Appeal decision

Appeal No. 2015-14737

France
Appellant Aldebaran Robotics SA

Patent Attorney KIMURA, Takahisa

The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2012-518831, entitled "SYSTEM AND METHOD FOR GENERATING CONTEXTUAL BEHAVIORS OF A MOBILE ROBOT" (International Publication No. WO2011/003628 published on January 13, 2011, National Publication of International Patent Application No. 2012-532390 published on December 13, 2012) has resulted in the following appeal decision.

Conclusion

The appeal of the case was groundless.

Reason

1. History of the procedures

The present application was originally filed on July 12, 2010 as an International Patent Application (priority claim under the Paris Convention: July 10, 2009 (hereinafter referred to as "the priority data"), received by the foreign receiving office, France). A written opinion was submitted as of October 31, 2014 with respect to a notice of reasons for refusal as of May 12, 2014, and a written amendment was submitted. An examiner's decision of refusal was issued on April 9, 2015. In response to this, an appeal against the examiner's decision of refusal was requested on August 6, 2015. A written opinion as of December 27, 2016 was submitted with respect to a notice of reasons for refusal of the body as of June 22, 2016 (hereinafter referred to as "Notice of reasons for refusal of the body"), and a written amendment was submitted.

2. The Invention

The invention relating to Claim 1 of the present application (hereinafter referred to as "the Invention") is as follows, as specified by the matters described in Claim 1 of the scope of claims amended by the written amendment as of December 27, 2016.

"A system for editing and controlling behaviors of at least one robot (10) by a user having access to a graphical interface comprising a module (20) for editing a text to be reproduced by the robot, a voice synthesis module (30) for synthesizing the text, a library (40) of command tags for the behaviors to be executed by the robot, a module (50) for inserting the tags into the text, and modules (60A, 60B) for generating and controlling the behaviors of the robot, the command tags including graphic symbols representing the behaviors, the system being configured to allow at least one selection of command tag in the library, the library being distinct from the text to be reproduced and having a tree structure, and characterized in that the tags are inserted into a series of

words in the text for starting execution of behaviors which correspond to the graphic symbols and are simultaneous with reproducing the words."

3. Cited Document
(1) Technical matters described in Cited Document 1 and Cited Invention

Japanese Unexamined Patent Application Publication No. 2003-308142 (published on October 31, 2003, hereinafter referred to as "Cited Document 1") which was distributed or made publicly available through an electric telecommunication line before the priority date of the present application, and cited in the Notice of reasons for refusal of the body, includes the following description with drawings (note by the body: the underlines were added for reference by the body).

A "[0002]
[Conventional Art] As a conventional technology for controlling behaviors of a robot on the basis of a result of analyzing messages, an Electronic mail terminal (hereinafter referred to as a First conventional example) was disclosed in Japanese Unexamined Patent Application Publication No. H11-327872, for example. The First conventional example is a terminal which includes an animal-shaped robot connected to a network and having a network interface, and presents to a user electronic mail received from the network. Specifically, the terminal includes: a receiving section which receives electronic mail over a network; an electronic mail analysis section which analyzes the received electronic mail; and a behavior control section which controls the whole robot body or a part belonging to the body to be moved, on the basis of the analysis result of the electronic mail analysis section. The behavior control section reads aloud the contents of the electronic mail analyzed in the electronic mail analysis section, outputs a sound effect with the front surface of the robot body directed to a location of a user, and controls the whole robot body or the part belonging to the body to be moved by emoticons included in the contents of the electronic mail analyzed in the electronic mail analysis section.
[0003] With this, emoticons previously neglected in reading-aloud can be expressed as robot behaviors and ambiguity in the sentences of the electronic mail can be eliminated. Feelings or atmospheres which cannot easily be conveyed by texts can be expressed by devising operation programs, and communications using electronic mail can be enriched."

B "[0016] The message processing system described in Claim 2 relating to the invention comprising a message transmission terminal for transmitting messages and a message processing unit for processing the messages, which are communicably connected to each other, the message processing unit including an operable robot, analyzing the received messages, reading aloud the contents of the messages on the basis of analysis results, and controlling behaviors of the robot in accordance with the contents read aloud, wherein the message transmission terminal includes: behavior control information embedding means for embedding behavior control information for controlling a behavior of the robot in the message in association with character strings in the message; and message transmission means for transmitting to the message processing unit the message in which the behavior control information is embedded by the behavior control information embedding means, the message processing unit

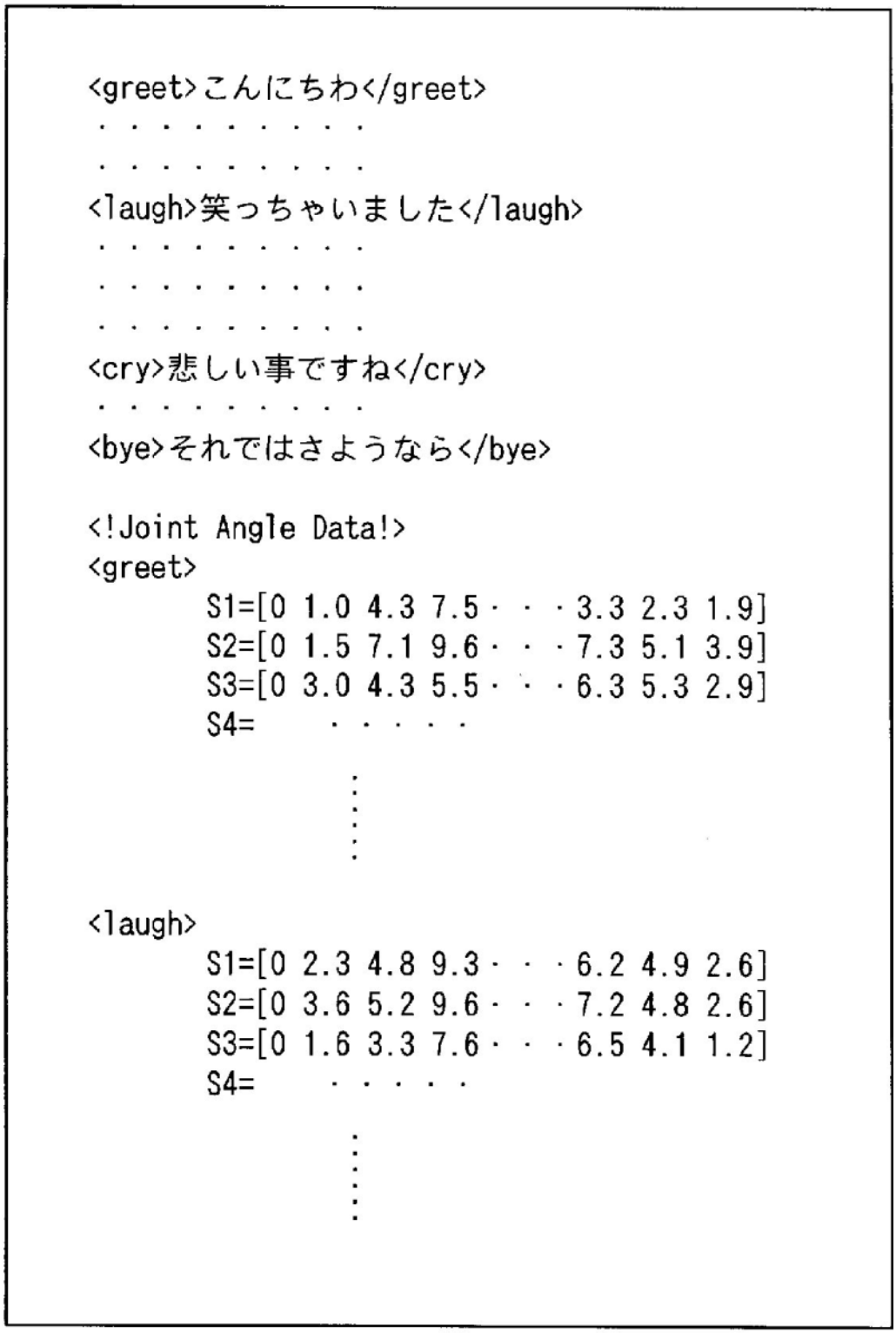
includes: message analysis means of analyzing received messages; message read-aloud means of reading aloud the contents of the messages on the basis of the result analyzed by the message analysis means by voice; and robot control means of controlling behaviors of the robot on the basis of the result analyzed by the message analysis means, and the robot control means is configured to actuate the robot, in accordance with the character strings read aloud corresponding to the behavior control information, on the basis of the behavior control information included in the messages.
(omitted)
[0018] The message processing unit may be configured only by a robot, or a combination of a robot and a control device for controlling behaviors of the robot. In the former case, the robot includes message analysis means, message read-aloud means, and robot control means. The same applies hereinafter in the message processing unit described in Claim 20 and the program for unit described in Claim 25."

C "[0071] On the other hand, the behavior control information can be embedded in electronic mail. In this case, the electronic mail has a data structure in accordance with a markup language format as shown in FIGS. 6 and 7. FIGS. 6 and 7 illustrate a data structure of electronic mail with behavior control information embedded therein. In FIG. 6, behavior control information is associated with a target character string "Hello" by inserting a start control tag <greet> at the top of the target character string, inserting an end control tag </greet> at the end of the target character string, and inserting a start control tag <greet> in a position posterior to a control tag <!JointAngle Data!> and located at the top of the behavior control information. Behavior control information is associated with a target character string "I couldn't help laughing" by inserting a start control tag <laugh> at the top of the target character string, inserting an end control tag </laugh> at the end of the target character string, and inserting a start control tag <laugh> in a position posterior to a control tag <!Joint AngleData!> and located at the top of the behavior control information. As for the format of behavior control information, the contents described on the right side of an arithmetic expression having s1 on the left side correspond to the contents registered in a field 454, the contents described on the right side of an arithmetic expression having s2 on the left side correspond to the contents registered in a field 456, and the contents described on the right side of an arithmetic expression having s3 on the left side correspond to the contents registered in a field 458."

D "[0089] On the other hand, in Step S302, when a determination is made that the start button is not pressed (Yes), the process waits at Step S302 until the start button is pressed. Next, the operation of the embodiment is described. First, a case of transmitting electronic mail is described. In the electronic mail processing terminal 200, electronic mail transmission processing is executed on receipt of a request for creating electronic mail. A user inputs first a text to be transmitted as electronic mail, then inputs a setting request for behavior control information, specifies a character string with which behavior control information is to be associated by a mouse or the like, and selects behavior control information from a storage device 42 in order to associate the behavior control information for the input text.
[0090] In the electronic mail processing terminal 200, when a character string is specified and behavior control information is selected, the selected behavior control

information is embedded in the electronic mail being created, in association with the specified character string, through Step S106."

E "[FIG. 6]



"

こんにちわ	Hello
笑っちゃいました	I couldn't help laughing
悲しい事ですね	I'm sad
それではさようなら	Good bye

The matters described in Cited Document 1 are examined.

(A) Paragraph [0016] of B in Cited Document 1 includes the description, "a system comprising a message transmission terminal for transmitting messages and a message processing unit for processing the messages, which are communicably connected to each other, the message processing unit including an operable robot, analyzing the received messages, reading aloud the contents of the messages on the basis of analysis results, and controlling behaviors of the robot in accordance with the contents read aloud".

(B) Paragraph [0016] of B in Cited Document 1 includes the description, "the message transmission terminal includes: behavior control information embedding means for embedding behavior control information for controlling a behavior of the robot in the message in association with character strings in the message; and message transmission means for transmitting to the message processing unit the message in which the behavior control information is embedded by the behavior control information embedding means".

(C) In light of the description in paragraph [0089] of D, " a case of transmitting electronic mail ... A user inputs first a text to be transmitted as electronic mail, ... inputs a setting request for behavior control information, specifies a character string with which behavior control information is to be associated by a mouse or the like, and selects behavior control information from a storage device 42 in order to associate the behavior control information for the input text... In the electronic mail processing terminal 200, when a character string is specified and behavior control information is selected, ... the selected behavior control information is embedded in the electronic mail being created, in association with the specified character string", and the matters examined in the above (A) and (B),

it can be recognized that Cited Document 1 describes that "In transmitting electronic mail as a message, a user inputs a text to be transmitted as electronic mail, specifies a character string with which behavior control information is to be associated by a mouse or the like, and selects behavior control information from a storage device for the input text, when a character string is specified and behavior control information is selected, the selected behavior control information is embedded in the electronic mail being created, in association with the specified character string".

(D) In light of the description in paragraph [0071] of C, "The behavior control information can be embedded in electronic mail ... In FIG. 6, behavior control information is associated with a target character string "Hello" by inserting a start

control tag <greet> at the top of the target character string, inserting an end control tag </greet> at the end of the target character string, and inserting a start control tag <greet> in a position posterior to a control tag <!JointAngle Data!> and located at the top of the behavior control information", and the matters described in FIG. 6 cited in E,

it can be recognized that Cited Document 1 describes that "behavior control information is associated with a target character string by inserting a start control tag <greet> at the top of the target character string of electronic mail, inserting an end control tag </greet> at the end of the target character string, and inserting a start control tag <greet> in a position posterior to a control tag <!JointAngle Data!> and located at the top of the behavior control information".

(E) Paragraph [0016] of B in Cited Document 1 includes the description, "the message processing unit includes: message analysis means of analyzing received messages; message read-aloud means of reading aloud the contents of the messages on the basis of the result analyzed by the message analysis means by voice; and robot control means of controlling behaviors of the robot on the basis of the result analyzed by the message analysis means".

In light of the above (A) to (E), it is recognized that the following invention (hereinafter referred to as "Cited Invention") is described in Cited Document 1.

"A system comprising a message transmission terminal for transmitting messages and a message processing unit for processing the messages, which are communicably connected to each other, the message processing unit including an operable robot, analyzing the received messages, reading aloud the contents of the messages on the basis of analysis results, and controlling behaviors of the robot in accordance with the contents read aloud,

wherein the message transmission terminal includes: behavior control information embedding means for embedding behavior control information for controlling a behavior of the robot in the message in association with character strings in the message; and message transmission means for transmitting to the message processing unit the message in which the behavior control information is embedded by the behavior control information embedding means,

in transmitting electronic mail as a message, a user inputs a text to be transmitted as electronic mail, specifies a character string with which behavior control information is to be associated by a mouse or the like, and selects behavior control information from a storage device for the input text, when a character string is specified and behavior control information is selected, the selected behavior control information is embedded in the electronic mail being created, in association with the specified character string, behavior control information is associated with a target character string by inserting a start control tag <greet> at the top of the target character string of electronic mail, inserting an end control tag </greet> at the end of the target character string, and inserting a start control tag <greet> in a position posterior to a control tag <!JointAngle Data!> and located at the top of the behavior control information,

and the message processing unit includes: message analysis means of analyzing received messages; message read-aloud means of reading aloud the contents of the messages on the basis of the result analyzed by the message analysis means by voice;

and robot control means of controlling behaviors of the robot on the basis of the result analyzed by the message analysis means."

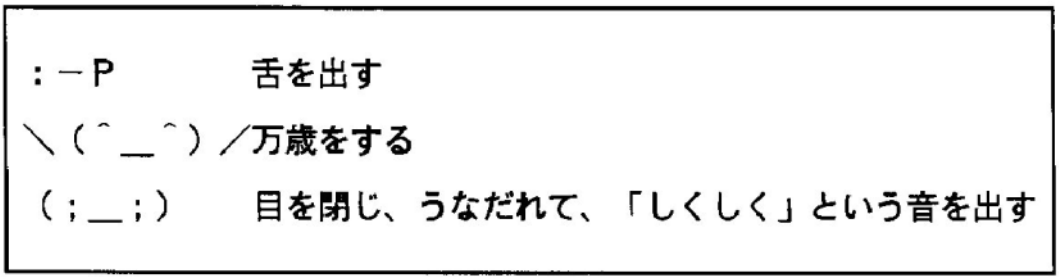
(2) Technical matters described in Cited Document 2

Japanese Unexamined Patent Application Publication No. H11-327872 (published on November 30, 1999, hereinafter referred to as "Cited Document 2") which was distributed or made publicly available through an electric telecommunication line before the priority date of the present application, and cited in the Notice of reasons for refusal of the body, includes the following description with drawings (note by the body: the underlines were added for reference by the body).

F "[0022] Next, the operation in the above configuration is described. FIG. 4 is a flow chart of operation of an electronic mail terminal of the invention.
Step 101) A receiving unit 1 receives electronic mail via a network interface.
Step 102) (Omitted)
[0023] Step 103) (Omitted)
Step 104) (Omitted)
[0024] Step 105) A second analysis unit 3 analyzes the electronic mail by a handling program stored in a storage unit 9, calculates timing of occurrence of behavior with a specific symbol string (for example, smiley), and transmits the same to a control unit 8. The unit calculates voice intonation and transmits the same to a read-aloud unit 5.
Step 106) (Omitted)
[0025] Step 107) The read-aloud unit 5 executes, in response to signals from the control unit 8, reading-aloud the contents of the electronic mail with the intonation determined in Step 105.
Step 108) An operation unit 7 executes, in response to signals from the control unit 8, an operation program stored in the storage unit 9, to move hands, legs, and body of the robot in accordance with the calculated timing.
[0026] Step 109) When the read-aloud unit 5 ends reading aloud, the process ends. If the reading aloud is still in execution, the process proceeds to Step 106."

G "[FIG. 6]

本発明の一実施例の電子メールに含まれる記号列の例、
記号列における動作の例、
スマイリーと呼ばれる記号列の場合の例



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本発明の一実施例の電子メールに含まれる記号列の例、　Example of symbol string included in electronic mail of one embodiment of the invention,
記号列における動作の例、　Example of behavior with a symbol string,
スマイリーと呼ばれる記号列の場合の例　Example in the case of a symbol string called "smiley"
舌を出す　Stick tongue out
万歳をする　Throw arms in the air
目を閉じ、うなだれて、「しくしく」という音を出す　Close eyes and hanging head down with sobbing sound

(3) Technical matters described in Cited Document 3

Japanese Unexamined Patent Application Publication No. 2002-127062 (published on May 8, 2002, hereinafter referred to as "Cited Document 3") which was distributed or made publicly available through an electric telecommunication line before the priority date of the present application, and cited in the Notice of reasons for refusal of the body, includes the following description with drawings (note by the body: the underlines were added for reference by the body).

H "[0036] <Input mail text example> (omitted) From among them, a clue word for a tag (hereinafter referred to as clue word) is extracted, and feeling tag information is acquired.
(omitted)
[0037] The examples of clue words corresponding to feeling tag information are as follows in Table 1.

[Table 1]

感情タグ	手がかり単語の例
喜び	「成功」「おめでとう」「(^^)V」
怒り	「文句」「怒り」「(` ')」
悲しみ	「失敗」「痛い」「(T_T)」
陳謝	「ごめん」「申し訳ない」「m(_)m」
楽しみ	「愉快」「笑」「p(^^)q」
驚き	「えっ」「あっ」「＊_＊」
強調	「！」「至急」

感情タグ　Feeling tag
喜び　Joy
怒り　Anger
悲しみ　Sorrow
陳謝　Apology
楽しみ　Pleasure
驚き　Surprise
強調　Emphasis
手がかり単語の例　Examples of clue words
「成功」　"Success"
「おめでとう」　"Congratulations"
「文句」　"Complaint"
「怒り」　"Anger"
「失敗」　"Failure"
「痛い」　"Painful"
「ごめん」　"Sorry"
「申し訳ない」　"I'm sorry"
「愉快」　"Pleasure"
「笑」　"Laugh"
「えっ」　"What?"
「あっ」　"Oh!"
「至急」　"Immediately"

(omitted)

[0038] In the present invention, for actuating a robot in response to feeling tag information acquired by the morphological analysis, a time series of command values (motor number, position, speed, and time) for a joint driving motor (a servo motor 26 in the first embodiment) of the robot is set in advance in association with feeling tag information, and stored in a gesture database. (omitted)"

(4) Technical matters described in Reference document 1

Japanese Unexamined Patent Application Publication No. 2006-23952 (published on January 26, 2006, hereinafter referred to as "Reference document 1") which was distributed or made publicly available through an electric telecommunication line before the priority date of the present application includes the following description with drawings (note by the body: the underlines were added for reference by the body).

I "[0026]

In the embodiment, a content is always used via a robot device. For example, a user does not use the content, but the robot device reproduces a text or dances. This is the same as a user accessing a content available on the Internet by means of a computer in web browsing. As described in the description about a request module 10, since the robot device can generate an autonomous request for itself, it may be the case that a user is not engaged with life cycle of the content. In other words, the robot device in the embodiment takes a more positive role on the life cycle of the content than does a personal computer."

(5) Technical matters described in Reference document 2

Japanese Unexamined Patent Application Publication No. 2004-283943 (published on October 14, 2004, hereinafter referred to as "Reference document 2") which was distributed or made publicly available through an electric telecommunication line before the priority date of the present application includes the following description with drawings (note by the body: the underlines were added for reference by the body).

J "[0071]

The characters "Hello" located in the center represent the contents of speech to be reproduced by a robot. The characters "talk to" located on the right side represent a behavior to be expressed by the robot at that time. The rightmost numerical values represent a number (leftmost numerical values) of the contents of speech to be reproduced next."

(6) Technical matters described in Reference document 3

"Dreamweaver design reverse-lookup encyclopedia, First edition, -for CS3/8/MX2004-", SHOEISHA Co., Ltd., published on November 12, 2007 (hereinafter referred to as "Reference document 3") which was distributed or made publicly available through an electric telecommunication line before the priority date of the present application includes the following description with drawings (note by the body: the underlines were added for reference by the body).

K "215 Select a tag to be inserted, from a list menu

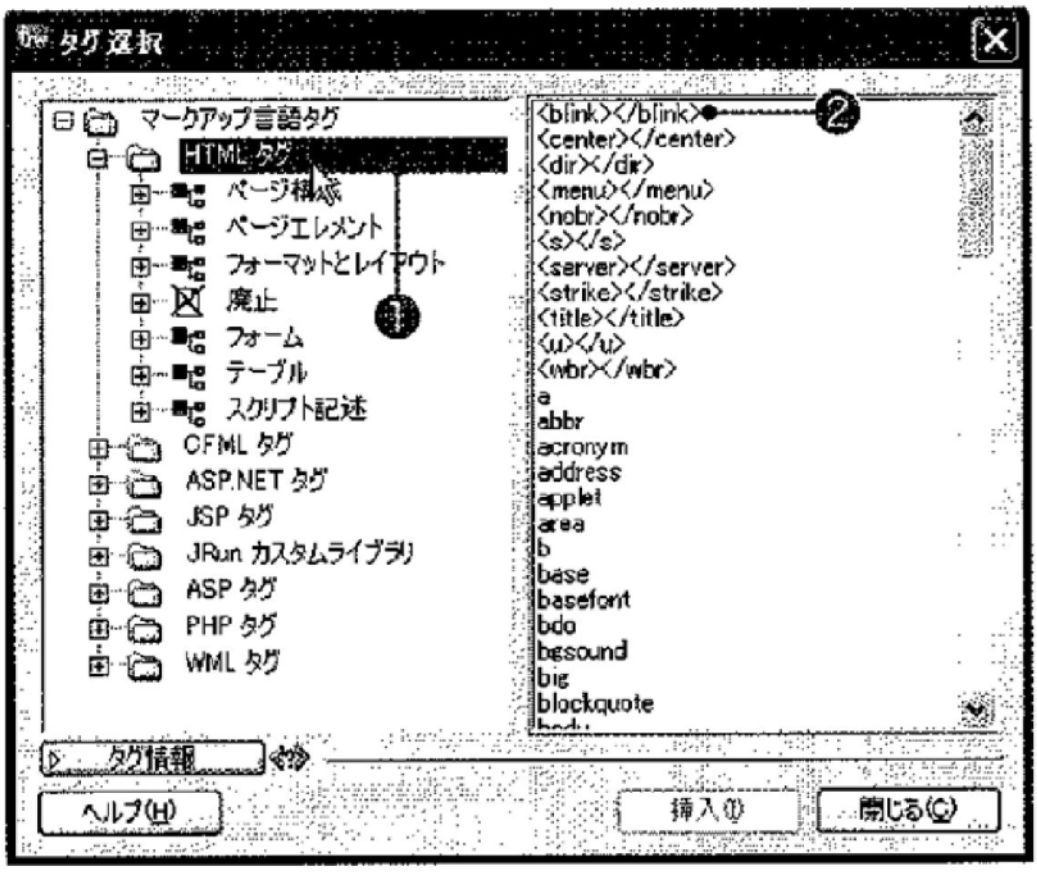
A tag can be selected from a tree classified by tag function, and inserted.

STEP 01
[Tag] is selected from [Insert] menu, to display a [Tag Chooser] dialogue. In the [Tag Chooser] dialogue, a category of a tag to be inserted is selected from the left tree (1) (note by the body: The black-circled and white-outlined numbers in the original text are represented by bracketed numbers. The same applies hereinafter.) Candidates are displayed on the right side. Candidates are narrowed down from the left tree (2).

STEP 02
By clicking the [Insert] button, a [Tag Editor] dialogue is displayed. An attribute of the tag to be inserted is set.

STEP 03
When the [Tag Editor] dialogue is closed, the tag is inserted in the document (5). The [Close] button is clicked for terminating tag insertion (6)." (Page 277, line 1 to the last line)

L "



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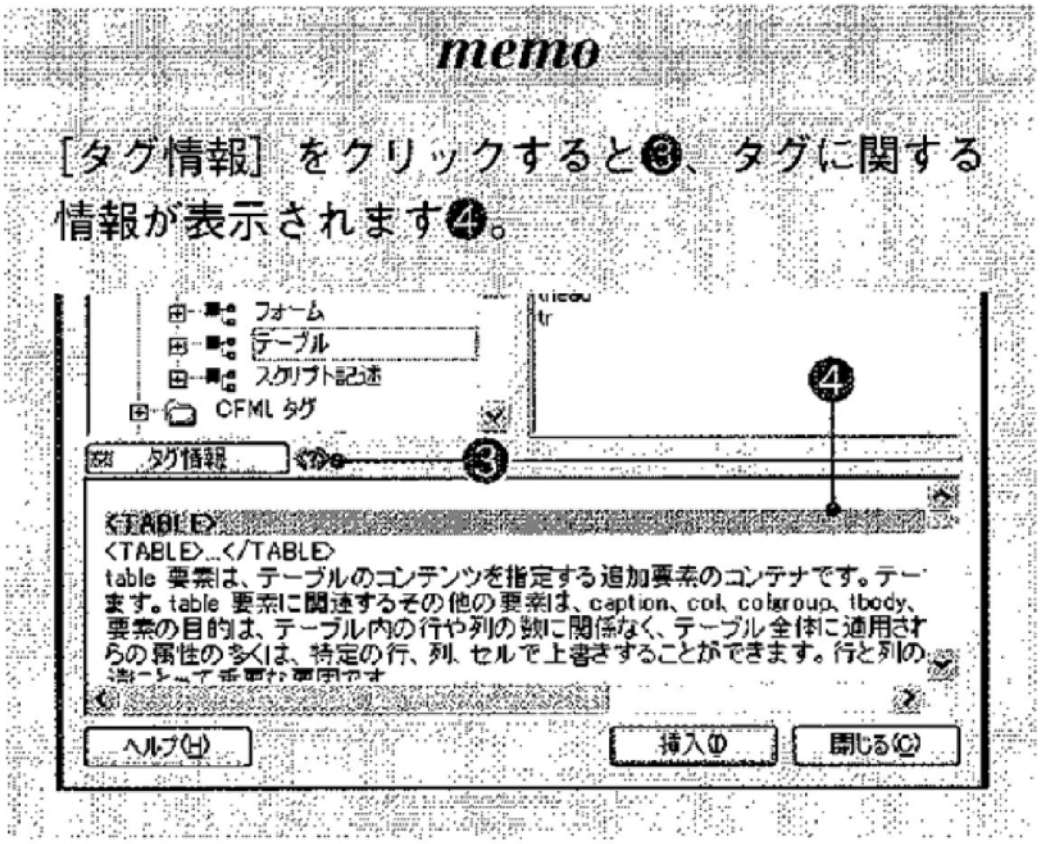
M "



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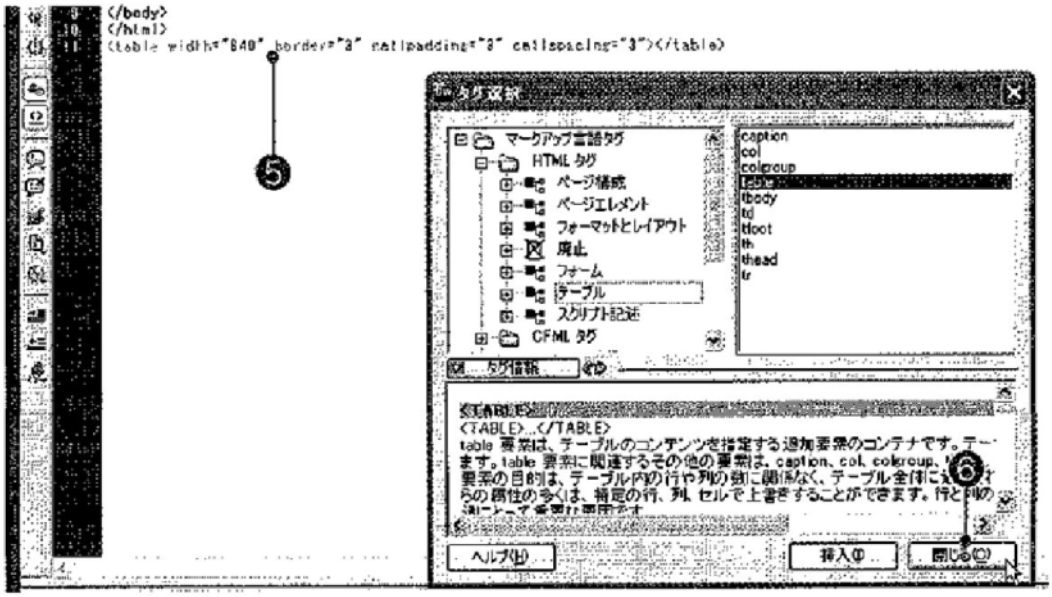
［タグ情報］をクリックすると（３）、タグに関する情報が表示されます（４）。 By clicking [Tag Information] (3), information on the tag is displayed (4).

N "



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4. Comparison

The Invention and the Cited Invention are compared.

(A) Comparing the description in the Cited Invention, "a system comprising a message transmission terminal for transmitting messages and a message processing unit for processing the messages, which are communicably connected to each other, the message processing unit including an operable robot, analyzing the received messages, reading aloud the contents of the messages on the basis of analysis results, and controlling behaviors of the robot in accordance with the contents read aloud", (the former) with

the description in the Invention, "A system for editing and controlling behaviors of at least one robot (10) by a user having access to a graphical interface", (the latter),

the "robot" in the Cited Invention corresponds to the "robot" in the Invention in that the behavior thereof is controlled by behavior control information.

In the Cited Invention, "In transmitting electronic mail as a message, a user inputs a text to be transmitted as electronic mail, specifies a character string with which behavior control information is to be associated by a mouse or the like for the input text ". Therefore, it is obvious that the "user" who inputs the electronic mail "has access to a graphical interface".

The "system" in the Cited Invention embeds behavior control information by "editing" the electronic mail, and "controls" "behavior of the robot" with the behavior control information.

Thus, the former and the latter are identical to each other in the following point, "A system for editing and controlling behaviors of at least one robot by a user having access to a graphical interface".

(B) Since the "message transmission terminal" in the Cited Invention has a function of inputting "a text to be transmitted as electronic mail", or "text", the "function of the

message transmission terminal for inputting a text" in the Cited Invention corresponds to the "module for editing a text" in the Invention.

(C) The "message read-aloud means of reading aloud the contents of the messages on the basis of the result analyzed by the message analysis means by voice" in the Cited Invention is considered to be converting a received message or "a text of electronic mail" into voice to be read aloud, and "synthesizing" voice, and corresponds to the "voice synthesis module for synthesizing the text" in the Invention.

(D) The Cited Invention includes the description, "specifies a character string with which behavior control information is to be associated by a mouse or the like, and selects behavior control information from a storage device, when a character string is specified and behavior control information is selected, the selected behavior control information is embedded in the electronic mail being created, in association with the specified character string, behavior control information is associated with a target character string by inserting a start control tag <greet> at the top of the target character string of electronic mail, inserting an end control tag </greet> at the end of the target character string, and inserting a start control tag <greet> in a position posterior to a control tag <!JointAngle Data!> and located at the top of the behavior control information". The "start control tag" and "end control tag" in the Cited Invention correspond to the "command tag" in the Invention in terms of being inserted in a text for making a robot move with a predetermined behavior.

In "selecting" "behavior control information" corresponding to the "start control tag" and "end control tag" from a "storage device", it is recognized that the "start control tag" and "end control tag" are also selected simultaneously. Thus, it can be said that the "storage device" for "selecting" the "behavior control information" in the Cited Invention has a "library" of "command tags" for the "behaviors to be executed by the robot".

In light of the above, it can also be said that the "system" in the Cited Invention is "configured to allow at least one selection of command tag in the library".

The "library", which is for selecting a "command tag" therefrom, is obviously "distinct" from "a text of electronic mail", or "a text to be reproduced".

(E) The "behavior control information embedding means for embedding behavior control information for controlling a behavior of the robot in the message in association with character strings in the message" in the Cited Invention is for embedding behavior control information in association with a character string, or a "text", in a message, and in doing so the "start control tag" and "end control tag" are "inserted" before and after the character string. Therefore, the "behavior control information embedding means for embedding behavior control information for controlling a behavior of the robot in the message in association with character strings in the message" in the Cited Invention corresponds to the "module for inserting the tags into the text" in the Invention.

(F) The "message analysis means of analyzing received messages" and "robot control means of controlling behaviors of the robot on the basis of the result analyzed by the message analysis means" in the Cited Invention correspond to the "module for generating and controlling the behaviors of the robot" in the Invention.

(G) In the Cited Invention, "behavior control information is associated with a target character string by inserting a start control tag <greet> at the top of the target character string of electronic mail, inserting an end control tag </greet> at the end of the target character string, and inserting a start control tag <greet> in a position posterior to a control tag <!JointAngle Data!> and located at the top of the behavior control information", thereby reading aloud the target character string and making the robot execute a behavior in response to the behavior control information.

Therefore, the "system" in the Cited Invention and

the "system" in the Invention are identical to each other in terms of "inserting tags into a series of words in a text for starting execution of behaviors which are simultaneous with reproducing words".

In light of the above, the Invention and the Cited Invention are identical to each other in terms of

"A system for editing and controlling behaviors of at least one robot by a user having access to a graphical interface comprising:

a module for editing a text;

a voice synthesis module for synthesizing the text;

a library of command tags for the behaviors to be executed by the robot;

a module for inserting the tags into the text; and

a module for generating and controlling the behaviors of the robot,

the system being configured to allow at least one selection of command tag in the library, the library being distinct from the text to be reproduced, and characterized in that the tags are inserted into a series of words in the text for starting execution of behaviors which are simultaneous with reproducing the words",

and are different from each other in the following points.

[Different feature 1]

As for the text,

the text in the Invention is "to be reproduced by the robot",

while the text in the Cited Invention is to be read aloud by the message read-aloud means of the message processing unit.

[Different feature 2]

As for the command tags,

the "command tags" in the Invention "including graphic symbols representing the behaviors", and the behaviors which are simultaneous with reproducing the words are "the behaviors which correspond to the graphic symbols",

while the start control tag and end control tag in the Cited Invention do not include graphic symbols.

[Different feature 3]

As for the library,

the library in the Invention "has a tree structure",

while the Cited Invention does not specify such feature.

5. Judgment by the body

The above-mentioned different features are examined.

Regarding [Different feature 1]

It is recognized that the configuration of a robot to reproduce the contents of a text, in a configuration of controlling behaviors of the robot had already been well known technical matter before the priority date of the present application as described in Reference document 1 (see the description in I) and Reference document 2 (see the description in J). Therefore, in the Cited Invention, a person skilled in the art could appropriately configure a robot to reproduce a text to be read by message read-aloud means.

Regarding [Different feature 2]

In light of the description in Cited Document 1 (see the description in A) "controls the whole robot body or the part belonging to the body to be moved by emoticons included in the contents of the electronic mail", the description in Cited Document 2 (see the descriptions in F and G) that behaviors of the robot are controlled by a symbol string called "smiley" included in electronic mail, and the description in Cited Document 3 (see the description in H) that the emoticon included in the mail text is extracted as a "clue word" to actuate the robot using it, it is recognized that a "graphic symbol" used as a tag to be inserted in a text in order to control behaviors of a robot had already been well known before the priority date of the present application.

Therefore, in the Cited Invention, a person skilled in the art could easily conceive of including graphic symbols as tags to be inserted in a text of electronic mail for controlling behaviors of a robot, and configuring the behaviors which are simultaneous with reproducing the words to correspond to the graphic symbols.

Regarding [Different feature 3]

As described in Reference document 3 (see the descriptions in K to N) for example, management of data in tree structure is a technical matter well known by a person skilled in the art. Thus, in the Cited Invention, a person skilled in the art could easily conceive of employing the well-known technical matters to manage information of a start control tag or an end control tag managed by a storage device in a tree structure.

Effects obtained by the Invention could also be easily predicted by a person skilled in the art from the Cited Invention and the well-known technical matters.

Therefore, the Invention could be easily invented by a person skilled in the art on the basis of the Cited Invention and well-known technical matters.

6. Appellant's allegation

The Appellant alleges as follows in the written opinion as of December 27, 2016, "In addition, the invention described in Cited Document 1 relating to a robot which reads aloud electronic mail, is configured to automatically detect a specific character

string (for example, "funny") in a text in electronic mail and actuate a robot to read aloud the electronic mail and to "laugh" on the basis of behavior control information ("Laugh act") corresponding to the specific character string ("funny").

As such, in Cited Document 1, a user has no right to access or select a command tag "laugh", and a robot automatically and completely controls the rights. In Cited Document 1, there is no right to arbitrarily select or access behavior control information corresponding to the specific character string ("funny"), and the behavior control information ("Laugh act") is forcibly and automatically applied.

In other words,

a) Cited Document 1 is a technical document which denies giving a right to access or select the command tag "laugh".

b) The well-known arts (Cited Documents 10, 11, 12) cited by the examiner in the examiner's decision are documents which disclose general technologies about graphical interface to be inserted into a text, and do not disclose the description that emoticons are selected and associated with behaviors of a robot, at all.

In light of the above analysis a) and b), it is obvious that Cited Document 1 includes a disincentive in conceiving the Invention. A person skilled in the art who reads Cited Document 1 is inhibited from giving a user a right to access or select the command tag "laugh" (because Cited Document 1 denies giving a right to access or select the command tag "laugh"), while a person skilled in the art who reads the well-known arts is inhibited from selecting emoticons and associating them with behaviors of a robot (because the well-known arts do not describe that emoticons are selected and associated with behaviors of a robot).

Thus, the reason that a person skilled in the art who reads Cited Document 1 conceives of the invention relating to Claim 1 against the disincentive shown in Cited Document 1 is groundless." (Page 4, 10th line from the bottom to Page 5 line 17)

The above allegation is examined.

The Cited Invention is an invention relating to electronic mail, and automatically analyzes received mail to control behavior of a robot. Therefore, from a receiver user's side, it can be said that "the user has no right to access or select the command tag 'laugh'".

However, the Cited Invention of the appeal decision is that a sender user creates electronic mail and can embed behavior control information in the electronic mail.

In light of the description in the Cited Invention, "in transmitting electronic mail as a message, a user inputs a text to be transmitted as electronic mail, specifies a character string with which behavior control information is to be associated by a mouse or the like, and selects behavior control information from a storage device for the input text, when a character string is specified and behavior control information is selected, the selected behavior control information is embedded in the electronic mail being created, in association with the specified character string", a user who sends the mail can freely edit the mail, specify an arbitrary character string in the mail, and embed behavior control information in association with the character string, obviously.

Therefore, from a sender user, it cannot be said that "the user has no right to access or select the command tag 'laugh'".

Thus, the above appellant's allegation cannot be accepted.

7. Closing

As described above, the Invention could be easily invented by a person skilled in the art on the basis of the Cited Invention and well-known technical matters. The appellant should not be granted a patent for the Invention under the provisions of Article 29(2) of the Patent Act.

Thus, the present application should be rejected without examining other claims.

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

May 16, 2017

Chief administrative judge: ISHII, Shigekazu
Administrative judge: SUDA, Katsumi
Administrative judge: TSUJIMOTO, Yasutaka