

Appeal decision

Appeal No. 2014-18064

Tokyo, Japan
Appellant

JAPAN TECHNO CO. LTD.

Tokyo, Japan
Patent Attorney

KUDO, Ichiro

The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2012-279543, entitled "ENERGY SAVING ACTION SHEET" (the application published on May 16, 2013, Japanese Unexamined Patent Application Publication No. 2013-91320), has resulted in the following appeal decision.

Conclusion

The appeal of the case was groundless.

Reason

No. 1 History of the procedures

The present application is a divisional application filed on December 21, 2012 from Japanese Patent Application No. 2012-279524 changed from Japanese Utility Model Application No. 2011-6024 (to Japanese Patent Application No. 2012-279524) on the same day, which was changed from Japanese Patent Application No. 2011-226569 to application for utility model registration (Japanese Utility Model Application No. 2011-6024) on October 14, 2011, which is a divisional application filed on the same day from Japanese Patent Application No. 2010-82481 filed on March 31, 2010 from Japanese Patent Application No. 2009-295281 filed on December 25, 2009. The examiner's decision of refusal was issued on June 3, 2014, and against this an appeal against the examiner's decision of refusal was requested on September 10, 2014. Simultaneously, a written amendment was submitted and an amendment for amending the scope of claims was made.

No. 2 The Invention

The invention relating to claims of the application is acknowledged to be specified by matters described in Claims 1 to 5 according to the scope of claims for patent, as viewed from the patent specification after the amendment dated September 10, 2014 and the description of the scope of claims and the drawings, and the invention relating to Claim 3 thereof is as follows.

"An energy saving action sheet comprising:

a place name in a building;

a third place axis which expresses power consumption per unit time in the place with axial length;

a third time axis which expresses time putting times of day into a scale; and

a third energy saving action arrangement region for displaying energy saving action to be taken in a certain region specified by the third time axis orthogonal to the third place axis;

wherein a third energy saving action identification region letting electric energy per unit time which can be saved by the energy saving action be the axial length in the third place axis direction and letting duration time of the energy saving action be axial length in the third time axis direction is provided in the third energy saving action arrangement region to display approximate electric energy (electric energy which can be grasped with an area which is an integrated value of the electric energy per unit time which can be saved by the energy saving action and the duration time of the energy saving action) which can be saved by taking the energy saving action displayed in the corresponding third energy saving action identification region." (Hereinafter, referred to as the "Invention.")

No. 3 Judgment by the body (regarding the eligibility for a patent (the main paragraph of Article 29(1) of the Patent Act))

(1) Regarding utilizing the laws of nature

Article 2(1) of the Patent Act prescribes that invention means "the highly advanced creation of technical ideas utilizing the laws of nature," and as a human is able to freely act and determine by himself/herself, even if there are cases where beneficial and useful effects may be recognized for specific mental activities, decision making, behavioral aspects, and the like of a human, the specific mental activities, decision making, behavioral aspects of a human per se cannot be immediately said to be a law of nature.

Therefore, no matter how concrete, beneficial, and useful the creation of a technical idea for solving a problem is, if it uses exclusively principles and laws interposing mental activities of a human, principles, and laws in social science, artificial agreements, mathematical formulas, and the like for solving the problem and does not include a part utilizing the laws of nature at all, the creation of such a technical idea does not fall under a specified "invention" of Article 2(1) of the Patent Act.

(2) Regarding constitution of the Invention

The constitution of the Invention gives names and meanings to respective axes ("the third place axis" and "the third time axis") and regions ("the third energy saving action arrangement region" and "the third energy saving action identification region") specified by these axes to specify a layout of a chart that is "the energy saving action sheet," so that it is characterized by the contents of presented information such as the names and meanings of each "axis" and each "region."

Then, presenting while giving the names and meanings of "the third place axis," "the third time axis," "the third energy saving action arrangement region," and "the third energy saving action identification region" to respective "axes" and "regions" specified by the axes in the drawings, itself does not directly use a law of nature, and enables a human who is presented "the energy saving action sheet" of the Invention to recognize/grasp the size of the region and understand the meanings of the size.

Also, "the energy saving action sheet" of the Invention is to be presented to a human, and is not intended to be read by any device. Then, since it does not make any technical specification about an aspect of recording on a medium such as paper or

displaying on a display screen as means for presenting to a human, it cannot be said that technical features exceeding the general recording/displaying of a chart exist.

(3) Regarding a problem and function and effects of the Invention

According to the descriptions of the specification, the Invention solves a problem ([0005]) that in the prior art, it was difficult to grasp at a glance how much electric energy or energy charge each energy saving action can save and is difficult to grasp which energy saving action should be performed preferentially, allows grasping at glance when and where energy saving action should be taken, and shows function and effects ([0007]) that it becomes possible to grasp the approximate electric energy which can be saved by taking each energy saving action.

The function and effects of the Invention use a psychological law (cognitive mechanism) that a human seeing "the region" having expansion (an area) in both directions of one axis and the other axis can recognize and grasp size corresponding to the magnitude of the area of the region and further can understand the meanings of "the region" if names or meanings were given to "the axis" or "the region." According to such a psychological law, recognizing/grasping the size of the region and the understanding of the meaning of the size thereof are exclusively based on mental activities of a human, and it cannot be said that it utilizes a law of nature.

(4) Summary

As described above, the constitution of "the energy saving action sheet" of the Invention and means for presenting (recording/displaying) the same is exclusively a creation targeting mental activities of a human itself, and cannot be said to be a creation of a technical idea utilizing the laws of nature. Also, it cannot be said that the function and effects of the Invention are effects utilizing the laws of nature, and thus "the energy saving action sheet" relating to the Invention does not fall under "invention" of Article 2(1) of the Patent Act.

No. 4 Closing

As described in No. 3 above, the Invention is not applicable to "industrially applicable inventions" under the main paragraph of Article 29(1) of the Patent Act, so that the appellant should not be granted a patent under the provision of Article 29 (1).

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

May 27, 2015

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| Chief administrative judge: | KUROSE, Masakazu |
| Administrative judge: | FUJIMOTO, Yoshihito |
| Administrative judge: | YOSHIMURA, Hisashi |