

Appeal decision

Appeal No. 2017-10881

Tokyo, Japan
Appellant

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The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2013-230844 "Printed matter and image taking method" [the application published on May 11, 2015: Japanese Unexamined Patent Application Publication No. 2015-90630] 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 patent application filed on Nov. 7, 2013, reasons for refusal were notified as of Nov. 28, 2016, and against this a written opinion and a written amendment were submitted on Jan. 26, 2017. However, an examiner's decision of refusal was given as of Apr. 18 of the same year, and a copy of the original of the decision of refusal was delivered to the Appellant.

Against this, an appeal against the examiner's decision of refusal was requested on Jul. 21 of the same year, and, at the same time, an amendment was made.

No. 2 Decision to dismiss amendment on the written amendment made on Jul. 21 2017 [Conclusion of Decision to Dismiss Amendment]

The amendment made on Jul. 21, 2017 (hereinafter, referred to as "the Amendment") shall be dismissed.

[Reason]

1 Regarding the Amendment

The Amendment is an amendment that changes the scope of claims and the like and includes, as its part, amendment of the scope of claims described in the written amendment submitted on Jan. 26 2017 (hereinafter, referred to as "the scope of claims before the Amendment") to the scope of claims described in the written amendment submitted on Jul. 21 of the same year (hereinafter, referred to as "the scope of claims after the Amendment"). (Underlines were given to the amended portions)

(The scope of claims before the Amendment)

[Claim 1]

A printed matter comprising:

a page space describing an explanation of a product;

a code indicated on the page space, the code encoding information indicating a

direct location on a network of explanatory moving image data about the product or information indicating a location of a page recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read, wherein

the code is indicated in the side of a binding margin of the page space.

[Claim 2]

A printed matter comprising:

a page space describing an explanation of a product;

a code indicated on the page space, the code encoding information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a page recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read, wherein,

printing is not carried out on a back side of a position on which the code is indicated in the page space.

[Claim 3]

An image taking method, comprising the step of displaying and imaging,

concerning a printed matter including a code encoding information indicating a direct location on a network of explanatory moving image data about a product or information indicating a location of a page recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read corresponding to an explanatory text described on a page space,

the code, in accordance with an instruction on the page space, using a personal digital assistance device in a manner displaying the code on a display of the personal digital assistance device taking a longitudinal direction of the code as a horizontal direction.

(Claims after the Amendment)

[Claim 1]

A printed matter comprising:

a page space of a double spread with right and left pages having an explanation of a product described on the left page and the right page by one or more captions, respectively; and

a code indicated on the page space, the code encoding information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a content recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read, wherein,

on both of the left page and the right page of the page space, the code is indicated in the side of a binding margin of the page space corresponding to the captions in a state where the page space is opened.

[Claim 2]

The printed matter according to claim 1, wherein

printing is not carried out on a back side of a position on which the code is indicated in the page space.

[Claim 3]

An image displaying method, comprising the step of displaying moving image

data existing in a location indicated by a code on a display in a manner making a longitudinal direction be a lateral direction, by displaying and imaging,

concerning a printed matter including the code encoding information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a content recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read corresponding to an explanatory text described on a page space,

the code, in accordance with an instruction on the page space, using a personal digital assistance device in a manner displaying the code on the display of the personal digital assistance device taking a longitudinal direction of the code as a horizontal direction.

2 Regarding the purpose of the Amendment

(1) Within the Amendment, the amendment regarding claim 3 is one that changes the statement of "An image taking method, comprising the step of displaying and imaging ... the code, ... on a display of the personal digital assistance device ..." before the Amendment to "An image displaying method, comprising the step of displaying moving image data existing in a location indicated by a code on a display in a manner making a longitudinal direction be a lateral direction, by displaying and imaging, ... the code on a display of the personal digital assistance device ..." after the Amendment.

First, this amendment is one that changes "taking" method of "image" before the Amendment to "displaying" method of "image" after the Amendment, and thus this is one that changes an invention of "imaging" method to an invention of "displaying" method and, at the same time, changes the technical significance of the word "image." In other words, before the Amendment by the present amendment, the word "image" is used as one indicating the generic concept of "code" that is "image" to be "imaged," whereas, after the Amendment, there is described at a portion just adjacent to "displaying method" of "image" that "moving image data" "is displayed" by "imaging," and the word "image" is used as the generic concept of "moving image data" that is not a target of "imaging." Therefore, this amendment is an amendment that changes the word of "image" from one indicating the generic concept of a target of "imaging" to one that does not indicate that. That is to say, "An image displaying method" after the Amendment is not even a method of displaying "image" to be imaged by "An image taking method" before the Amendment and, therefore, this amendment is one that tries to change the target method itself of a method invention.

Moreover, a subject of "imaging" for "displaying" after the Amendment is one that gives "instruction on the page space" to a person who performs imaging by a personal digital assistance device (hereinafter, referred to as "imaging person"), and it is different from an imaging person that is a subject of "taking image" before the Amendment. Therefore, this amendment is not one that restricts steps that are the matters specifying the invention of a method invention, but one that tries to change also the subject that performs such steps.

Therefore, as viewed from any of the above viewpoints, this amendment does not fall under an amendment for the purpose of restriction of the scope of claims prescribed in Article 17-2(5)(ii) of the Patent Act, and, not only that, it also does not fall under an amendment according to limitation of matters specifying the invention.

Accordingly, in light of the Amendment not being one for the purpose of matters listed in Article 17-2(5)(ii) of the Patent Act and of the Amendment being one that tries to change a subject that performs the steps, it is also clear that it does not fall under any of cancellation of a claim, correction of errors, and clarification of an ambiguous description.

In view of the above, the Amendment includes matters that are not for the purpose of any of the items of Article 17-2(5) of the Patent Act despite it being an amendment made regarding the scope of claims, and thus it is one that has been made in violation of the requirement stipulated in the same items (so-called purpose requirement).

(2) Meanwhile, within the Amendment, the amendments regarding claim 1 and claim 2 are ones that add a limitation that, regarding "page space describing an explanation of a product," the page space is of a double spread with right and left pages having an explanation of a product described on the left page and the right page by one or more captions, respectively, and, in addition, add a limitation that, regarding "code" indicated on the page space, on both of the left page and the right page of the page space, the code is indicated in the side of a binding margin of the page space corresponding to the captions in a state where the page space is opened, and these are ones for the purpose of matters listed in the second item of Article 17-2(5) of the Patent Act (restriction of the scope of claims).

3 Regarding violation of independent requirements for patentability by the Amendment

Even if the Amendment is an amendment for the purpose of the matters listed in Article 17-2(5)(ii) of the Patent Act, the Appellant cannot be granted a patent independently for the inventions after the Amendment according to the Amendment at the time of filing of the patent application as indicated below, these do not conform to the requirement stipulated in Article 17-2(6) of the same Act which applies mutatis mutandis the provisions of Article 126(7) of the same Act (so-called independent requirements for patentability).

(1) Regarding claim 1

A Regarding the main paragraph of Article 29(1) of the Patent Act

(A) The invention described in claim 1 has the following (a), (b), and (c).

(a) A printed matter including a page space of a double spread with right and left pages describing an explanation of a product on the left page and the right page, respectively, by one or more captions

(b) A code indicated on the page space of (a) (and included in the printed matter), the code encoding information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a content recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read

(c) On both of the left page and the right page of the page space of (a), the code of (b) is indicated in the side of a binding margin of the page space corresponding to a caption in a state where the page space is opened

(B) As indicated below, all the above mentioned (a), (b), and (c) are ones that indicate just presentation of information, and thus are not technical features exceeding general information recording or indication.

Regarding (a)

To describe "explanation of a product" on the left page and the right page of a double spread page space of a printed matter by a "caption" is not a technical feature beyond general information indication to describe information on a double spread of a printed matter.

Regarding (b)

It is indicated in (b) that "code" indicated on the page space of (a) is a code made by encoding "information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a content recording information indicating the location on the network of the moving image data" so as to be able to be decoded by being photographed and read, and thus it just indicates, so to speak, this "code" is one whose content is information directly or indirectly indicating the location of the moving image data.

In addition, although this "code" is one for indicating, through a "personal digital assistance device" that has a function to "display" "moving image data" by "a direct location on a network of moving image data" or "a location of a content recording information indicating the location on the network of the moving image data" that have been read by imaging the code, the "moving image data" is displayed to an imaging person of the code, the contents described in the scope of claims in order to be granted a patent do not relate to, as viewed from the statements of the scope of claims and the description of the present application, technical matters for realization of such function or a personal digital assistance device having such function, or do not relate to technical matters that are perceived from the viewpoint of utilization of computer software. Therefore, just information concerning "moving image data" is displayed to an imaging person of the "code" taking a personal digital assistance device having such function as a given premise.

In any event, (b) is not a technical feature for providing information, and only indicates the content of presented information.

Regarding (c)

In effect, the printed matter is a printed matter in which "code" is indicated on a page space corresponding to "explanation of a product" described by "caption," and, on that occasion, the code is indicated in the side of the binding margin in the page space in a state where the page space is spread (on the left page of a double spread, a code is indicated in the right relative to "explanation of a product," and, on the right page, "code" is indicated in the left relative to "explanation of a product"), and, therefore, this point indicates substantially that information is presented by indicating a code at a predetermined position in a printed matter, and thus just indicates characteristics regarding the content of the information.

In addition, even if the above (a), (b), and (c) are put together, it just indicates

presentation of information on a printed matter as a whole, and does not indicate a technical feature beyond general information recording and indication. It also cannot be said to be one that utilizes computer software, and, in light of this, it also cannot be said to be "a creation of technical ideas utilizing a law of nature."

(C) Regarding Appellant's allegation

Appellant alleges that, by associating a code with a caption, it becomes possible to present information comprehensively, and to access the information rapidly.

However, this is nothing but an effect of recognition of a human who has seen information indicated on a printed matter, and, in addition, also in light of the human recognition varying for each person, it cannot be said to be a technical feature concerning presentation of information.

In addition, Appellant also alleges that the "binding margin side" in "a state where the page space is spread" is hard to be damaged across the ages in comparison with "circumference portions of a printed matter," and thus a reading failure due to aging is hard to be caused.

However, the reason why the "binding margin side" in "a state where the page space is spread" is hard to be damaged across the ages in comparison with "circumference portions of a printed matter" is that a binding margin of a printed matter has a structure not to come off easily. (This is obvious from a matter that, in a printed matter having a structure that a binding margin comes off easily (for example, an increasable/decreasable printed matter), the "binding margin side" in "a state where the page space is spread" may be damaged.) Whereas, in the scope of claims of the present application, there is no statement at all about the structure of a binding margin of a printed matter, and also the description of the present application shows nothing more than the matter that "a large portion of a two-dimensional code" is printed in "the side of the binding margin 5"([0033]). Therefore, the matter that the code is indicated in the side of the binding margin in the page space in a state where the page space is spread in the scope of claims of the present application is not, by itself, one that indicates solution to the problem to be solved of making a reading failure due to aging be more hardly caused. In other words, it remains at indicating to the effect that information is presented by indicating a code at a predetermined position of a printed matter of a predetermined binding structure as an information presenting medium, and thus, as viewed from the viewpoint alleged by Appellant, it cannot be said that there is a technical feature concerning presentation of information.

The Appellant's allegations shall not be employed.

(D) Summary

In view of the above, the invention described in claim 1 of the scope of claims after the Amendment is not an "invention" stipulated in the Patent Act, and does not satisfy the requirements of the main paragraph of Article 29(1) of the Patent Act. Therefore, Appellant shall not be granted a patent for that independently.

B Regarding Article 29(2) of the Patent Act (hereinafter, the invention according to claim 1 of the scope of claims after the Amendment is referred to as "the Amended

Invention 1")

(A) Cited Document and cited invention

Japanese Unexamined Patent Application Publication No. 2003-30581 cited in the reasons for refusal stated in the examiner's decision (hereinafter, referred to as "Cited Document") is a patent publication that was laid open on Jan. 31, 2003, and the following matters are described in it. (The underlines were given by the body)

a. "[0014] In addition, the information media to be read by the reader 11 includes, in addition to business cards: magazines, newspapers, advertisements, postcards, and phone directories describing town information on such as shops, goods, televisions, and events and the like; menus to be used in restaurants and the like; information magazines describing information such as recruitment information, for-rent apartment information and the like; and various kinds of brochures and catalogs such as company brochures, school prospectuses, and the like. For example, when such a two-dimensional code is put on a magazine as indicated in FIG. 3, the articles 41 and 42 are placed on a page space of the magazine 40, and two-dimensional codes 43 and 44 may be printed or attached like captions in such a way corresponding to the articles, respectively. In a similar fashion, it is also possible to be printed on a newspaper, an advertisement, a postcard, and the like. Meanwhile, in the case where a two-dimensional code is attached, the two-dimensional code is printed in advance, and this printed matter is attached."

b. "[0020] In addition, in the portable terminal device 50 of FIG. 4, the recording medium reproduction unit 56 is connected to the data processor 53 as a driver for performing reproduction of a recording medium on which predetermined information is accumulated. In addition, the data processor 53 is connected, via the network system 61, to the database server 62 that is a server on which predetermined information has been accumulated.

[0021] The reader 51 reads, as with the reader 11 in the information system indicated in FIG. 1, a two-dimensional code printed or attached to the information medium, and transmits this data to the decoder 52. Here, in order to read accurately, it is preferable that the reader 51 use an image taking element using a CCD (charge coupled device). ...

[0022] In addition, the information medium read by the reader 51 includes, as with the case of the information providing systems indicated in FIG. 1, in addition to business cards: magazines, newspapers, advertisements, postcards, and the like describing town information on such as shops, goods, televisions, events, and the like; recipe books or information media describing articles of foods; and product catalogs and the like. The decoder 52 decodes, as with the decoder 12 of FIG. 1, data obtained by reading a code by the reader 51 in accordance with the arrangement on the occasion of the encoding. In the ROM 55, a program necessary for performing such decoding is stored, and the decoder 52 accesses the ROM 55 and performs decode processing of the two-dimensional code while referring to data within the ROM 55. The data obtained by applying decode processing to the two-dimensional code is transmitted to the data processor 53.

[0023] The data processor 53 processes the data obtained by the decoder 52, that is; data including predetermined address data that is data for accessing information accumulated in a recording medium, a database and the like, and transmits the data obtained by the

processing to the output unit 54. Meanwhile, data that does not include an address is transmitted to the output unit 54 without performing any processing in particular.

[0024] As processing in the data processor 53, the procedure constituted of step S10 of determining whether or not there is an address in data for which decode processing has been made, step S20 of determining whether or not the address is an IP (internet protocol) address, steps S210-S230 of taking out predetermined data from CD-ROM, and steps S110-S130 of searching a database on the Internet to take out predetermined data are performed, as indicated in FIG. 5, for example.

[0025] In step S10, it is determined whether or not an address for identifying a location at which predetermined information is accumulated is included in data having been decode-processed by the decoder 52. Progress to step S20 is made when the result of such determination is YES, and, if the determination result is NO, the data processing is ended. In step S20, whether or not the address included in the data is an IP address is determined. When the determination result is YES; that is, when the address in question is an IP address, the processing moves to step S110, and, if the determination result is NO; that is, the address is not an IP address, progress to step S210 is made.

[0026] In step S110, connection to a network (in FIG. 4, the network system 61) is made, and progress to step S120 is made. Here, as the network system 61, the Internet, a local area network, a wide area network, and the like are cited. In step S120, a database (in FIG. 4, the database 62) on the network is searched using the IP address, and progress to step S130 is made.

[0027] In step S130, an area in which predetermined information is accumulated is taken out from an area specified by IP address from the database 62, and downloaded to the data processor 53, and the data processing is finished. In addition, in step S210, the CD-ROM is reproduced (in FIG. 4, the recording medium reproduction unit 56 is made to operate), and progress to step S220 is made.

[0028] In step S220, an area in which predetermined information is accumulated is retrieved from the CD-ROM in the middle of reproduction using the address, and progress to step S230 is made. In step S230, the predetermined information accumulated in the area retrieved in step S220 is taken into the data processor 53, and the data processing is finished. The output unit 54 is, as with the output unit 13 in FIG. 1, an indication means such as a display, a printer, or the like, for example, and outputs the data transmitted from the data processor 53 in a manner making it visible."

c. "[0035] In addition, when a two-dimensional code is added to a manual of a device such as electric equipment, electronic equipment, a wheeled vehicle, and the like for which complicated operation, work or the like is required, by accumulating data indicating such specific operation as a moving image or a still image in a recording medium or a database server in advance, and, by decoding the two-dimensional code, it becomes possible for a user who performs the operation work and the like regarding the device to visually understand the specific operation and an operation method that is difficult to understand by texts using an image.

[0036] In addition, also in a case where a two-dimensional code is added to a product catalog and the like, information that is difficult to understand even by pictures and the like put in a catalog, by accumulating information such as features of a product, for example, precautions for use, voices of other users who have previously purchased the product, actual use situations, and the like in a predetermined recording medium and a

database server as a text and an image in advance, and, by decoding this two-dimensional code, it becomes possible for a user who is considering purchasing a product while browsing a product catalog to take out the information according to such text and image."

d. "Manual of a device such as electric equipment, electronic equipment, a wheeled vehicle, and the like for which complicated operation, work or the like is required" and "product catalog" of the above-mentioned c are examples of "various kinds of brochures and catalogs" of the above-mentioned a, and "product catalog and the like" of the above-mentioned b which is illustrated together with "magazines" shown in FIG. 3, and, as with "magazines," these are ones in which "two-dimensional code" is capable of being "printed or attached like captions" in such a way "corresponding to" each of "articles" put "on a page space."

e. In view of the above, in Cited Document 1, there is described the following invention.

(Cited invention)

An information medium such as a manual and a product catalog and the like of a device such as electric equipment, electronic equipment, and the like for which complicated operation or the like is required, wherein

a two-dimensional code is printed or attached like a caption in such a way corresponding to each article put on a page space of the information medium, the two-dimensional code is decoded in accordance with arrangement on the occasion of encoding and processed, whether or not an address exists in the data having been undergone decode processing is determined, a database on a network is searched using that IP address when the address is an IP (internet protocol) address, an area in which predetermined information is accumulated is taken out from an area of the database specified by the IP address, downloaded, and transmitted to a display means and the like such as a display and the like, and is outputted by being made to be visible, resulting in being read using an imaging element of a portable terminal device, wherein

when a two-dimensional code is added to a manual of a device such as electric equipment, electronic equipment, and the like for which complicated operation and the like is required, by accumulating data indicating such specific operation as a moving image or a still image in a database server in advance, and, by decoding the two-dimensional code, it becomes possible for a user who performs the operation, work and the like regarding the device to visually understand the specific operation and an operation method that is difficult to understand by texts using the image, and, also in a case where a two-dimensional code is added to a product catalog and the like, by accumulating features of a product such as precautions for use and the like in a predetermined recording medium and a database server as a text and an image in advance, and, by decoding this two-dimensional code, it become possible for a user who is considering purchasing a product while browsing a product catalog to take out the information according to such text and image.

(B) Comparison

"Device such as electric equipment electronic equipment and the like for which

complicated operation and the like is required" and "product" of the cited invention correspond to "product" of the Amended Invention 1, and, in the cited invention, an information medium such as "manual, "product catalog" and the like of such product are ones on which an "article" that is an explanation about such product and a "two-dimensional code" are printed. Therefore, these correspond to "printed matter" provided with "page space describing an explanation of a product" of the Amended Invention 1.

Data indicating specific operation of a product by a moving image and the like and data of features and the like of a product such as precautions for use of the cited invention corresponds to "moving image data" of the Amended Invention 1. Then, information of the cited invention such as IP address for specifying a database server and an area from which such moving image data is taken out corresponds to "information indicating a direct location on a network of moving image data" of the Amended Invention 1.

From this, "two-dimensional code" of the cited invention is a code that is made by encoding "information indicating a direct location on a network of moving image data," and the encoded information is indicated on a page space of a printed matter and is read by "imaging" that is reading using an image taking element to be decoded, and, therefore corresponds to "a code indicated on the page space, the code encoding information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a content recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read" of the Amended Invention 1.

In view of the above, the Amended Invention 1 and the cited invention are identical in the following corresponding features and are different in the following different features.

(Corresponding features)

A printed matter comprising:

a page space describing an explanation of a product; and

a code indicated on the page space, the code encoding information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a content recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read.

(Different features)

a. A point that a page space describing an explanation of a product is "a page space of a double spread with right and left pages describing an explanation of a product on the left page and the right page, respectively, by one or more captions" in the Amended Invention 1, whereas, in the cited invention, there is no clear description about that.

b. A point that, in the Amended Invention 1, "on both of the left page and the right page of the page space, the code is indicated in the side of a binding margin of the page space corresponding to the captions in a state where the page space is opened," whereas in the cited invention there is no clear description about that.

(C) Judgment on the different features

Since the different feature a and the different feature b are different features related to each other, these will be examined together.

In "manual" and "product catalog" concerning "device such as electric equipment, electronic equipment, and the like for which complicated operation and the like is required," it is a matter that can be determined by a person skilled in the art arbitrarily depending on the contents of information to be provided by a page space describing the explanation of the product in which portion of "manual" and the like information such as a two-dimensional code, which should be described in a manner associated with an article that is an explanation of a product and the caption of the article, is arranged in relation to the article and the caption.

In addition, when specific arrangement of an article and the caption of the article and a two-dimensional code is examined, both a layout in which a two-dimensional code related to an article is associated with a caption, and a layout in which an explanation of a product is described on each of the left page and the right page of a double spread with right and left pages using one or more captions are common, and, in addition, in FIG. 3 of Cited Document, there is illustrated an example in which, regarding the left page, a two-dimensional code is indicated on the right side that is the binding margin side of a double spread. In light of these, on the occasion of employing such common layout in the cited invention, regarding the left page, a code is arranged on the right side that is the binding margin side following this figure, whereas, regarding the right page that is not indicated in this figure, it is a matter that can be determined by a person skilled in the art arbitrarily on which portion of the right page a two-dimensional code is arranged (in which one of the left side that is the binding margin side and the left side that is not, the code is arranged), and thus it is not recognized as there is particular difficulty in arranging in the side of the binding margin. In other words, it is just one of options usually assumed by a person having knowledge about the common layout to make a page space describing an explanation of a product be a page space of a double spread with right and left pages describing an explanation of a product on each of the left page and the right page using one or more captions, and to indicate codes on both the left page and the right page of this page space in the side of the binding margin of the page space in a state where the page space is spread in a manner associated with captions, and thus it could have been achieved appropriately to select this.

Moreover, as described in the above A(C), the scope of claims of the present application is not one that indicates solution for the problem to be solved of making a reading failure due to aging be hardly caused, and, in addition, even if this is set aside, a magazine and a manual in Cited Document are often a printed matter of a structure in which a binding margin is not taken off easily. Therefore, also the point shown in paragraph [0033] of the description of the present application is within a range to be predicted by a person skilled in the art. Including this point, the effect according to adoption of the constitution of the Amended Invention 1 is within a range to be predicted by a person skilled in the art and is not remarkable.

In view of the above, to make, in the cited invention, a page space describing an explanation of a product be a page space of a double spread with right and left pages describing an explanation of a product on each of the left page and the right page using

one or more captions, and to indicate codes on both the left page and the right page of this page space in the side of the binding margin of the page space in a state where the page space is spread in a manner associated with captions is a matter that can be achieved by a person skilled in the art with ease.

(D) Summary

As above, the Amended Invention 1 is an invention that could have been invented with ease by a person skilled in the art based on the cited invention, and, therefore, the appellant should not be granted a patent for this independently under the provisions of Article 29(2) of the Patent Act.

(2) Regarding claim 2

A Main paragraph of Article 29(1) of the Patent Act

(A) The invention described in claim 2 also has the following (d) in addition to (a), (b), and (c) shown in (1)A(A).

(d) That printing is not made in the back side of a display position of a code of (b) of a page space of (a)

(B) As indicated in (1)A(B), all of (a), (b), and (c) shown in (1)A(A) are ones that just show presentation of information and are not technical features beyond common information recording and indication, and, in a similar fashion, the above-mentioned (d) is not a technical feature beyond common information recording and indication.

Not to perform printing in the back side of a predetermined information placement position in order to avoid so-called show-through is nothing but a common information indication method, and is not a technical feature beyond that.

Furthermore, even if the above (a), (b), (c), and (d) are put together, it is still one that just shows presentation of information on a printed matter as a whole, and is not one that shows technical features beyond common information recording and indication. It also cannot be said to be one that utilizes computer software, and, from this point of view, it also cannot be said to be "a creation of technical ideas utilizing a law of nature."

(C) Summary

In view of the above, the invention described in claim 2 of the scope of claims after the Amendment is not an "invention" stipulated in the Patent Act, and does not meet the requirement of the main paragraph of Article 29(1) of the Patent Act. Therefore, the appellant should not be granted a patent for this independently.

B Regarding Article 29(2) of the Patent Act (hereinafter, the invention according to claim 2 of the scope of claims after the Amendment is referred to as "the Amended Invention 2")

(A) Regarding Cited Document and cited invention

It is as shown in (1)B(A).

(B) Comparison

When the Amended Invention 2 and the cited invention are compared, the two

are identical in the corresponding feature cited in (1)B(B). Then, in addition to the different features a and b of (1)B(B), these are different in the following different feature c.

(Different feature)

c. A point that, in the Amended Invention 2, "printing is not carried out on a back side of a position on which the code is indicated in the page space," whereas, in the cited invention, there is no clear description about that.

(C) Judgment on the different feature

In addition to the matters indicated in (1)B(C), not to perform printing in the back side of a predetermined information placement position in order to avoid so-called show-through is a usual practice, and it could be achieved arbitrarily with ease to adopt this.

In addition, the effect due to employing the constitution of the Amended Invention 2 is not remarkable.

(D) Summary

As above, the Amended Invention 2 is an invention that could have been invented with ease by a person skilled in the art based on the cited invention, and, therefore, the appellant should not be granted a patent for this independently under the provisions of Article 29(2) of the Patent Act.

(3) Regarding claim 3

A Regarding the main paragraph of Article 29 (1) of the Patent Act

(A) The invention described in claim 3 has the following (e), (f), and (g).

(e) Being an "image displaying method" in which "moving image data" "is displayed" by making "code" included in "a printed matter including a code corresponding to an explanatory text described on a page space" be "imaged" by a "personal digital assistance device"

(f) "Code" of (e) being one "encoding information indicating a direct location on a network of explanatory moving image data about a product or information indicating a location of a content recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read"

(g) Being one in which, "on the page space" of the printed matter of (e), "instruction" to an imaging person to the effect of "making the code be imaged using a personal digital assistance device in a manner displaying the code on a display of the personal digital assistance device taking a longitudinal direction of the code as a horizontal direction" is indicated, and, by taking an image in accordance with "instruction" presented in this way, "displaying moving image data existing in a location indicated by the code on the display in a manner making a longitudinal direction be a lateral direction"

(B) As indicated below, (e), (f), and (g) are ones that have features in the contents of

information or ones that utilize mental activities of a human, and, as viewed from any of these viewpoints, the invention described in claim 3 is one that indicates just presentation of information, and thus it is not a technical feature beyond common information recording and indication.

Regarding (e)

(e) is nothing but one to make, taking a personal digital assistance device that has a function that will be described later in "Regarding (f)" as the given premise, a person who tries to display moving image data perform an action of imaging that code, is solely directed to a human mental activity, and just indicates that this human mental activity is utilized.

Regarding (f)

(f) indicates to the effect that "information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a content recording information indicating the location on the network of the moving image data" is presented as "code" of (e) made by encoding the information in such a way that it is capable of being decoded by being photographed and read, and it is, so to speak, nothing but showing that this "code" has information that directly or indirectly indicates the whereabouts of moving image data as its content.

In addition, although this "code" is one that displays, through "personal digital assistance device" that has a function to "display" "moving image data" by "a direct location on a network of moving image data" or "a location of a content recording information indicating the location on the network of the moving image data" that has been read by imaging the "code," "moving image data" for an imaging person of the code, the contents described in the scope of claims in preparation for obtaining a patent are not, as viewed from the statements of the scope of claims and the description of the present application, technical matters for realizing such function and a personal digital assistance device having such function or technical matters perceived from the viewpoint of utilization of computer software, and thus it is nothing but one that indicates information concerning "moving image data" to an imaging person of "code" taking a personal digital assistance device having such function as the given premise.

In either case, (f) is not a technical feature for providing information, and is nothing but one that indicates the contents of presented information.

Regarding (g)

The content of "instruction" that is "presented" "on a page space" of "a printed matter" of (e) is, substantially, on the premise that "personal digital assistance device" having a function to make "moving image data" "be displayed" by "imaging" of "code" is provided with a function to make moving image data be displayed on a display of the personal digital assistance device in a manner taking its longitudinal direction as the lateral direction, by a code being imaged in a state that the code is displayed on the display in a manner making its longitudinal direction be the horizontal direction, to instruct an imaging person to do such imaging. Therefore, it is one that solely utilizes mental activities of an imaging person to whom such "instruction" is presented. In addition, also to "present" "instruction" "on a page space" of "a printed matter" cannot be said to be a technical feature concerning presentation of information.

Furthermore, even if the above (e), (f), and (g) are put together, it is one that has a feature in the content of information or one that utilizes mental activities of a human, and that shows solely presentation of information as a whole. Therefore, it is not a technical feature beyond common information recording and indication. It cannot be said to be one that utilizes computer software, too, and, from this point of view, it also cannot be said to be "a creation of technical ideas utilizing a law of nature."

(C) Summary

In view of the above, the invention described in claim 3 of the scope of claims after the Amendment is not an "invention" stipulated in the Patent Act, and does not meet the requirement of the main paragraph of Article 29 (1) of the Patent Act. Therefore, the appellant should not be granted a patent for this independently.

4 Summary of the decision to dismiss the amendment

As above, the Amendment is not, as described above in "2," an amendment for the purpose of the matters listed in each item of Article 17-2(5) of the Patent Act, and thus does not conform to the requirements stipulated in the same provision (purpose requirement).

In addition, even if the Amendment is for the purpose of the matter stipulated in the second item of the same provision (restriction of the scope of claims) as described above in "3," the Appellant should not be granted a patent for the invention after the Amendment by the Amendment at the time of filing of the patent application independently, and, therefore, it does not conform to the requirements of the provisions of Article 17-2(6) of the same Act which applies mutatis mutandis the provisions of Article 126(7) of the same Act.

Accordingly, the Amendment shall be dismissed under the provisions of Article 53(1) of the same Act which is applied mutatis mutandis by replacing certain terms pursuant to the provisions of Article 159(1) of the same Act.

Therefore, determination is made as Conclusion of Decision to Dismiss Amendment.

No. 3 Regarding the Invention

1 The Invention and the reason of the examiner's decision

(1) The Amendment has been dismissed due to the decision to dismiss the amendment of "No. 2". Therefore, the inventions according to claims 1 to 3 of the present application are ones as specified by the matters described in claims 1 to 3 of the scope of claims in the written amendment submitted on Jan. 26, 2017.

(2) The reasons of the examiner's decision of refusal include a matter to the effect that, regarding claim 1 and claim 2, the requirement stipulated in the main paragraph of Article 29 (1) of the Patent Act is not satisfied, and a matter to the effect that, since the inventions according to claim 1 and claim 2 could have been invented with ease by a person skilled in the art based on the invention described in Cited Document mentioned in (1)B(A) of "3" in "No. 2," the Appellant cannot obtain a patent under the provisions of Article 29(2) of the Patent Act.

2 Regarding claim 1 (hereinafter, the invention according to claim 1 is referred to as "the Invention 1")

Claim 1 (the Invention 1) is one made by eliminating the limitation to the effect that "page space describing an explanation of a product" is "of a double spread with right and left pages describing an explanation of a product on each of the left page and the right page using one or more captions" of claim 1 after the Amendment (the Amended Invention 1) examined in "3"(1) of "No. 2," and eliminating limitation to the effect that, regarding "code" that is one "indicated in the side of a binding margin of a page space," "code" is indicated in the side of binding margin of the page space on both the left page and the right page in the page space in a state where the page space is spread in a manner associated with captions.

(1) Regarding the main paragraph Article 29(1) of the Patent Act

(A) The invention described in claim 1 has the following (a'), (b'), and (c').

(a') A printed matter including a page space describing an explanation of a product

(b') A code indicated on the page space of (a') (and included in the printed matter), the code encoding information indicating a direct location on a network of explanatory moving image data about the product or information indicating a location of a content recording information indicating the location on the network of the moving image data, and capable of being decoded by being photographed and read

(c') That the code of (b') is indicated in the side of a binding margin of the page space of (a')

(B) All of the above (a'), (b'), and (c') are ones that, as indicated below, solely indicate presentation of information, and are not technical features beyond common information recording and indication.

Regarding (a')

It is not a technical feature beyond common information indication to describe "an explanation of a product" on a page space of a printed matter.

Regarding (b')

It is as stated in "Regarding (b)" in (1)A(B) of "3" in "No. 2."

Regarding (c')

To indicate a code in the side of the binding margin of a page space indicates substantially to the effect that, in a printed matter, information is presented by making the code be indicated in a predetermined position, and thus it is nothing but one showing characteristics about the content of information.

Furthermore, even if the above (a'), (b'), and (c') are put together, it is still one that just shows presentation of information on a printed matter as a whole, and thus it is not one that shows a technical feature beyond common information recording and

indication. It cannot be said to be one that utilizes computer software, too, and, from this point of view, it also cannot be said to be "a creation of technical ideas utilizing a law of nature."

(C) Summary

In view of the above, the invention described in claim 1 of the scope of claims is not an "invention" stipulated in the Patent Act, does not meet the requirement of the main paragraph of Article 29 (1) of the Patent Act, and, therefore, the Appellant shall not be granted a patent for this.

(2) Regarding Article 29(2) of the Patent Act A Regarding Cited Document and cited invention

It is as stated in "3" (1)B(A) in "No. 2."

B Comparison

When the Invention 1 and the cited invention is compared, the two are identical in the corresponding feature indicated in "3" (1)B(B) in "No. 2," and different in the following point.

(Different feature)

A point that, in the Invention 1 "the code is indicated in the side of a binding margin of the page space," whereas, in the cited invention, it is not clearly indicated as such

C Judgment on the different feature

In FIG. 3 of Cited Document, there is illustrated an example in which, regarding the left page, a two-dimensional code is indicated in the right side that is the binding margin side of a double spread, and it is a matter that can be achieved by a person skilled in the art with ease to make, following this case, a code be indicated in the side of the binding margin of a page space.

In addition, the effect according to the constitution of the Invention 1 is not remarkable.

D Summary

In view of the above, the Invention 1 is an invention that could have been achieved by a person skilled in the art with ease based on the cited invention, and, therefore, the Appellant cannot obtain a patent under the provisions of Article 29(2) of the Patent Act.

3 Regarding claim 2 (hereinafter, the invention according to claim 2 is referred to as "the Invention 2")

Claim 2 (the Invention 2) is one made by eliminating the limitation to the effect that "page space describing an explanation of a product" is "of a double spread with right and left pages describing an explanation of a product on each of the left page and the right page using one or more captions" of claim 2 after the Amendment examined in "3" (2) in "No. 2" (the Amended Invention 2), and, in addition, by eliminating the limitation to the effect that, regarding "code" indicated on the page space, "code" is

indicated in the side of binding margin of the page space on both the left page and the right page in the page space in a state where the page space is spread in a manner associated with captions.

(1) Regarding main paragraph Article 29 (1) of the Patent Act

A The invention described in claim 2 has, in addition to (a') and (b') indicated in 1(1)A, the following (d').

(d') That printing is not carried out in the back side of a display position of a code of (b') of a page space of (a')

B As indicated in 1(1)B, both (a') and (b') shown in 1(1)A are ones that just show presentation of information and are not technical features beyond common information recording and indication, and, therefore, in a similar fashion, the above-mentioned (d') is not a technical feature beyond common information recording and indication.

Not to perform printing in the back side of a predetermined information placement position in order to avoid so-called show-through is nothing but a general indication technique of information, and it is not a technical feature beyond the general indication technique.

Furthermore, even if the above (a'), (b'), and (d') are put together, it is still one that just shows presentation of information on a printed matter as a whole, and thus it is not one that shows a technical feature beyond common information recording and indication. Also, it cannot be said to be one that utilizes computer software, too, and, from this point of view, it also cannot be said to be "a creation of technical ideas utilizing a law of nature."

C Summary

In view of the above, the invention described in claim 2 of the scope of claims is not an "invention" stipulated in the Patent Act, does not meet the requirement of the main paragraph of Article 29 (1) of the Patent Act, and, therefore, the Appellant shall not be granted a patent for this.

(2) Regarding Article 29(2) of the Patent Act

A Regarding Cited Document and cited invention

It is as stated in "3" (2)B(A) in "No. 2."

B Comparison

When the Invention 2 and the cited invention are compared, the two are identical in the feature indicated in (2)B(B) of "3" in "No. 2," and different in the different feature c of (2)B(B) of "3" in "No. 2."

C Judgment on the different feature

Not to perform printing in the back side of a predetermined information placement position in order to avoid so-called show-through is a usual practice, and it could be achieved arbitrarily with ease to adopt this.

In addition, the effect due to employing the constitution of the Amended

Invention 2 is not remarkable.

D Summary

As above, the Invention 2 is an invention that could have been invented with ease by a person skilled in the art based on the cited invention, and, therefore, the Appellant cannot obtain a patent for that under the provisions of Article 29(2) of the Patent Act.

3 Summary

As stated above, the inventions described in claim 1 and claim 2 of the scope of claims are not "inventions" stipulated in the Patent Act, and do not meet the requirement of the main paragraph of Article 29(1) of the Patent Act, and, in addition, the Appellant cannot obtain a patent for the Invention 1 and the Invention 2 under the provisions of Article 29(2) of the Patent Act.

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

Jul. 17, 2018

Chief administrative judge:	SATO, Tomoyasu
Administrative judge:	AIZAKI, Hirotsune
Administrative judge:	ISHIKAWA, Shoji