

Appeal decision

Appeal No. 2014- 3767

Kanagawa, Japan

Appellant

KOBAYASHI, Yuka

Kanagawa, Japan

Patent Attorney

KOJIMA, Tsunekazu

The case of appeal against the examiner's decision of refusal of No. 2009-206405, entitled "Collection Recycle Management System of Waste Newspaper" (the application published on February 24, 2011, Japanese Unexamined Patent Application Publication No. 2011-40022) has resulted in the following appeal decision:

Conclusion

The appeal of the case was groundless.

Reason

No. 1 History of the procedures

The application was filed on August 18, 2009, a written request for an extension of time was submitted on March 7, 2013 in response to the notice of reasons for refusal dated December 20, 2012, and after that, since there was no response to the notice of reasons for refusal, a decision of refusal was made on November 29, 2013. In response to the decision, a request for an appeal against an examiner's decision of refusal was filed and an amendment was submitted on February 7, 2014.

No. 2 Decision to dismiss amendment for the amendment dated February 7, 2014

[Decisive conclusion of dismissal of amendment]

The amendment dated February 7, 2014 shall be dismissed.

[Reason]

1. Details of Amendment

(1) Description of the scope of claims after the amendment of the case

Description of the scope of claims amended by the amendment of the case is as

follows:

"[Claim 1]

A collection recycle management system of waste newspaper, wherein each of business operators involved in business from collection to recycling of waste newspaper, such as a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, is provided with a terminal apparatus having functions to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper and cost involved therein; and performs the transmission/reception, display, and the like of information on the amount of handled waste newspaper or recycled paper and cost involved therein via the Internet so as to improve the ratio of collection and recycling of waste newspaper and improve the efficiency of clerical work involved in money transfer by grasping the amount of handled waste newspaper and recycled paper and setting cost involved therein through a management center that is provided with a central processing apparatus having functions to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators so as to manage the production process from collection to recycling of waste newspaper, supply the recycled paper to the newspaper publisher as printing paper for newspaper, publication, and the like, and pay cost based on a payment from the newspaper publisher."

(2) Description of the scope of Claims before the amendment of the case

Description of the scope of Claims before the amendment of the case is as follows:

"[Claim 1]

A collection recycle management system of waste newspaper, wherein a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like conclude a business collaboration agreement so as to grasp the amount of handled waste newspaper or recycled paper and set cost involved therein, thereby improving the ratio of collection and recycling of waste newspaper and improving the efficiency of clerical work involved in money transfer in business from collection of waste newspaper to manufacturing of recycled paper, and thereby set up a management center that manages a process from the collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, supplies the recycled paper to the newspaper publisher as

printing paper for newspaper, publication, and the like, and pays cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher; terminal apparatuses having functions for those business operators to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper; and a central processing apparatus having functions for the management center to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators are included; the transmission/reception, display, and the like of information on the amount of handled waste newspaper or recycled paper and cost involved therein are performed between the terminal apparatuses of those business operators and the central processing apparatus of the management center via the Internet; and the central processing apparatus of the management center includes communication means, storage means, management means, retrieval means, and accumulation means, and handles the information on the amount of handled waste newspaper or recycled paper which is transmitted from the terminal apparatuses of those business operators via the Internet."

2. Appropriateness of amendment

(1) Whether or not the amendment is intended for "the restriction of the scope of Claims"

In Claim 1 before the amendment, "the central processing apparatus of the management center" "includes communication means, storage means, management means, retrieval means, and accumulation means," whereas "the central processing apparatus" in Claim 1 after the amendment is not specified to "include" such "means." Therefore, the amendment of the case includes an amendment matter (hereinafter, referred to as "amendment matter 1") in which the matter specifying the invention, "the central processing apparatus includes communication means, storage means, management means, retrieval means, and accumulation means" is deleted.

In addition, the above amendment matter 1 extends the concept of "the central processing apparatus" by deleting the matter specifying the invention related to "the central processing apparatus" of Claim 1 before the amendment, thereby enlarging the scope of Claims.

Thus, the amendment matter 1 is not intended for "restriction of the scope of Claims" set forth in Article 17bis (5) (ii) of the Patent Act.

(2) Whether or not the amendment is intended for "the clarification of an ambiguous description"

The appellant provided a description of "amends the Invention in accordance with the object of the reasons for refusal" in the written demand for trial (the sixth line on page 2). Therefore, whether or not the above amendment matter 1 is intended for "the clarification of an ambiguous description" which is made in response to Reason B of the reasons for refusal (violation of the requirements of Patent Act Article 29 (1) main paragraph) is examined.

In the notice of reasons for refusal dated December 20, 2012, "Reason B" is described as follows:

'B. Description in the following claim of the application does not meet the requirement stipulated in the main paragraph of Article 29 (1) of the Patent Act in the following points, and therefore the appellant should not be granted a patent for the Invention.

Description

Although the invention described in Claim 1 is recognized as using computers, it merely specifies normal functions of a computer such as "terminal apparatuses having functions for those business operators to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper," "a central processing apparatus having functions. to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators," and "the transmission/reception, display, and the like of information on the amount of handled waste newspaper or recycled paper and cost involved therein are performed between the terminal apparatuses of those business operators and the central processing apparatus of the management center via the Internet; and the central processing apparatus of the management center includes communication means, storage means, management means, retrieval means, and accumulation means." It only specifies operational functions to be performed by the computers, and does not specify how hardware resources of the computers are used to concretely realize technical means so as to perform the operational functions. Therefore, it cannot be said to be a "creation of a technical idea utilizing a law of nature." (Remainder omitted.)

According to the above description, [Reason B] of the notice of reasons for refusal points out "Although the invention described in Claim 1 is recognized as using

computers, ... It only specifies operational functions to be performed by the computers, and does not specify how hardware resources of the computers are used to concretely realize technical means so as to perform the operational functions. Therefore, it cannot be said to be a "creation of a technical idea utilizing a law of nature," ' and does not point out ambiguity and the like in that "the central processing unit" "includes communication means, storage means, management means, retrieval means, and accumulation means."

In addition, it cannot be recognized that the configuration of "the central processing apparatus" before the amendment is clarified by the above amendment matter 1.

Thus, it cannot be said that the amendment matter 1 is intended for "the clarification of an ambiguous description" for "the matters stated in the reasons for refusal in the notice of reasons for refusal."

Therefore, the amendment matter 1 is not intended for "the clarification of an ambiguous description (limited to the matters stated in the reasons for refusal in the notice of reasons for refusal)" set forth in Article 17bis (5) (IV) of the Patent Act.

(3) In addition, the above amendment matter 1 is not recognized as being intended for any of "the deletion of a claim or claims" set forth in Article 17bis (5) (i) of the Patent Act and "the correction of errors" set forth in Article 17bis (5) (iii) of the Patent Act.

(4) From the above, the amendment of the case including the amendment matter 1 violates the provisions of Article 17bis (5) of the Patent Act and therefore should be dismissed in accordance with the provisions of paragraph 1 of Article 53 of the Patent Act which is applied *mutatis mutandis* under paragraph 1 of Article 159 of the Patent Act.

No. 3 Regarding the Invention of the case

As the amendment dated on February 7, 2014 was dismissed as described above, the invention relating to Claim 1 of the present application (referred to as "the Invention") is the following which is specified by the matters described in Claim 1 of the scope of Claims of the original application.

"[Claim 1]

A collection recycle management system of waste newspaper, wherein a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like conclude a business collaboration

agreement so as to grasp the amount of handled waste newspaper or recycled paper and set cost involved therein, thereby improving the ratio of collection and recycling of waste newspaper and improving the efficiency of clerical work involved in money transfer in business from collection of waste newspaper to manufacturing of recycled paper, and thereby set up a management center that manages a process from the collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, supplies the recycled paper to the newspaper publisher as printing paper for newspaper, publication, and the like, and pays cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher; terminal apparatuses having functions for those business operators to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper and a central processing apparatus having functions for the management center to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators are included; the transmission/reception, display, and the like of information on the amount of handled waste newspaper or recycled paper and cost involved therein are performed between the terminal apparatuses of those business operators and the central processing apparatus of the management center via the Internet; and the central processing apparatus of the management center includes communication means, storage means, management means, retrieval means, and accumulation means, and handles the information on the amount of handled waste newspaper or recycled paper which is transmitted from the terminal apparatuses of those business operators via the Internet."

No. 4 Summary of the reasons for refusal of the original decision

The summary of "Reason B" in the notice of reasons for refusal dated December 20, 2012 is as follows:

'B. Description in the following claim of the application does not meet the requirement stipulated in the main paragraph of Article 29 (1) of the Patent Act in the following points, and therefore the applicant should not be granted a patent for the Invention.

Description

Although the invention described in Claim 1 is recognized as using computers, it merely specifies normal functions of a computer such as "terminal apparatuses having

functions for those business operators to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper," "a central processing apparatus having functions... to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators," and "the transmission/reception, display, and the like of information on the amount of handled waste newspaper or recycled paper and cost involved therein are performed between the terminal apparatuses of those business operators and the central processing apparatus of the management center via the Internet; and the central processing apparatus of the management center includes communication means, storage means, management means, retrieval means, and accumulation means." It only specifies operational functions to be performed by the computers, and does not specify how hardware resources of the computers are used to concretely realize technical means so as to perform the operational functions. Therefore, it cannot be said to be a "creation of a technical idea utilizing a law of nature."

(Please refer to "Case Examples of Unpatentable Business-Related Inventions" (http://www.jpo.go.jp/tetuzuki/t_tokkyo/bijinesu/tt1303-090_jirei.htm), "Case Examples of Decisions for Business-Related Inventions" (http://www.jpo.go.jp/tetuzuki/t_tokkyo/bijinesu/biz_case_study.htm), and so on, which are published on the Patent Office's website.)

In addition, where "a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like conclude a business collaboration agreement so as to grasp the amount of handled waste newspaper or recycled paper and set cost involved therein, thereby improving the ratio of collection and recycling of waste newspaper and improving the efficiency of clerical work involved in money transfer in business from collection of waste newspaper to manufacturing of recycled paper, and thereby set up a management center that manages a process from the collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, supplies the recycled paper to the newspaper publisher as printing paper for newspaper, publication, and the like, and pays cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher" in the description of claim 1 constitutes a social "mechanism" (social system) that is an arbitrary arrangement, (if claimed inventions are any laws as such other than a law of nature (e.g. economic laws), arbitrary arrangements (e.g. a rule for playing a

game as such), mathematical methods or mental activities, or utilize only these laws (e.g. methods for doing business as such), these "inventions" are not considered to be statutory because they do not utilize a law of nature), the "invention" is not deemed to utilize a law of nature as a whole and therefore, is non-statutory.'

No. 5 Judgment on the body

(1) Article 2 (1) of the Patent Act prescribes that "invention" in this Act means "the highly advanced creation of technical ideas utilizing a law of nature;" and the main paragraph of Article 29 (1) of the Patent Act prescribes that "An inventor of an invention that is industrially applicable may be entitled to obtain a patent for said invention, except for the following."

Therefore, where the claimed invention is not "a creation of technical idea utilizing a law of nature," the invention does not meet the requirement stipulated in the main paragraph of Article 29 (1) of the Patent Act, and therefore the appellant should not be granted a patent for the invention.

In addition, '(4) Those in which a law of nature is not utilized, in Examination Guidelines, Part II, Chapter 1, 1.1 List of Non-statutory Inventions' describes:

'If claimed inventions are any laws as such other than a law of nature (e.g. economic laws), arbitrary arrangements (e.g. a rule for playing a game as such), mathematical methods or mental activities, or utilize only these laws (e.g. methods for doing business as such), these "inventions" are not considered to be statutory because they do not utilize a law of nature. On the contrary, even if a part of matters specifying an invention stated in a claim does not utilize a law of nature, when it is judged that the claimed invention as a whole utilizes a law of nature, the claimed invention is deemed as utilizing a law of nature. As stated above, the characteristic of the technology is to be taken into account in judging whether a claimed invention as a whole utilizes a law of nature.

Notes:

For inventions relating to a method for doing business or playing a game, since there are cases in which the claimed invention, a part of which utilizes an article, apparatus, device, system, etc., is judged as not utilizing a law of nature when considered as a whole, careful examination shall be required. There is possibility for an "invention" to be qualified as statutory where the invention is made not from a viewpoint of a method of doing business or playing a game but from a viewpoint of computer software-related inventions such as software used in doing business or in playing a game. (See: "Part VII, Chapter 1 Computer Software-Related Inventions,

2.2.')

(2) Therefore, it is examined whether or not the Invention is "statutory" under Article 2 (1) of the Patent Act; that is, whether or not the Invention is a "creation of a technical idea utilizing a law of nature."

The descriptions of the Invention are divided for the sake of convenience as follows:

(e) "A collection recycle management system of waste newspaper, wherein"

(a) "a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like conclude a business collaboration agreement so as to grasp the amount of handled waste newspaper and recycled paper and set cost involved therein, thereby improving the ratio of collection and recycling of waste newspaper and improving the efficiency of clerical work involved in money transfer in business from collection of waste newspaper to manufacturing of recycled paper, and thereby set up a management center that manages a process from the collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, supplies the recycled paper to the newspaper publisher as printing paper for newspaper, publication, and the like, and pays cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher"

(b) "terminal apparatuses having functions for those business operators to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper and a central processing apparatus having functions for the management center to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators are included"

(c) "the transmission/reception, display, and the like of information on the amount of handled waste newspaper or recycled paper and cost involved therein are performed between the terminal apparatuses of those business operators and the central processing

apparatus of the management center via the Internet"

(d) "and the central processing apparatus of the management center includes communication means, storage means, management means, retrieval means, and accumulation means, and handles the information on the amount of handled waste newspaper or recycled paper which is transmitted from the terminal apparatuses of those business operators via the Internet."

(2-1) As for the described matter (a)

The problem to be solved by the application is to improve the ratio of collection and recycling of waste newspaper and improve the efficiency of business involved therein by collecting and recycling waste newspaper, continuously and stably supplying printing paper for newspaper, publication, and the like, as described in paragraph [0012] of the specification "the problem to be solved by the invention is to improve the ratio of collection and recycling of waste newspaper and improve the efficiency of business involved therein so as to effectively utilize paper resources by continuously and stably supplying printing paper for newspaper, publication and the like."

However, the act of "collecting and recycling waste newspaper, continuously and stably supplying printing paper for newspaper, publication and the like" as such is the one performed as business that is a human mental act, and this is considered to be "methods for doing business as such."

In addition, the problem to be solved, "to improve the ratio of collection and recycling of waste newspaper and improve the efficiency of business involved therein" is to be solved by the "mental activity" of a "human being" who operates the business and is not to be solved by utilizing a law of nature.

Then, the above described matter (a) is examined. The described matter of "a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like conclude a business collaboration agreement so as to grasp the amount of handled waste newspaper or recycled paper and set cost involved therein, thereby improving the ratio of collection and recycling of waste newspaper and improving the efficiency of clerical work involved in money transfer in business from collection of waste newspaper to manufacturing of recycled paper" in the above described matter (a) specifies that the contents of business targeted in the business collaboration agreement is "business from collection of waste newspaper to manufacturing of recycled paper" and that the purpose

of the business collaboration agreement is to "grasp the amount of handled waste newspaper or recycled paper and set cost involved therein, thereby improving the ratio of collection and recycling of waste newspaper and improving the efficiency of clerical work involved in money transfer" and, to achieve the above purpose, specifies that "a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like conclude ... a business collaboration agreement."

Wherein, "a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like" indicate "human beings" or "organizations;" and the act in which they "conclude a business collaboration agreement" with each other is a matter of arbitrary arrangements related to the business and does not utilize a law of nature.

In addition, "business from collection of waste newspaper to manufacturing of recycled paper" describes the summary of business, "grasp the amount of handled waste newspaper and recycled paper and set cost involved therein" is the contents of business to be performed in the business, and "improving the ratio of collection and recycling of waste newspaper and improving the efficiency of clerical work involved in money transfer" is a problem to be solved by the business. Thus, there is nothing that can be said to utilize a law of nature, in those descriptions.

Furthermore, in the described matter of " thereby set up a management center that manages a process from the collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, supplies the recycled paper to the newspaper publisher as printing paper for newspaper, publication and the like, and pays cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher" in the above described matter (a), "a management center" indicates a "human being" or "organization," and "manages a process from the collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, supplies the recycled paper to the newspaper publisher as printing paper for newspaper, publication and the like, and pays cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher" describes the contents themselves of business to be performed by the management center. Thus, there is also nothing that can be said to utilize a law of nature, in the

description.

Therefore, the above described matter (a) does not utilize a law of nature.

(2-2) As for the described matters (b) and (e)

The above described matters (b) and (e) specify that: in the "collection recycle management system of waste newspaper" of the invention, "terminal apparatuses ... and a central processing apparatus ... are included;" the terminal apparatuses "have functions for those business operators to input, transmit/receive and display information on the amount of handled waste newspaper or recycled paper;" and the central processing apparatus "has functions for the management center to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators."

Wherein, the "terminal apparatuses" and "central processing apparatus" can be prima facie recognized as being computer apparatuses that are hardware, and it can be said that a law of nature is utilized in those apparatuses themselves. However, in view of the functions of the "terminal apparatuses," the functions are "for those business operators to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper." Therefore, the "terminal apparatuses" are just utilized as tools for business operators (that are "human beings or "organizations") to perform information transmission with the management center (that is a "human being" or "organization").

In addition, the functions of the "central processing apparatus" is also "for the management center to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators." Therefore, the "central processing apparatus" is only utilized as a tool for the management center (that is a "human being" or "organization") to perform information transmission with the business operators (that are "human beings" or "organizations").

(2-3) As for the described matter (c)

The above described matter (c) specifies that "the transmission/reception, display, and the like of information on ... are performed between the terminal apparatuses of those business operators and the central processing apparatus of the management center via the Internet," and also specifies that the information that is transmitted/received and displayed is the information "on the amount of handled waste

newspaper or recycled paper and cost involved therein."

Wherein, "the transmission/reception, display, and the like of information" between the "terminal apparatuses" and "central processing apparatus" are "performed ... via the Internet," which is a computer network. In this respect, those apparatuses are only utilized as tools for performing information transmission between the management center (that is a "human being" or "organization") and the business operators (that are "human beings" or "organizations").

(2-4) As for the described matter (d)

The above described matter (d) specifies that "the central processing apparatus of the management center" "includes communication means, storage means, management means, retrieval means, and accumulation means." However, it does not concretely specify the functions and details for the "communication means, storage means, management means, retrieval means, and accumulation means" which are included in the "central processing apparatus," and it is deemed to merely list functions that computers normally include.

Thus, the description of "the central processing apparatus of the management center includes communication means, storage means, management means, retrieval means, and accumulation means" only specifies that "the central processing apparatus" is a "computer."

In addition, "the terminal apparatuses" and "the Internet" in the description of "handles the information on the amount of handled waste newspaper or recycled paper which is transmitted from the terminal apparatuses of those business operators via the Internet" are only utilized as tools to "transmit" "the information on the amount of handled waste newspaper or recycled paper" from the business operators (that are "human beings" or "organizations").

(2-5) As for the described matters (b) to (e)

From the above descriptions (2-2) to (2-4), although the above described matters (b) to (e) partly describe a configuration that utilizes devices (hardware) of "computers" and "a computer network" such as "the terminal apparatuses," "the central processing unit," and "the Internet," those "computers" and "computer network" are only used as tools for the management center (that is a "human being" or "organization") to perform information transmission with business operators (that are "human beings" or "organizations"). To "manage the process from collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector,

waste paper wholesale dealer, paper manufacturing company, and the like, supply the recycled paper to the newspaper publisher as printing paper for newspaper, publication, and the like, and pay cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher" in the collection recycle management system is only to specify the business in which the management center uses the computers as tools for information transmission. Thus, it cannot be said that the above described matters (b) to (e) utilize a law of nature as a whole.

(2-6) Summary

From the above descriptions (2-1) to (2-5), the Invention specifies a "social mechanism (social system)," in which a management center (that is a "human being" or "organization") and business operators (that are "human beings" or "organizations") use "computers" and "a computer network" such as "terminal apparatuses," "the central processing unit," and "the Internet" as mere tools for information transmission, and the management center (that is a "human being" or "organization") performs business such as to "manage the process from collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, supply the recycled paper to the newspaper publisher as printing paper for newspaper, publication, and the like, and pay cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher." Therefore, it cannot be said that a law of nature is utilized.

Thus, the Invention is not deemed as being a "creation of a technical idea utilizing a law of nature."

(3) Judgment as a computer software related invention

(3-1) As the Invention is prima facie recognized as a "system" that uses computers as described above, it is also examined as a computer software related invention.

As for computer software related inventions, Examination Guidelines, 'Part VII, Chapter 1 Computer Software-Related Inventions, 2.2 Statutory Invention' describes as follows:

'2.2.1 Basic Concept

The basic concept to determine whether software-related invention constitutes "a creation of technical ideas utilizing a law of nature" is as follows.

(1) Where "information processing by software is concretely realized by using hardware resources," said software is deemed to be "a creation of technical ideas utilizing a law of nature." (See 3. Examples 2-1 to 2-5 in this Chapter.)

[Explanation]

"Information processing by software is concretely realized by using hardware resources" means that, as a result of reading the software into the computer, the information processing equipment (machine) or operational method thereof particularly suitable for a use purpose is constructed by concrete means in which software and hardware resources are cooperatively working so as to realize arithmetic operation or manipulation of information depending on said use purpose.

Since "said information processing equipment (machine) or operational method thereof particularly suitable for the use purpose" can be said to be qualified as "a creation of technical ideas utilizing a law of nature," where "information processing by software is concretely realized by using hardware resources," said software is deemed to be "a creation of technical ideas utilizing a law of nature".'

(3-2) Then, whether or not the Invention is "a creation of technical ideas utilizing a law of nature" as the above software related invention; that is, whether or not the invention is one in which "information processing by software is concretely realized by using hardware resources" is examined.

A. The above described matter (a) of the Invention is "a newspaper publisher, newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like conclude a business collaboration agreement so as to grasp the amount of handled waste newspaper or recycled paper and set cost involved therein, thereby improving the ratio of collection and recycling of waste newspaper and improving the efficiency of clerical work involved in money transfer in business from collection of waste newspaper to manufacturing of recycled paper, and thereby set up a management center that manages a process from the collection of waste newspaper to manufacturing of recycled paper by a newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like, supplies the recycled paper to the newspaper publisher as printing paper for newspaper, publication, and the like, and pays cost to the newspaper distributor, waste paper collector, waste paper wholesale dealer, paper manufacturing company, and the like on the basis of a payment from the newspaper publisher," wherein there is no description about computers and information processing thereof. Therefore, the above described matter

(a) is not the one in which "information processing by software is concretely realized by using hardware resources."

B. In the above described matter (b) of the Invention, "terminal apparatuses having functions for those business operators to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper" only specifies that the functions of the terminal apparatuses (computers) are "for business operators to input, transmit/receive, and display information on the amount of handled waste newspaper or recycled paper;" and the "functions ... to input, transmit/receive, and display information" are functions which are normally included in a terminal apparatus (computer). Thus, specific information processing related to the operation of the collection recycle management system is not described concretely. Therefore, it cannot be said that "information processing by software is concretely realized by using hardware resources."

C. In the above described matter (b) of the Invention, "a central processing apparatus having functions for the management center to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators" only specifies that the functions of the central processing apparatus (computer) are "for the management center to receive, register, and store information on the amount of handled waste newspaper or recycled paper and cost involved therein and to transmit the information to the terminal apparatuses of those business operators," and the "functions to receive, register, and store information" and the "functions to transmit the information" are functions which are normally included in a central processing apparatus (computer). Thus, specific information processing related to the operation of the collection recycle management system is not described concretely. Therefore, it cannot be said that "information processing by software is concretely realized by using hardware resources."

D. In the above described matter (c) of the Invention, "the transmission/reception, display, and the like of information on the amount of handled waste newspaper or recycled paper and cost involved therein are performed between the terminal apparatuses of those business operators and the central processing apparatus of the management center via the Internet" merely specifies that information to be transmitted is "information on the amount of handled waste newspaper or recycled paper and cost

involved therein" and the information is displayed, and only specifies that communication between the terminal apparatuses and central processing apparatuses is performed via a communication medium that is "the Internet." Thus, specific information processing related to the operation of the collection recycle management system is not described concretely. Therefore, it cannot be said that "information processing by software is concretely realized by using hardware resources."

E. In the above described matter (d) of the Invention, "the central processing apparatus of the management center includes communication means, storage means, management means, retrieval means, and accumulation means" specifies functional means which are included in the central processing apparatus, whereas there is no description about concrete information processing executed by those means. In addition, specific information processing related to the operation of the collection recycle management system is not described concretely. Therefore, it cannot be said that "information processing by software is concretely realized by using hardware resources."

F. In the above described matter (d) of the Invention, "handles the information on the amount of handled waste newspaper or recycled paper which is transmitted from the terminal apparatuses of those business operators via the Internet" does not make the subject of the operation of "handles" clear. For example, the description can be read such that a human being or organization that is the management center "handles" by using "communication means, storage means, management means, retrieval means, and accumulation means" which are included in the central processing apparatus. In this case, the subject of the operation for handling is the "human being or organization" and therefore, the processing of "handles" is not "information processing by software."

In addition, even if it is construed that the "communication means, storage means, management means, retrieval means, and accumulation means" which are included in the central processing apparatus "handle," there is no concrete specification about what information processing is performed by each of the "communication means, storage means, management means, retrieval means, and accumulation means;" and thus there is only the description of "handles the information on the amount of handled waste newspaper or recycled paper which is transmitted from the terminal apparatuses of those business operators via the Internet." Therefore, it cannot be said that "information processing by software is concretely realized by using hardware resources."

G. In the above described matter (e) of the Invention, the "collection recycle management system of waste newspaper" only specifies the summary of the business performed by the system and does not describe any information processing. Therefore, it cannot be said that "information processing by software is concretely realized by using hardware resources."

(3-3) Summary

As described above, even granting that the Invention is a computer software related invention, it is not one in which "information processing by software is concretely realized by using hardware resources." Therefore, the Invention is not deemed to be "a creation of technical ideas utilizing a law of nature."

(4) Summary

As described in (2) and (3) above, the Invention is not deemed to be a creation of technical ideas utilizing a law of nature, and does not constitute a "statutory invention" referred to in Article 2 of the Patent Act.

Therefore, the Invention does not meet the requirement stipulated in the main paragraph of Article 29 (1) of the Patent Act.

No. 6 Conclusion

As described in "No. 5" above, the Invention is not deemed to be a creation of technical ideas utilizing a law of nature and does not constitute a "statutory invention" referred to in Article 2 of the Patent Act. Therefore, the appellant should not be granted a patent for the Invention under the main paragraph of Article 29 (1) of the Patent Act.

Therefore, the appeal decision shall be made as described in the conclusion.

March 23, 2015

Chief administrative judge: KANEKO, Koichi
Administrative judge: SUDA, Katsumi
Administrative judge: ISHIKAWA, Shoji