

Decision on opposition

Opposition No. 2016-701090

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The case of opposition against the patented invention of Japanese Patent No. 5946491, entitled "Providing system of steak," has resulted in the following decision.

Conclusion

Correction of the scope of claims of Japanese Patent No. 5946491 shall be approved regarding claims [1-6] after the correction as the scope of claims attached to the written correction request.

The patents for claims 1-6 of Japanese Patent No. 5946491 are to be revoked.

Reason

No. 1 History of the procedures

The patent application regarding the patents according to claims 1-6 of Japanese Patent No. 5946491 was filed on Jun. 4, 2014, the establishment of the patent right was done on Jun. 10, 2016, an opposition to the granted patent was subsequently filed by Opponent Kazuhiro Kakiuchi regarding that patent, reasons for rescission were notified by the body as of Mar. 10, 2017, a written opinion and a request for correction were submitted as of May 9 of the same year which was within the designated period, a written opinion was submitted from the Opponent Kazuhiro Kakiuchi on Jun. 19 of the same year, reasons for revocation (advance notice of decision) were notified by the body on Jul. 31 of the same year, and, submission of a written opinion and a request for correction were made as of Sep. 22 of the same year which was within the designated period.

No. 2. Judgment on Propriety of Correction

1. Contents of correction

The contents of correction according to the request for correction of the case are shown as follows.

To correct claim 1 of the scope of claims as

"A providing system of a steak conducting a provision method of a steak including the steps of: guiding a guest to a table of a stand-up meal system; asking the guest about an amount of a steak desired; cutting a replied amount of a steak from a block of meat; baking the cut meat; and carrying the baked meat to the table of the guest, the providing system of a steak comprising: a card on which a number of the table to which the guest has been guided is described; a weighing machine to weigh the meat cut according to a request of the guest; and a mark for distinguishing the meat cut according to the request of the guest from meat of other guests." To

"A providing system of a steak conducting a provision method of a steak including the steps of: guiding a guest to a table of a stand-up meal system; asking the guest about an amount of a steak desired; cutting a replied amount of a steak from a block of meat; baking the cut meat; and carrying the baked meat to the table of the guest, the providing system of a steak comprising: a card on which a number of the table to which the guest has been guided is described; a weighing machine to weigh the meat cut according to a request of the guest; and a mark for distinguishing the meat cut according to the request of the guest from meat of other guests, wherein the weighing machine outputs a label on which the weighed amount of meat and the table number described on the card are described, and wherein the mark is the label outputted by the weighing machine on which the amount of meat and the table number are described." (The underlines have been added by the Appeal decision; the same shall apply hereinafter.)

2. Judgment on Propriety of Correction

The matter of correction is one that specifically limits a weighing machine and a mark, and, therefore, it is one for the purpose of restriction of the scope of claims.

Then, the matter of correction is one that performs correction within the range described in the description attached to the application (paragraphs [0012] and [0013]), and, in addition, the matter of correction is one that does not expand or change the scope of claims substantially.

Furthermore, in advance of the correction, claims 1-6 before the correction fall under the category of a group of claims because the claims have a relationship that claims 2-6 before the correction refer to the statement of claim 1 that is the subject of the correction request. Therefore, the correction request is a request that has been made for each claim of the group of claims.

3. Closing

As described above, the correction according to the correction request of the case is aimed at matters prescribed in Article 120-5(2)(i) of the Patent Act, and, in addition, complies with the provision of Article 126(4) to (6) of the same Act as applied mutatis mutandis pursuant to the provisions of article 120-5(9), and, therefore, the correction is approved regarding claims [1-6] after the correction.

No. 3 Judgment by the body

1. Inventions according to claims 1-6 after the correction

As viewed from the statements of the description and the drawings of Japanese Patent No. 5946491, the inventions according to claims 1-6 are as specified by the following matters described in claims 1-6 of the scope of the claims. (Hereinafter, respectively referred to as "Patent Invention 1"-"Patent Invention 6.")

"[Claim 1]

A providing system of a steak conducting a provision method of a steak including the steps of: guiding a guest to a table of a stand-up meal system; asking the guest about an amount of a steak desired; cutting a replied amount of a steak from a block of meat; baking the cut meat; and carrying the baked meat to the table of the guest, the providing system of a steak comprising: a card on which a number of the table to which the guest has been guided is described; a weighing machine to weigh the meat cut according to a request of the guest; and a mark for distinguishing the meat cut according to the request of the guest from meat of other guests, wherein the weighing machine outputs a label on which the weighed amount of meat and the table number described on the card are described, and wherein the mark is the label outputted by the weighing machine on which the amount of meat and the table number are described.

[Claim 2]

The providing system of a steak according to claim 1, further comprising:

lava heated by gas or electricity and/or a charcoal fire for baking meat cut according to a request of the guest; and

an iron plate heated to a predetermined temperature by electromagnetic induction heating for keeping warm meat baked by the lava heated by the gas or electricity and/or the charcoal fire.

[Claim 3]

The providing system of a steak according to claim 1 or 2, further comprising a plurality of forks and knives placed on the table to which the guest is guided.

[Claim 4]

The providing system of a steak according to any one of claims 1-3, further comprising

a pot placed on the table to which the guest is guided for containing warm steak source.

[Claim 5]

The providing system of a steak according to any one of claims 1-4, wherein

the table to which the guest is guided is for a plurality of persons, and the providing system of a steak further comprises a movable partition to separate the table.

[Claim 6]

The providing system of a steak according to claim 5, wherein

the movable partition includes a low barrier having a height of 250 mm or less, and a leg to make the barrier stand by itself."

2. Patent Invention 1

In the description of the Patent, the following matters are described.

"[0001]

The present invention relates to a providing system of a steak, and, more particularly, to a providing system of a steak to provide a steak of a preferred amount to a guest inexpensively.

[Background Art]

[0002]

In general, a steak provided in a restaurant is eaten while the diner enjoys conversation sitting in a chair in a relaxed manner, and thus a venue fee and personnel expenses are high by any means, making the steak become expensive. In addition, there are cases where the size of a steak to be provided has already been determined as a fixed amount, or, even if it can be chosen, the amounts have already been determined, such as 100 g, 150 g, and 200 g, and thus a guest cannot eat stake of a desired amount arbitrarily without any restraint.

[Summary of Invention]

[Problem to be solved by the invention]

[0003]

The present invention has been made in the light of the problem of the above-mentioned background art, and its object is to provide inexpensively a steak of an amount desired by a guest to the guest."

In view of the above, Patent Invention 1 has an object to provide a steak of an amount desired by a guest to the guest inexpensively, taking the problem that a steak to be provided in a restaurant is expensive, and, in addition, the size of a steak to be provided is fixed, rendering the guest incapable of eating a steak of a desired amount arbitrarily and without any restraint as the problem to be solved.

"[0005]

By a providing system of a steak according to the present invention mentioned above, a steak of an amount desired by a guest is provided by being cut from a block, and thus the guest comes to be able to eat a steak of an amount desired by her/him arbitrarily and without any restraint. In addition, it is a system in which a guest eats a steak provided in a stand-up style, and, therefore, guest tables can be increased in a smaller area, and, in addition, rotation of guests; that is, a table turnover rate, is high.

From the above-mentioned matters, a providing system of a steak according to the present invention becomes a system that can inexpensively provide a guest with a steak of her/his desired amount."

"[0016]

A providing system of a steak according to the present invention is a system as described above, and, more particularly, is a system in which a steak of an amount desired by a guest is provided by being cut from a block, and thus the guest comes to be able to eat a steak of an amount desired by her/him arbitrarily and without any restraint.

Furthermore, meat that has been cut according to a request of a guest is put on a weighing machine, the amount of the cut meat is confirmed by the guest, and, along with this, its price is calculated in units of grams. Therefore, this providing system of a steak is a system of fair price setting.

Also, it is a system in which a guest eats a steak provided in a stand-up style, and, therefore, guest tables can be increased in a smaller area, and, in addition, rotation of guests; that is, a table turnover rate, is high.

Furthermore, by measures such as: placing a card having a number described on it on the table to which a guest has been guided; asking the guest to move to a cut stage with the card; asking the guest about a desired amount of a steak there; preparing in advance a number of forks and knives on the table to which the guest is guided; and,

further, limiting menus except for a steak to the extent of drinks, salads and rice, it is possible to mitigate a burden imposed on staff members, and realize service work with a small number of staff members.

In addition, by adopting measures such as: the step of baking meat being a step of baking by lava heated by gas or electricity and/or a charcoal fire that emit a lot of far infrared rays; placing the meat baked by the lava heated by the gas or electricity and/or the charcoal fire on an iron plate heated to a predetermined temperature by electromagnetic induction heating; carrying the baked meat to the table of the guest; and preparing in advance a pot containing warm steak sauce on the table to which the guest is guided, it is possible for the guest to eat a steak always in a warm state.

From the above-mentioned matters, it is possible to provide a steak of a desired amount to a guest deliciously and inexpensively by a providing system of a steak according to the present invention."

3. Regarding applicability of Patent Invention 1 to an invention

As seen from the statements of aforementioned "1." and "2.", Patent Invention 1 is an invention that takes "to inexpensively provide a guest with a steak of her/his desired amount" as a "problem to be solved," and adopts "a provision method of a steak including the steps of: guiding a guest to a table of a stand-up meal system; asking the guest about an amount of a steak desired; cutting a replied amount of a steak from a block of meat; baking the cut meat; and carrying the baked meat to the table of the guest" as the "constitution of technical means for solving the problem to be solved," and, by this, provides a steak of an amount desired by a guest by cutting it from a block. Therefore, the guest comes to be able to eat a steak of an amount desired by her/him arbitrarily and without any restraint. Also, it is a system in which a guest eats a steak provided in a stand-up style, and, therefore, guest tables can be increased in a smaller area, and, in addition, rotation of guests; that is, a table turnover rate, also becomes high. Consequently, Patent Invention 1 is one that exerts "an effect led from the constitution of the technical means" as "inexpensively providing a guest with a steak of her/his desired amount."

Then, when Patent Invention 1 is discussed as a whole in light of the problem to be solved in question and the effect in question, it can be said that the technical significance of Patent Invention 1 is directed to a shop operation method in a restaurant to provide, by adopting a provision method of a steak of guiding a guest to a table of a stand-up meal system, and providing to the guest a steak of an amount desired by the guest inexpensively; that is, to economic activities themselves.

Furthermore, Patent Invention 1 is specified as "a providing system of a steak comprising: a card on which a number of the table to which the guest has been guided is described; a weighing machine to weigh the meat cut according to a request of the guest; and a mark for distinguishing the meat cut according to the request of the guest from meat of other guests, wherein the weighing machine outputs a label on which the weighed amount of meat and the table number described on the card are described, and wherein the mark is the label outputted by the weighing machine on which the amount of meat and the table number are described," and takes "card," "weighing machine," "mark," and "label" as its components.

Then, the essential function of "card" exists in describing matters necessary for some purpose, or in proving something, and, similarly, the "card" of Patent

Invention 1 describes the table number of a table to which a guest has been guided, and the table number is described on the card in order not to confuse with other guests, or in order to make clear the table number of the guided guest.

In addition, the essential function of "weighing machine" is to measure a quantity of a product such as length, weight, and the like, and to indicate the quantity of that product. Then, also the "weighing machine" of Patent Invention 1 is one that measures the weight of meat cut according to a request of a guest, and indicates the weight of that meat on a label.

Furthermore, the essential function of "mark ('label' is a materialized shape of this)" exists in helping memory so as to distinguish something without mixing it with others, or in proving something, and the "mark (label)" of Patent Invention 1 is also one on which an amount of meat and a table number outputted by a weighing machine are described in order to distinguish the meat cut according to a request of a guest from those of other guests.

In view of the above, in Patent Invention 1, regarding these products, only one utilization form of the essential functions possessed by each of the products is shown, and it is only specified is that these products are used as tools. Therefore, it is inappropriate to say that the technical significance of Patent Invention 1 is directed to the products of "card," "weighing machine," "mark," and "label" themselves.

Furthermore, Patent Invention 1 takes "system" of "providing system of a steak" as its constitution.

However, in light of the technical significance of Patent Invention 1 being directed to economic activities themselves as described above, "providing system of a steak" in Patent Invention 1 is nothing but one that specifies a social "mechanism" (social system).

Therefore, in the light of the technical significance of Patent Invention 1 examined based on the technical problem to be solved of Patent Invention 1, the constitution of the technical means for solving the problem to be solved, and the effects and the like to be led from that constitution, Patent Invention 1 is, in its nature, directed to economic activities themselves, and, as a whole, it does not fall under "a creation of technical ideas utilizing a law of nature."

Accordingly, Patent Invention 1 does not fall under an "invention" stipulated in Article 2(1) of the Patent Act.

The Patentee alleges that "in the case according to the first method, the reasons for revocation (advance notice of decision) has judged the applicability to an invention only by the constituent components of the anterior clauses of Patent Invention 1 in substantially disregard of the constituent components of the posterior clauses" (page 10 lines 9-11 of the written opinion as of Sep. 22, 2017). However, as described above, the problem to be solved by Patent Invention 1, and the effects led from the constitution of the technical means have been recognized based on the description of the Patent, and, in light of the problem to be solved in question and the effects in question, the technical significance of Patent Invention 1 has been judged while discussing the whole of Patent Invention 1, and, accordingly, the above-mentioned allegation of the Patentee has no reason.

In addition, the Patentee alleges that "in claim 1 after the correction, 'information on a table (table number)' forms a structural body to be transmitted

organically from 'card' to 'weighing machine,' and then from 'weighing machine' to 'mark'" (page 9, the last line to page 10, line 2 of the written opinion dated Sep. 22, 2017). However, although it could be said that a table number is transmitted from "card" to "weighing machine," and then from "weighing machine" to "mark" definitely, it is hard to say that such transmission is on a level of being organic, and, in addition, it is not special transmission of information. Therefore, the above-mentioned allegation by the Patentee has no reason.

4. Regarding applicability of Patent Inventions 2-6 to an invention

As described in "1." above, Patent Inventions 2-6 are ones made by further restricting Patent Invention 1.

Patent Invention 2 is an invention of "The providing system of a steak according to claim 1, further comprising: lava heated by gas or electricity and/or a charcoal fire for baking meat cut according to a request of the guest; and an iron plate heated to a predetermined temperature by electromagnetic induction heating for keeping warm meat baked by the lava heated by the gas or electricity and/or a charcoal fire," and, as with "3." above, regarding products such as gas, electricity, lava, a charcoal fire, electromagnetic induction heating, and an iron plate, only one utilization form of the essential functions of each of the products is specified, and, therefore, it cannot be said that the technical significance of Patent Invention 2 is directed to these products.

Patent Invention 3 is an invention of "The providing system of a steak according to claim 1 or 2, further comprising a plurality of forks and knives placed on the table to which the guest is guided," and, as with "3." above, regarding products such as a table, a fork, and a knife, only one utilization form of the essential functions of each of the products is specified, and, therefore, it cannot be said that the technical significance of Patent Invention 3 is directed to these products.

Patent Invention 4 is an invention of "The providing system of a steak according to any one of claims 1-3, further comprising a pot placed on the table to which the guest is guided for containing warm steak sauce," and, as with "B." above, regarding products such as a table, steak sauce, and a pot, only one utilization form of the essential functions of each of the products is specified, and, therefore, it cannot be said that the technical significance of Patent Invention 4 is directed to these products.

Patent Invention 5 is an invention of "The providing system of a steak according to any one of claims 1-4, wherein the table to which the guest is guided is for a plurality of persons, and the providing system of a steak further comprises a movable partition to separate the table," and, as with "3." above, regarding products such as a table and a movable partition, only one utilization form of the essential functions of each of the products is specified, and, therefore, it cannot be said that the technical significance of Patent Invention 5 is directed to these products.

Patent Invention 6 is an invention of "The providing system of a steak according to claim 5, wherein the movable partition includes a low barrier having a height of 250 mm or less, and legs to make the barrier stand by itself," and, as with "B." above, regarding products such as a movable partition, a barrier, and legs, only one utilization form of the essential functions of each of the products is specified, and, therefore, it cannot be said that the technical significance of Patent Invention 6 is directed to these products.

Accordingly, Patent Inventions 2-6 do not fall under an "invention" stipulated

in Article 2(1) of the Patent Act.

No. 4. Closing

As above, Patent Inventions 1-6 do not fall under an "invention" stipulated in Article 2(1) of the Patent Act. Therefore, the patents according to Patent Inventions 1-6 have been made while violating the provisions of the main paragraph of Article 29 of the Patent Act, fall under Article 113(2) of the same Act, and should be invalidated.

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

Nov. 28, 2017

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