov. 24, 2015).

(1) Reason for invalidation 1

The Inventions after the Correction 1 to 3 do not meet the requirement stipulated in Article 36(6)(i) of the Patent Act, and thus the patents about the Inventions after the Correction 1 to 3 fall under article 123(1)(iv) of the Patent Act, and should be invalidated.

(2) Reason for invalidation 2

A The Inventions after the Correction 1 and 2 could have been invented by a person skilled in the art with ease based on the cited invention (Evidence A No. 1), Well-known art 1 (Evidence A No. 2-Evidence A No. 7), Publicized prior art 1 (Evidence A No. 8), and Wellknown art 2 (Evidence A No. 9 and Evidence A No. 13), and, therefore, the demandee should not be granted a patent for these in accordance with the provisions of Article 29(2) of the Patent Act. Therefore, the patents about the inventions after the Corrections 1 and 2 fall under Article 123(1)(ii) of the Patent Act, and should be invalidated.

B The Invention after the Correction 3 could have been invented by a person skilled in the art with ease based on the cited invention (Evidence A No. 1), Well-known art 1 (Evidence A No. 2-Evidence A No. 7), Publicized prior art 1 (Evidence A No. 8), Publicized prior art 2 (Evidence A No. 9), and Well-known art 2 (Evidence A No. 9 and Evidence A No. 13), and, therefore, the demandee should not be granted a patent in accordance with the provisions of Article 29(2) of the Patent Act. Therefore, the patent about the Invention-after-Correction 3 falls under Article 123(1)(ii) of the Patent Act, and should be invalidated.

2 Means of proof

The pieces of evidence submitted by the demandant are as follows. (Evidence submitted together with the written demand for trial) Evidence A No. 1: a CD-ROM of Japanese Utility Model Application No. H3-81935 (Japanese Unexamined Utility Model Application Publication No. H5-90323) Evidence A No. 2: Japanese Unexamined Patent Application Publication No. S58-53535 Evidence A No. 3: a CD-ROM of Japanese Utility Model Application No. H3-39144 (Japanese Unexamined Utility Model Application Publication No. H6-25033) Evidence A No. 4: a CD-ROM of Japanese Utility Model Application No. H3-109047 (Japanese Unexamined Utility Model Application Publication No. H5-49494) Evidence A No. 5: Japanese Unexamined Patent Application Publication No. H5-326182 Evidence A No. 6: Japanese Unexamined Patent Application Publication No. H5-238309 Evidence A No. 7: Japanese Unexamined Patent Application Publication No. H5-13176 Evidence A No. 8: Japanese Utility Model Publication No. H1-32592 Evidence A No. 9: Japanese Unexamined Patent Application Publication No. H4-266536

(Evidence submitted together with the oral proceedings statement brief) Evidence A No. 10: Kojien, the fifth edition, page 1463 and page 1812 Evidence A No. 11: Japanese Unexamined Patent Application Publication No. H3-170816 Evidence A No. 12: trial decision, Invalidation No. 2011-800163

(Evidence submitted together with the written refutation) Evidence A No. 13: Japanese Unexamined Patent Application Publication No. H6-201410

No. 5 Demandee's allegation

When the statement contents of Written reply 1, the oral proceedings statement brief (the demandee), and Written reply 2 are put together, the outline of the demandee's allegation is as follows.

(1) Reason for invalidation 1

The invention according to claim 1 after the Correction can exert an expected effect by the requirement prescribed in claim 1, and satisfies the description requirements of Article 36(6)(i) of the Patent Act.

In addition, the inventions according to claims 2, 3 after the Correction also satisfy the description requirements of Article 36(6)(i) of the Patent Act.

(2) Reason for invalidation 2

The inventions according to claims 1 to 3 after the Correction are not ones invented with ease even if well-known art of Well-known art 1 (Evidence A No. 2 to Evidence A No. 7), Evidence A No. 8, Evidence A No. 9, and Evidence A No. 13 are combined with the cited invention (Evidence A No. 1).

No. 6 Judgment by the body

1 Regarding reason for invalidation 1

1-1 About claim 1 after the Correction

(1) Demandant's allegation (the written refutation, page 9, line 14-page 10, line 8, and the written statement, page 13, line 27-page 17, line 1)

The demandant alleges as follows about a reason that description of claim 1 after the Correction does not meet the requirement stipulated in Article 36(6)(i) of the Patent Act.

A In the detailed description of the invention described in the description of the Correction, it is only the statements of paragraph [0021] that describe relating to luminance of irradiation light of a scale plate irradiation means when a key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering. However, in paragraph [0021], an effect according to the constituent component of the Invention-after-Correction 1 is not described at all (this includes control such as to make luminance of irradiation light of the pointer irradiation means be initial luminance at timing the same as that of the scale plate irradiation means because, in claim 1 after the Correction, there is no description at all about in what way luminance of irradiation light of a pointer irradiation means is controlled when a key switch is turned on in a state that luminance of irradiation light of scale plate irradiation means is gradually lowering).

B In order to solve the issue of "even on the occasion of turning on the ignition switch IG after turning-off, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided" described in paragraph [0021] of the description of the Correction, timing to return to the initial luminance A needs to be shifted between light emitting luminance of the light source 50 and light emitting luminance of the light emitting element 31. Although it is required, for the purpose of this, that light emitting luminance of the light emitting element 31 immediately returns to the initial luminance, and luminance of the light source 50 is made to be zero immediately and is made to return to the initial luminance after a predetermined time T2, this is not specified in the Invention-after-Correction 1.

(2) Judgment by the body (about claim 1 after the Correction)

A That the constitution of the Invention-after-Correction 1 is described in the detailed description of the invention of the description of the Correction

As described in the above "No. 2" "2" "(1)" "A" "(B)" "b," it is described in the detailed description of the invention of the description of the Correction that, when the ignition switch IG is turned on in a state that light emitting luminance of the scale plate irradiation means is gradually lowering, in time with timing of turning-on of the ignition switch IG (that is, without making it have technical significance to make behavior timing of the light source 50 fit to behavior of the light emitting element 31, and without making luminance control of the scale plate cooperate with luminance control of a pointer, but taking turning-on of the ignition switch IG as an opportunity), control is performed in such a way that light emitting luminance of the scale plate irradiation means is made to be zero, and the light emitting luminance of the scale plate irradiation means returns to initial

luminance with a delay from timing of turning-on of the ignition switch IG; that is, the constitution of the Invention-after-Correction 1 of "for controlling, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means to the initial luminance with a delay from the timing of turning on the key switch."

Therefore, it is obvious that there is described the constitution of the Inventionafter-Correction 1 in the detailed description of the invention of the description of the Correction.

B That a means for solving the issue of the Invention-after-Correction 1 is described in claim 1 after the Correction

(A) There are described the following matters in the detailed description of the invention of the description of the Correction.

(a)"[0001]

The present invention relates to a pointer device for a vehicle.

[0002]

[Conventional Art]

Conventionally, in a pointer device for a vehicle, as shown in Japanese Unexamined Patent Application Publication No. H6-201410, for example, there have been ones that gave novel visibility to a crew by making, along with turning on of a key switch of the vehicle in question, a dial emit light with the lapse of a predetermined time after having made a pointer emit light.

[0003]

[Problem to be solved by the invention]

However, in the above-mentioned pointer device, it is only possible to give novel visibility after turning on a key switch, and it cannot to give novel visibility along with turning-off of a key switch.

Therefore, in order to cope with such situation, an object of the present invention is to, in a pointer device for a vehicle, devise change of brightness of a pointer and a scale plate along with turning-off of a key switch and give novel visibility to a crew after the key switch is turned off.

[0004]

[Means for solving the problem]

To achieve the above-mentioned object, according to the inventions described in claims 1 and 4, a control means controls luminance of irradiation light of a scale plate irradiation means along with turning-off of a key switch so as to make the luminance be lowered gradually from initial luminance of irradiation light of the scale plate irradiation means in an ON state of the key switch, and, controls, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, so as to make luminance of irradiation light of the scale plate irradiation light of the scale plate irradiation light of the scale plate irradiation weans be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of turning on the key switch.

By this, brightness of a scale plate is gradually lowered after the key switch is turned off, and, therefore, novel visibility in this type of pointer device after the key switch is turned off can be provided to a crew."

(b) "[0021]

Meanwhile, in the above-mentioned first embodiment, when the ignition switch IG is turned on in a state that light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered, the timing of returning light emitting luminance of the light source 50 to the initial luminance A may be delayed compared with that of the light emitting luminance of the light emitting element 31 by a predetermined time T2 as shown in Fig. 6. In this way, when the ignition switch IG is turned on in a state that light emitting luminance of each of the light emitting element 31 and the light source 50 is lowered, even on the occasion of turning on the ignition switch IG after turning-off, novel visibility of the self-emitting pointer 30 and the scale plate 20 can be provided."

(B) From the above-mentioned statements, the Invention-after-Correction 1 makes, as described in paragraph [0003] [Problem to be solved by the invention] of the description of the Correction, "to give novel visibility along with turning-off of a key switch" be the problem to be solved by the invention.

Then, although the above-mentioned problem to be solved by the invention is solved, as described in paragraph [0004] of the description of the Correction, by "controlling luminance of irradiation light of a scale plate irradiation means along with turning-off of a key switch so as to make the luminance be lowered gradually from initial luminance of irradiation light of the scale plate irradiation means in an ON state of the key switch," such means for solving the problems is described in claim 1 of the scope of claims of the description of the Correction as matters specifying the invention.

(C) In addition, when the statements of paragraph [0021] of the detailed description of the invention and Fig. 6 of the description of the Correction are examined, since it is devised, regarding light emitting luminance of the light source 50, in such a way that, when the ignition switch IG is turned on in a state that light emitting luminance of the light source 50 is gradually lowering, light emitting luminance of the light source 50 is made to be zero once at timing when the ignition switch IG is turned on, and light emitting luminance of the light source 50 is made to return to the initial luminance A with a delay by a predetermined time T2. Therefore, it is obvious for a person skilled in the art that, naturally, a crew who turns on a switch after the ignition switch has been turned off to resume operation in the middle of illuminance of the scale plate being gradually lowering will visually recognize unexpected brightness change that, contrary to expectations that a scale plate would be brightly illuminated at once, or, that a scale plate would become bright after a tendency of illuminance of the scale plate being gradually lowered has continued for a while, the scale plate becomes totally dark once, and then, delayed by a predetermined time T2, the scale plate is brightly illuminated by the initial luminance, thereby giving fresh surprise about change in brightness of the scale plate on the occasion of resuming operation.

Then, since "novel" means "that an idea is exceptionally new" (Izuru Shinmura, Kojien, version 4, Iwanami Bookstore Co. Ltd., published on Oct. 9, 1992, the second printing of version 4, page 1073), it can be said that to give fresh surprise (psychological effect) to a crew about change in brightness of a scale plate that comes with turning-on of a key switch after turning off the key switch, by "controlling, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of turning on the key switch" as described in claim 1 after the Correction, and by "appealing to a sense of vision" of the crew regarding change of an exceptionally new idea which is difficult to be thought as natural, is, that is to say, "novel visibility." Therefore, it can be said that there is described in claim 1 after the Correction a means for providing novel visibility of the scale plate 20 also when the ignition switch IG is turned on in a state that light emitting luminance of the light source 50 is gradually lowering.

C Summary

As above, the constitution of the Invention-after-Correction 1 is described in the detailed description of the invention of the description of the Correction, and, furthermore, in claim 1 after the Correction, there is described a means for solving the problem to be solved. Therefore, the statements of claim 1 after the Correction satisfies the requirement stipulated in Article 36(6)(i) of the Patent Act.

(3) Regarding demandant's allegation (the written refutation, page 9, line 14-page 10, line 8, and the written statement, page 13, line 27-page 17, line 1)

As described in the above-mentioned "(2)" "B," there is described, in claim 1 after the Correction, a means for solving the problem to be solved of the Invention-after-Correction 1, and, therefore, both the demandant's allegations "(1)" "A" and "B" are groundless.

1-2 About claims 2, 3 after the Correction

(1) Demandant's allegation

The demandant alleges as follows about the statements of claims 2 and 3 of the scope of claims of the corrected description according to Correction request 1 made by Written correction request dated Feb. 28, 2014 (the written refutation, page 10, line 9 to page 11, line 4).

A There is no specification about, when returning luminance of an irradiation means of a scale plate that corresponds to the light source 50 to the initial luminance, making it delay in relation with light emitting luminance of the light emitting element 31.

B There is no specification about, when a key switch is turned on in a state that luminance of irradiation light is gradually lowering, in what way luminance of irradiation light of a pointer irradiation means is controlled.

C There is no specification about a constitution that timing to return light emitting luminance of the light source 50 to the initial luminance A is delayed by a predetermined time T2 in comparison with light emitting luminance of the light emitting element 31 that returns to the initial luminance A at the same time as turning-on of the ignition switch IG, and timing of light emitting luminance to return to the initial luminance A is shifted between the light source 50 and the light emitting element 31. Therefore, the issue to provide novel visibility cannot be solved.

(2) Judgment by the body

A By the Correction, the Invention-after-Correction 2 came to include the constitution of

"for controlling luminance of irradiation light of the scale plate irradiation means be ... and luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of returning luminance of the pointer irradiation means to the initial luminance."

B By the Correction, the Invention-after-Correction 2 came to include the constitution of "when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means is gradually lowering along with turning-off of the key switch, so as to make

luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch."

C By the Correction, the Invention-after-Correction 2 came to include the constitution of "for controlling luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch, and ... and make luminance of the scale plate irradiation means return to the initial luminance with a delay from the timing of returning luminance of the pointer irradiation means to the initial luminance."

The same applies to the Invention-after-Correction 3.

In addition, the Invention-after-Correction 2 is described in (The first embodiment) and paragraph [0021] of the detailed description of the invention of the description of the Correction along with drawings.

Also regarding the Invention-after-Correction 3, it is described in (The first embodiment), (The second embodiment), and paragraphs [0008] and [0021] of the detailed description of the invention of the description of the Correction together with drawings.

Accordingly, the statements of claims 2 and 3 of the scope of claims after the Correction satisfy the requirement stipulated in Article 36(6)(i) of the Patent Act.

(3) Demandant's allegation

As described in the above-mentioned "(2) Judgment by the body," "(1) Demandant's allegation" became groundless by the Correction.

1-3 Summary about the reason for invalidation 1

The statements of claims 1 to 3 of the scope of claims of the description of the Correction meet the requirement stipulated in Article 36(6)(i) of the Patent Act.

Therefore, the patents about the inventions according to claims 1 to 3 of the case should not be invalidated because they do not fall under the provisions of Article 123(1)(iv) of the Patent Act.

2 About reasons for invalidation 2

(1) The Invention after the Corrections 1 to 3

The Invention after the Corrections 1 to 3 are as specified by the matters described in claims 1 to 3 of the scope of claims of the description of the Correction (see the aforementioned "No. 3 the Patent Invention").

(2) Cited invention and the like

A Cited invention

Under the provisions of Article 33(1) of the Administrative Case Litigation Act, the First court decision that cancelled the First trial decision and the Second court decision that cancelled the Second trial decision bind the body.

Therefore, the invention described in Evidence A No. 1 (cited invention) is acknowledged as follows as indicated in the First court decision and the Second court decision.

"The cited invention relates to an instrument for a vehicle for indicating, for example, a running speed, an engine speed, and the like, and, more particularly, to an instrument for a vehicle of what we call a blackout type, in which, when a vehicle is not used; that is, when an ignition key is not put in, its whole surface becomes dark (paragraph [0001]).

In a conventional instrument for a vehicle, although direct illumination of transmitted illumination can be used for a scale-plate lighting device for a scale plate, a pointer lighting device for a pointer is of indirect illumination in which, using the pointer itself as a light guide, light is made to be reflected by a reflection coating film formed of, e.g. white coating material and the like on the back face of the pointer, and thus it is unavoidable that the pointer lighting device is of low efficiency and dark in comparison with the scale-plate lighting device (paragraph [0004]). Therefore, when setting transmittance of a window glass formed of a smoke board that covers a scale plate and a pointer, it is necessary to make the transmittance high to a degree that the pointer side can be read, and, by this, also when an ignition key is being turned off and direct sunlight is irradiated to the instrument for a vehicle, the pointer, a white film in particular, is seen through the window glass in a transmitting manner, causing a problem to give a sense of tremendous discomfort to a user (paragraph [0002], [0005]).

Therefore, it is made such that, by providing an instrument for a vehicle in which, in an instrument for a vehicle of the constitution to cause, at the time when an ignition key is being turned off, blackout by turning off interior illumination and by a smoke board adopted as a window glass, a pointer mask plate made of an opaque member having dark color in at least said window glass side is provided in a position more negative than the scale-0 position of the scale plate of the instrument for a vehicle and between the window glass and the pointer, and, on the occasion of the ignition key being turned off, the pointer is made to turn to a position less than scale-0 to be housed within the pointer mask plate, the pointer is prevented from being seen even when direct sunlight is irradiated and the blackout effect is maintained, thereby exerting an effect to prevent a sense of discomfort from arising in a viewer (paragraphs [0006], [0014])." (the First court decision, the written court decision, page 14, line 9-page 15, line 6; and the Second court decision, the written court decision, page 37, line 16-page 38, line 12)

B About Well-known art 1 (Evidence A No. 2-7)

Under the provisions of Article 33(1) of the Administrative Case Litigation Act, the judgment given by the First court decision that cancelled the First trial decision binds the body.

Therefore, from the technology matters described in Evidence A No. 2-7, Wellknown art 1 is recognized as follows as indicated in the First court decision.

"It is recognized that, 'when turning off a room light, a key cylinder illumination lamp, a foot illumination lamp, and a head light that are illumination related to a vehicle and a residential illumination lamp, to control luminance of irradiation light so as to make it be lowered gradually' is a well-known art generally called fade-out." (the First court decision, the written court decision, page 25, lines 16-19)

C About Publicized prior art 1 (Evidence A No. 8)

Publicized prior art 1 described in Evidence A No. 8 is "in illumination of meters (illumination of a scale plate), to make brightness be lowered gradually at the time of turning off of a light" (the First court decision, the written court decision, page 27, lines 24-25), and Evidence A No. 8 is "one that illustrates that it is not technically difficult in illumination of meters (illumination of a scale plate) to make light be reduced gradually" (the First court decision, page 28, line 26-page 29, line 1).

D About technical matters described in Evidence A No. 9 (the column of [Conventional Art]) and Evidence A No. 13

Under the provisions of Article 33(1) of the Administrative Case Litigation Act, the

following judgment of a court given by the Second court decision that cancelled the Second trial decision binds the body.

(A) Regarding the technical matter described in the column of [Conventional Art] of Evidence A No. 9, "it cannot be read technically significant to make a user clearly recognize a pointer." (the Second court decision, the written court decision, page 40, lines 9-10), and, therefore, "it cannot base 'Well-known art 2."" (the Second court decision, the written court decision, page 41, line 23).

(B) Although it is recognized that there is described, in Evidence A No. 13, a technical matter that "By turning-on of a key switch for a vehicle, when power is supplied to a light emitting body for a pointer instrument and a light emitting body for an instrument plate, by providing a delaying means for delaying power supply timing to the light emitting body for a pointer relative to power supply timing to the light emitting body for a pointer instrument, since the pointer emits light at the time when the display part such as a scale and symbols are not emitting light, the pointer is made to be clearly recognized, thereby giving a user a feeling of high accuracy" (the Second court decision, the written court decision, page 41, lines 12-16), "it cannot be acknowledged that the technical matter in question is a technology that is generally known by a person skilled in the art in the technical field of a pointer device for a vehicle." (the Second court decision, the written court decision, page 41, lines 20-21).

Therefore, regarding Well-known art 2, it is found as follows as publicized prior art (hereinafter, referred to as "Well-known art 2 (publicized prior art) (Evidence A No. 13)" for convenience). "To control in such a way that, when a key switch is turned on, a scale plate irradiation means is made not to emit light to keep luminance of irradiation light zero, and luminance of the scale plate irradiation means is made to be predetermined luminance after a given delay time from turning on the key switch."

E About Publicized prior art 2 (Evidence A No. 9)

In the First court decision, the following Publicized prior art 2 (Evidence A No. 9) was recognized from Evidence A No. 9. "At the time of a key-off, first, illumination of a pointer is turned off, and then, illumination of an instrument plate is turned off," that is, "an instrument-for-vehicle lighting device in which timing of turning-off of the illumination of the pointer and timing of turning-off of the illumination of the instrument plate are made to be shifted" (the First court decision, the written court decision, page 30, lines 17-19)

F In Evidence A No. 11, it is described that an incandescent bulb has been used for

illumination of a meter for a vehicle.

(3) Regarding the Invention-after-Correction 1

A Comparison between the Invention-after-Correction 1 and the cited invention

The Invention-after-Correction 1 and the cited invention will be compared.

(A) It is obvious that "pointer" in the cited invention is one that performs indication display on "scale plate," and, therefore, "scale plate of the instrument for a vehicle" and "pointer" in the cited invention correspond to "scale plate (20)" and "pointer (30) to perform indication display on the scale plate" in "pointer device for a vehicle" of the Invention-after-Correction 1.

(B) "Scale-plate lighting device for a scale plate" of the cited invention corresponds to "irradiation means (50) for irradiating the scale plate by light" of the Invention-after-Correction 1.

(C) "Turning-off of an ignition key" of the cited invention corresponds to "turningoff of a key switch of a vehicle (IG)" of the Invention-after-Correction 1.

(D) To perform "at the time when an ignition key is being turned off, turning off of interior illumination" of the cited invention and to make "luminance of irradiation light of the scale plate irradiation means be lowered gradually along with turning-off of a key switch of a vehicle (IG) from initial luminance of the irradiation light of the scale plate irradiation means in an ON state of the key switch" of the Invention-after-Correction 1 are common in a point that "the scale plate irradiation means is made to be turned off along with turning-off of the key switch of a vehicle (IG)."

Furthermore, it is obvious that the cited invention has a control means for a scale plate lighting device.

Then, the corresponding features and different features between the Invention-after-Correction 1 and the cited invention are as follows.

[Corresponding features]

"A pointer device for a vehicle, comprising: a scale plate (20); a pointer (30) to perform indication display on the scale plate; and an irradiation means (50) for irradiating the scale plate by light, the pointer device for a vehicle further comprising a control means for performing control so as to make the scale plate irradiation means be turned off along with turning-off of a key switch of a vehicle (IG)."

[Different feature 1]

A point that, about a control means for a scale plate irradiation means, it is such that in the Invention-after-Correction 1 that "controlling luminance of irradiation light of the scale plate irradiation means along with turning-off of a key switch of a vehicle (IG) so as to make the luminance be lowered gradually from initial luminance of the irradiation light of the scale plate irradiation means in an ON state of the key switch," whereas, in the cited invention, it remains just controlling to turn off a light.

[Different feature 2]

A point that, in the Invention-after-Correction 1, it is as "controlling, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of turning on the key switch," whereas, in the cited invention, it is not specified about specific control to make a light be turned on at the time of turning-on of an ignition key.

B Judgment on the different features

(A) About [the different features 1]

In the First court decision, it was held as, with respect to "(the different features 1)" in the First trial decision (A point that, with respect to a control means for controlling so as to make light be turned off along with turning-off of a key switch of a vehicle, control is performed in the Invention 1 in a manner making luminance of irradiation light be gradually lowered, whereas, in the cited invention, control is performed in such a way that just turning-off is made), "It could have been invented with ease by a person skilled in the art to take the constitution concerning the different feature 1 by applying Well-known art 1 having a similar technical significance to that of the Invention 1 to the cited invention" (the First court decision, the written court decision, page 29 lines 6-8).

Then, under the provisions of Article 33(1) of the Administrative Case Litigation Act, judgment given by the First court decision that has cancelled the First trial decision binds the body.

Therefore, it could have been invented with ease by a person skilled in the art to apply, to the cited invention, Well-known art 1 having similar technical significance with the Invention-after-Correction 1 concerning the different features 1, and to, at the time when performing turning off of a light along with turning-off of an ignition key of a vehicle,

regarding luminance of irradiation light of a scale plate lighting device, "control so as to make it be lowered gradually" along with turning-off of an ignition key of a vehicle; that is, to take the constitution concerning the different features 1 of the Invention-after-Correction 1.

In addition, on this occasion, to make luminance of irradiation light be lowered from "initial luminance" of irradiation light of a scale plate lighting device of an ON state of an ignition key could also have been made by a person skilled in the art with ease.

(B) About [the different features 2]

When examining about the aforementioned different feature 2, it is necessary to make clear that it is easy for a person skilled in the art to apply Well-known art 1 to the cited invention, and, when the ignition key is turned on in a state that luminance of irradiation light of a scale plate lighting device is gradually lowering along with turning-off of the ignition key, to make luminance of irradiation light of the scale plate lighting device to be zero at timing when the ignition key is turned on, and after that apply Well-known art 2 (publicized prior art) (Evidence A No. 13).

In the meantime, the Second court decision held as follows in "2 Grounds for revocation 2-1 (About judgment error of inventive step of the corrected invention 2)" relating to judgment of easiness of the Invention-after-Correction 2.

a "It cannot be acknowledged that 'Well-known art 2' recognized in the trial decision is a well-known technology" (the Second court decision, the written court decision, page 41, lines 23-24)

b "(4) Regarding application of Well-known art 2

A Even if the matter of "Well-known art 2" recognized in the trial decision is wellknown, in the present case, it is understood, as indicated below, as it cannot be said as easy to apply Well-known art 1 to the cited invention, and apply, in a state that light emitting luminance of each of a pointer irradiation means (the light emitting element 31) and a scale plate irradiation means (the light source 50) is gradually lowering, Well-known art 2 further....

Therefore, "a state that luminance of an irradiation means is gradually lowering" envisioned when Well-known art 1 is applied to the cited invention and "a state that both a pointer and a scale plate are not emitting light" to be a premise of Well-known art 2 have

different aspects from each other, and, accordingly, it is not conceived by a person skilled in the art with ease to apply the above-mentioned Well-known art 2." (The Second court decision, the written court decision, page 42, line 6-page 43, line 12)

c "Even if, instead of Well-known art 2, taking into consideration Publicized prior art 2 in which timing of turning off illumination of a pointer and timing of turning off illumination of an instrument plate are made to be shifted, and also taking into consideration, in a design rendition using a lighting device, shifting timing about turning off and on or dimming and brightening of a plurality of illumination lamps to obtain a certain rendition effect, it is difficult to recognize that the constitution to make luminance of the scale plate irradiation means to be zero daringly on the occasion of turning-on of a switch key is conceived with ease. In other words, about the above-mentioned rendition to shift timing of each lighting device, even if it can be considered a conceivable rendition to respectively control, when a switch is turned on, timing of lighting or a degree of brightening of each lighting device, and, when the switch is turned off, timing of turning off or a degree of light reduction of each lighting device, it cannot be said that, different from that, the constitution to turn off light regardless of a switch being turned on by making light emitting luminance be zero at that turning-on timing can be conceived easily. In addition, also in all the evidence in the present case, there is no description of the constitution to turn off light by making luminance of a scale plate irradiation means be zero at timing turning-on of the key switch." (the Second court decision, the written court decision, page 44, lines 12-23)

d "(5) Summary

According to the above, it is difficult to recognize that a person skilled in the art conceives the constitution of "when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch" with ease. (the Second court decision, the written court decision, page 44, line 24-page 45, line 2)

Furthermore, in the Second court decision, it was also held, in "3 Regarding grounds for revocation, 2-2 (Judgment error of inventive step of the corrected invention 3 and 1)", that

e "By a reason similar to No. 2 above, the judgment of inventive step of the trial decision that the corrected invention 1 could be able to be envisioned with ease is in error." (the

Second court decision, the written court decision, page 45, lines 5-6).

Then, under the provisions of Article 33(1) of the Administrative Case Litigation Act, the judgment of the court given by the Second court decision that has cancelled the Second trial decision binds the body, and, therefore, also regarding judgment of inventive step in the Invention-after-Correction 1, it should be based on the above-mentioned judgment matters of a-e held by the Second court decision.

Therefore, it cannot be conceived by a person skilled in the art with ease to make, in the cited invention, when the ignition key is turned on in a state that luminance of irradiation light of a scale plate lighting device is gradually lowering along with turning-off of the ignition key, luminance of irradiation light of the scale plate lighting device to be zero at timing when the ignition key is turned on, and after that apply Well-known art 2 (publicized prior art) (Evidence A No. 13) (that is, to control so as to make luminance of the scale plate lighting device be a predetermined luminance after a given delay time from turning on of the ignition key).

Accordingly, the constitution concerning the different feature 2 of the Inventionafter-Correction 1 (the constitution of 'controlling, when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch, and, after that, luminance of the scale plate irradiation means returns to the initial luminance with a delay from the timing of turning on the key switch') is not a constitution that can be conceived by a person skilled in the art with ease."

C Demandant's allegation on the Invention-after-Correction 1

The demandant alleges that, in the written statement (page 10, line 13-page 13, line 1), on the ground that there is not described in the description of the Correction that there is an effect and some sort of technical significance according to "controlling, when the key switch is turned on in a state that luminance of irradiation light (of the scale plate irradiation means) is gradually lowering, so as to make luminance of irradiation light (of the scale plate) irradiation means be zero (at timing of turning on the key switch), and, after that, luminance of (the scale plate) irradiation means returns to the initial luminance with a delay from the turning on of the key switch," the same reasons for invalidation as those of the Invention 1 before the Correction are also suitable for the invention according to claim 1 after the Correction, and the Invention-after-Correction 1 could have been invented with ease by a person skilled in the art based on the cited invention, Well-known art 1 (from

Evidence A No. 2 to Evidence A No. 7).

However, the constitution concerning the different features 2 of the Invention-after-Correction 1 is a matter described in claim 1 as a matter needed in order to identify the invention of "pointer device for a vehicle," and, even if an effect and technical significance according to this is not clearly described in the description of the Correction, the constitution concerning the different features 2 does not become a meaningless constitution immediately for the Invention-after-Correction 1.

In addition, as described in "1" "1-1" "(2)" "B" "(C)," it can be said that it is obvious from the statements of the detailed description of the invention of the description of the Correction that, due to the constitution concerning the different features 2, regarding change in brightness of a scale plate that comes with turning-on of a key switch after turning off of the key switch, a change of an exceptionally new idea about which it is difficult to think that it is natural is "appealed to a sense of vision" of a crew to give fresh surprise (psychological effect) to the crew; that is, that "novel visibility" is given to the crew along with turning on of a key switch after turning off the key switch.

Therefore, it cannot be said that the constitution concerning the different features 2 of the Invention-after-Correction 1 is a meaningless constitution, and, therefore, the demandant's allegation cannot be adopted.

D Summary about the Invention-after-Correction 1

It cannot be said that the Invention-after-Correction 1 could have been invented by a person skilled in the art with ease based on the cited invention (Evidence A No. 1), Well-known art 1 (Evidence A No. 2-7), Publicized prior art 1 (Evidence A No. 8), and Well-known art 2 (publicized prior art) (Evidence A No. 13).

Even if the above-mentioned Well-known art 2 is well-known art (Evidence A No. 9, Evidence A No. 13), it has no influence on the conclusion.

Therefore, it cannot be said that the patent about the Invention-after-Correction 1 was made in violation of the provisions of Article 29-2 of the Patent Act, and, therefore, it does not fall under Article 123(1)(ii) of the Patent Act and should not be invalidated.

(4) Regarding the Invention-after-Correction 2

A Comparison of the Invention-after-Correction 2 and the cited invention

The Invention-after-Correction 2 is an invention that was held in the Second court decision as "The corrected invention 2 is one that makes it possible to provide, in the

Invention 2 that is an invention having both a scale plate irradiation means and a pointer irradiation means as an irradiation means, by controlling, in particular, luminance of irradiation light of the scale plate irradiation means and the pointer irradiation means so as to make it be lowered gradually from initial luminance along with turning-off of a key switch, and then, focusing on a case where the key switch is turned on in such a state, in this case, by controlling so as to make luminance of the pointer irradiation means return to the initial luminance at timing when the key switch is turned on, and, in conjunction with this, make luminance of irradiation light of the scale plate irradiation means be zero at timing when the key switch is turned on, and further make the luminance of the scale plate irradiation means return to the initial luminance in a manner delayed from the timing at which luminance of the pointer irradiation means return to the initial luminance, novel visibility to a crew on the occasion of turning-on of a key switch after turning off of the key switch in this kind of pointer devices when the key switch is turned on in a state that brightness of each of the scale plate and the light emitting pointer is lowering gradually after the key switch is turned off ([0006], [0021])." (the Second court decision, the written court decision, page 37, line 3-13).

Therefore, the Invention-after-Correction 2 and the cited invention will be compared.

(A) Since it is obvious that, in the cited invention, "pointer" is one that performs indication display on "scale plate," "scale plate for an instrument for a vehicle" and "pointer" illuminated by "pointer lighting device" in the cited invention correspond to "the scale plate (20)" in "pointer device for a vehicle" and, "the light emitting pointer (30) to perform indication display on the scale plate" in Invention-after-Correction 2.

(B) "Scale-plate lighting device for a scale plate" of the cited invention corresponds to "the scale-plate irradiation means (50) for irradiating the scale plate by light" of the Invention-after-Correction 2.

(C) "Pointer lighting device for a pointer" of the cited invention corresponds to "the pointer irradiation means (31) for making the light emitting pointer emit light by irradiating light to the light emitting pointer" of the Invention-after-Correction 2.

(D) "Turning-off of the ignition key" of the cited invention corresponds to "turning-off of a key switch of a vehicle (IG)" of the Invention-after-Correction 2.

(E) To perform "at the time when an ignition key is being turned off, turning off of interior illumination" of the cited invention and "to make luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means be lowered

gradually from initial luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means in an ON state of a key switch of a vehicle (IG) along with turning-off of the key switch" of the Invention-after-Correction 2 are common in a point "to make the scale plate irradiation means and the pointer irradiation means be turned off along with turning-off of the key switch of a vehicle (IG)."

In addition, it is obvious that the cited invention includes a control means of a scale plate lighting device and a pointer lighting device.

Therefore, the corresponding features and the different features between the Invention-after-Correction 2 and the cited invention are as follows.

[Corresponding features]

"A pointer device for a vehicle, comprising: a scale plate (20); a light emitting pointer (30) to perform indication display on the scale plate; a scale-plate irradiation means (50) for irradiating the scale plate by light; and a pointer irradiation means (31) for making the light emitting pointer emit light by irradiating light to the light emitting pointer, the pointer device for a vehicle further comprising a control means for controlling to make the scale plate irradiation means and the pointer irradiation means be turned off along with turning-off of the key switch of a vehicle (IG)."

[Different feature 1]

A point that, about the control means for a scale plate irradiation means and a pointer irradiation means, "controlling so as to make luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means be lowered gradually from initial luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means in an ON state of a key switch of a vehicle (IG) along with turning-off of the key switch" is made in the Invention-after-Correction 2, whereas, in the cited invention, control remains in just performing turning off of a light.

[Different feature 2]

A point that, in the Invention-after-Correction 2, "controlling, when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means is gradually lowering along with turning-off of the key switch, so as to make luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch, and luminance of irradiation light of the scale plate irradiation means be zero at the timing of turning on the key switch, and make luminance of the scale plate irradiation means return to the initial luminance with a delay from the timing of returning luminance of the pointer irradiation means to the initial luminance" is performed, whereas, in the cited invention, it is not specified about specific control for lighting at the time of turning-on of an ignition key.

B Judgment on the different features

(A) About the different feature 1

The First court decision held, about "(Different feature 2)" (A point that, regarding a control means for controlling so as to make an irradiation light be turned off along with turning-off of a key switch of a vehicle, control is performed, in the Invention 2, in such a way that luminance of the irradiation light is made to be lowered gradually, whereas Cited invention remains in just controlling so as to make the light be turned off) in the First trial decision, as

"4 Regarding grounds for revocation 2 (judgment error of the different feature 2 between the Invention 2 and the cited invention)

Invention 1 and the Invention 2 are nothing but ones in which a target of control of luminance of irradiation light is a scale plate irradiation means in the Invention 1, whereas, in the Invention 2, it is a scale plate irradiation means and a pointer irradiation means. Therefore, in a similar fashion to the aforementioned 1, it can be said that a person skilled in the art could have envisioned with ease to apply Well-known art 1 as a control means of a scale plate lighting device and a pointer lighting device of the cited invention, and to perform control so as to make luminance of irradiation light be lowered gradually; that is, to make it be the constitution concerning the different features 2 of the Invention 2." (the First court decision, the written court decision, page 29, lines 10-16).

Then, under the provisions of Article 33(1) of the Administrative Case Litigation Act, the judgment given by the First court decision court that cancelled the First trial decision binds the body.

Therefore, it could have been conceived by a person skilled in the art with ease to apply Well-known art 1 (Evidence A No. 2-7) to the cited invention, and, when performing turning off of a light along with turning-off of an ignition key of a vehicle, to make luminance of irradiation light of each of a scale plate lighting device and a pointer irradiation device "be controlled so as to be lowered gradually" along with turning-off of the ignition key of a vehicle; that is, to make it be the constitution concerning the different feature 1 of the Invention-after-Correction 2.

In addition, on this occasion, it could have been envisioned by a person skilled in

the art with ease to make lowering of luminance of irradiation light be from "initial luminance" of irradiation light of each of a scale plate lighting device and a pointer lighting device at an ON state of an ignition key.

(B) About the different features 2

The Second court decision held, in "2 About grounds for revocation 2-1 (Judgment error on inventive step of the corrected invention 2)", as follows.

a "It cannot be acknowledged that 'Well-known art 2' recognized in the trial decision is a well-known technology" (the Second court decision, the written court decision, page 41, lines 23-24)

b "(4) Regarding application of Well-known art 2

A Even if the matters of 'Well-known art 2' recognized in the trial decision are well-known, as indicated below, it is understood that, in the present case, it cannot be said as easy to apply Well-known art 1 to the cited invention, and to apply, in a state that light emitting luminance of each of a pointer irradiation means (the light emitting element 31) and a scale plate irradiation means (the light source 50) is gradually lowering, Well-known art 2 further. ...

Therefore, 'a state that luminance of an irradiation means is gradually lowering' envisioned when Well-known art 1 is applied to the cited invention and 'a state that both a pointer and a scale plate are not emitting light' to be a premise of Well-known art 2 have different aspects from each other, and, accordingly, it is not conceived by a person skilled in the art with ease to apply the above-mentioned Well-known art 2.

B ... When an ignition switch is turned on to resume operation after it is turned off, it is difficult to think that, in a situation where it is necessary to make every illumination means light up for preparation of operation, it is natural to turn off a light once entirely among the illumination means whose luminance are being gradually lowered. In addition, if trying to produce 'a state that both a pointer and a scale plate are not emitting light' that is a premise of application of Well-known art 2, it is possible to adopt a constitution such as to make, after turning off both of a scale plate illumination means and a pointer illumination means once, the pointer illumination means light up first, and, therefore, the judgment of the trial decision that made the above-mentioned constitution be inevitable cannot be adopted.

 C_{min} relative to the cited invention, the corrected invention 2 is different from a scene in which Well-known art 1 is applied at the time of tuning off of a key switch, and, after each illumination means has been turned off, Well-known art 2 is simply applied when turning

on the key switch, and, therefore, even if Well-known art 1 is applied to the cited invention, it could not be envisioned with ease to apply Well-known art 2 when turning on in a state that the luminance in question is lowering as described above.

Even if, instead of Well-known art 2, taking into consideration Publicized prior art 2 in which timing of turning off illumination of a pointer and timing of turning off illumination of an instrument plate are made to be shifted, and also taking into consideration, in a design rendition using a lighting device, shifting timing about turning off and on or dimming and brightening of a plurality of illumination lamps to obtain a certain rendition effect, it is difficult to recognize that the constitution to make luminance of the scale plate irradiation means to be zero daringly on the occasion of turning-on of a switch key is conceived with ease. In other words, about the above-mentioned rendition to shift timing of each lighting device, even if it is considered as a conceivable rendition to respectively control timing of lighting or a degree of brightening of each lighting device when a switch is turned on, and timing of turning off or a degree of light reduction of each lighting device when the switch is turned off, it cannot be said that, different from that, the constitution to turn off light, regardless of a switch being turned on, by making light emitting luminance be zero at that turning-on timing is conceived easily. In addition, also in all the evidence in the present case, there is no description of the constitution to turn off light by making luminance of a scale plate irradiation means be zero at timing turning-on of the key switch." (the Second court decision, the written court decision, page 42, line 6 to page 44, line 23).

c "(5) Summary

According to the above, it is difficult to recognize that a person skilled in the art conceives the constitution of 'when the key switch is turned on in a state that luminance of irradiation light of the scale plate irradiation means is gradually lowering along with turning-off of the key switch, luminance of irradiation light of the scale plate irradiation means so as to be zero at timing of turning on the key switch' with ease." (the Second court decision, the written court decision, page 44, line 24-page 45, line 2)

Therefore,

(a) it cannot be said that it could be easily conceived with ease to apply Well-known art 1 (Evidence A No. 2-7) to the cited invention, and, in a state that light emitting luminance of each of a pointer irradiation device and a scale plate irradiation means is gradually lowering, to further apply Well-known art 2 (publicized prior art) (Evidence A No.

13),

(b) on the occasion of applying Well-known art 2 (publicized prior art) (Evidence A No. 13), it is neither a natural nor an inevitable constitution to, when an ignition switch is turned on to resume operation after it is turned off, and, in a situation where it is necessary to make every illumination means light up for preparation of operation, turn off a light once entirely among the illumination means whose luminance are being gradually lowered,

(c) even if Well-known art 1 (Evidence A No. 2-7) is applied to the cited invention, it could not be conceived with ease to apply Well-known art 2 (publicized prior art) (Evidence A No. 13) when making the luminance in question is turned on in a state that it is lowering, and

(d) it is difficult to admit that a constitution to make luminance of the scale plate irradiation means be zero daringly on the occasion of turning-on of the switch key could be conceived with ease, and thus it cannot be said that the constitution to make light emitting luminance be zero to be turn off at timing of turning-on of the switch key regardless of turning-on of the switch, and, in addition, there is no description in all evidence in the present case about the constitution to make luminance of the scale plate irradiation means to be zero to be turned off at timing when the key switch is turned on.

Accordingly, the constitution concerning the different features 2 of the Inventionafter-Correction 2 (the constitution of "controlling, when the key switch is turned on in a state that luminance of irradiation light of each of the scale plate irradiation means and the pointer irradiation means is gradually lowering along with turning-off of the key switch, so as to make luminance of the pointer irradiation means return to the initial luminance at timing of turning on the key switch, and luminance of irradiation light of the scale plate irradiation means be zero at the timing of turning on the key switch, and make luminance of the scale plate irradiation means return to the initial luminance with a delay from the timing of returning luminance of the pointer irradiation means to the initial luminance") cannot be conceived by a person skilled in the art with ease.

C Summary concerning the Invention-after-Correction 2

As above, it cannot be said that the Invention-after-Correction 2 could have been invented by a person skilled in the art with ease based on the cited invention (Evidence A No. 1), Well-known art 1 (Evidence A No. 2-7), Publicized prior art 1 (Evidence A No. 8), and Well-known art 2 (publicized prior art) (Evidence A No. 13).

Even when the above-mentioned Well-known art 2 is well-known art (Evidence A

No. 9, Evidence A No. 13), that does not have an influence on the conclusion.

Therefore, it cannot be said that the patent about the Invention-after-Correction 2 was made in violation of the provisions of Article 29-2 of the Patent Act, and thus it does not fall under Article 123(1)(ii) of the Patent Act, and should not be invalidated.

(5) Regarding the Invention-after-Correction 3

In "3 Regarding grounds for revocation 2-2 (judgment error of inventive step of the corrected invention 3 and 1)" of the Second court decision, it was held that "In addition, since the corrected invention 3 is an invention that technically limits the corrected invention 2, it is obvious that there is an error also in (a part of) the judgment concerning the corrected invention 3 because the judgment of inventive step of the trial decision that said that the corrected invention 2 would be able to be envisioned with ease." (the Second court decision, the written court decision, page 45, lines 6-8).

Then, since, under the provisions of Article 33(1) of the Administrative Case Litigation Act, the judgment of the court given by the Second court decision that cancelled the Second trial decision binds the body, also about the judgment for the inventive step of the Invention-after-Correction 3, the matter described in the above-mentioned "(4)" "B" applies.

Therefore, since the Invention-after-Correction 2 is not an invention that would be able to be envisioned with ease as described in the above "(4)" "C," also the Invention-after-Correction 3 that technically limits the Invention-after-Correction 2 would not be able to be envisioned by a person skilled in the art with ease.

Furthermore, even in view of Publicized prior art 2 (Evidence A No. 9) ("at the time of a key-off, first, illumination of a pointer is turned off, and then, illumination of an instrument plate is turned off"; that is, "an instrument-for-vehicle lighting device in which timing of turning-off of the illumination of the pointer and timing of turning-off of the illumination of the instrument plate are made to be shifted"), it is difficult for a person skilled in the art to conceive the Invention-after-Correction 3 with ease.

Therefore, it cannot be said that a person skilled in the art could have been invented the Invention-after-Correction 3 with ease based on the cited invention (Evidence A No. 1), Well-known art 1 (Evidence A No. 2-7), Publicized prior art 1 (Evidence A No. 8), Publicized prior art 2 (Evidence A No. 9), and Well-known art 2 (publicized prior art) (Evidence A No. 13).

Even when the above Well-known art 2 is well-known art (Evidence A No. 9, Evidence A No. 13), that does not have an influence on the conclusion.

Accordingly, it cannot be said that the patent about the Invention-after-Correction 3 was made in violation of the provisions of Article 29-2 of the Patent Act, and, therefore, it does not fall under Article 123(1)(ii) of the Patent Act, and should not be invalidated.

(6) Summary about the reasons for invalidation 2

It cannot be said that the inventions according to claims 1 to 2 after the Correction could have been invented by a person skilled in the art with ease based on the cited invention (Evidence A No. 1), Well-known art 1 (Evidence A No. 2-7), Publicized prior art 1 (Evidence A No. 8), and Well-known art 2 (publicized prior art) (Evidence A No. 13), and, in addition, it cannot be said that the invention according to claim 3 after the Correction could have been invented by a person skilled in the art with ease based on the cited invention (Evidence A No. 1), Well-known art 1 (Evidence A No. 2-7), Publicized prior art 1 (Evidence A No. 1), Well-known art 1 (Evidence A No. 2-7), Publicized prior art 1 (Evidence A No. 8), Publicized prior art 2 (Evidence A No. 9), and Well-known art 2 (publicized prior art) (Evidence A No. 13), and, therefore, it cannot be said that the patents about the inventions according to claims 1 to 3 after the Correction are ones that were made in violation of the provisions of Article 29-2 of the Patent Act.

Even when the above Well-known art 2 is well-known art (Evidence A No. 9, Evidence A No. 13), that does not have an influence on the conclusion.

Meanwhile, also in view of Evidence A No. 11, it does not have an influence on the above judgment.

Therefore, the patents about the inventions according to claims 1 to 3 after the Correction do not fall under Article 123(1)(ii) of the Patent Act, and should not be invalidated.

No. 7 Closing

As above, the patents about the inventions according to claims 1 to 3 of the Patent should not be invalidated.

The costs in connection with the trial shall be borne by the demandant under the provisions of Article 61 of Code of Civil Procedure as applied mutatis mutandis pursuant to the provisions of Article 169(2) of the Patent Act.

Therefore, the trial decision shall be made as described in the conclusion. Dec. 17, 2015 Chief administrative judge: SAKAI, Nobuyoshi

Administrative judge: SHIMIZU, Minoru

Administrative judge: HORI, Keishi