Appeal decision

Appeal No. 2018-1343

Hyogo, Japan Appellant Katada, Chikaaki

Patent Attorney ISHII, Hisao

The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2014-245706, entitled "MATRIX INNOVATION MANAGEMENT METHOD FOR HOME-VISIT NURSING CARE" (the application published on October 15, 2015, Japanese Unexamined Patent Application Publication No. 2015-180984) has resulted in the following appeal decision.

Conclusion

The appeal of the case was groundless.

Reason

No. 1 History of the procedures

The Patent application was filed on December 4, 2014 (Internal Priority Date: March 4, 2014) and the history of the procedures is as follows.

December 5, 2014:	Submission of Written Amendment
Dated April 4, 2017:	Notice of reasons of refusal
August 10, 2017:	Submission of Written Opinion and Written Amendment
Dated October 26, 2017:	Examiner's decision of refusal
January 31, 2018:	Submission of Request for Appeal and Written Amendment
February 7, 2018:	Submission of Written Amendment
Dated March 5, 2018:	Reconsideration Report

No. 2 Regarding the Amendment (Amendment by the Written Amendment submitted on January 31, 2018)

1. Details of the Amendment

(1) Claims 1 to 10 of the scope of claims amended by the Written Amendment submitted on August 10, 2017 (hereinafter referred to as "before the Amendment") were as follows.

" [Claim 1]

A matrix management method for nursing care services using a computer comprising: a step of preparing, by the computer, on a computer screen, a nursing-care service management schedule matrix for each day of the week, formed by arranging the same number of nursing-care service time series, formed by sequentially placing unit service time cells in columns or rows, as the number of available staff members of one or multiple nursing-care offices for each day of the week, segmented by the multiple cells in the matrix, formed of displayed unit service cells, and indicating nursing-care capacity of the nursing-care offices with work unit cells; a step of inputting nursing-care service units to be provided, in order of time, along time series, from one side of staff columns arranged in parallel in the matrix for each day of the week, by manually or automatically reading nursing-care service to be provided for each day of the week from a monthly service providing form D1 of a nursing-care user, to blank unit service cells of the nursing-care service management schedule matrix displayed on the computer; and a step of displaying a nursing-care service distribution in a nursing-care service matrix (capacity) formed of multiple cells in a matrix of the nursing-care office displayed on the computer.

[Claim 2]

The matrix management method for nursing care services comprising, in the method of Claim 1, a step of preparing, by the computer, an actual working-hour matrix of the nursing-care office by inputting staff members and shifts thereof to the management matrix (capacity) formed of multiple cells in the matrix in advance, and forming the monthly service providing form D1 by automatically or manually reading and selecting by a care manager a vacant time on the actual working-hour matrix displayed on the computer of the nursing-care office.

[Claim 3]

The matrix management method for nursing care services comprising, in the method of Claim 2, a step of linking a terminal having a digitized monthly service providing form D1 created by a care manager with a terminal which displays the actual working-hour matrix (capacity) formed by inputting in advance staff members for each day of the week of the nursing-care office and shifts thereof, and creating a monthly service providing form by inputting, by the care manager, nursing-care time and nursing-care user displayed on the terminal, by visually confirming vacant information of the actual working-hour matrix for each day of the week of the nursing-care office.

[Claim 4]

The matrix management method for nursing care services comprising, in Claim 3, a step of completing input for booking on the actual working-hour matrix for each day of the week of the nursing-care office at the same time as input by the nursing-care user to the monthly service providing form D1.

[Claim 5]

The matrix management method for nursing care services comprising, in the method of Claim 3 or 4, a step of inputting data, by a care manager, necessary for the terminal of the care manager or the nursing-care office, by drag and drop actions on nursing-care service blank cells, on the basis of an actual work matrix displayed on the terminal of the nursing-care office.

[Claim 6]

The matrix management method for nursing care services comprising, in the method of Claim 1: a step of preparing, by a computer, a nursing-care service

management schedule matrix formed of multiple cells in a matrix by arranging service unit time series corresponding to the number of staff members; a step of inputting nursing-care service units to be provided, in order of time, along time series, from one side of staff columns arranged in parallel in the matrix for each day of the week, by manually or automatically reading nursing-care service units to be provided to the nursing-care user required by a care manager, on the basis of a monthly service providing form D1 created by the care manager of the nursing-care office, and displaying nursing-care services to be provided in a nursing-care service schedule matrix (capacity) of the nursing-care office; and a step of preparing, by the computer of the nursing-care office, nursing-care staff members corresponding to the number of arranged service time series, for all nursing-care service distributions on the matrix, and determining shifts of the nursing-care staff members so as to fill necessary unit service cells in time series.

[Claim 7]

The matrix management method for nursing care services comprising, in Claim 6, a step of displaying, by the computer of the nursing-care office, a nursing-care user name with "No staff" on the matrix together with nursing-care time and nursing-care service items when no staff member is provided for the nursing-care service to be provided, and allocating a staff member to a service unit with "No staff" by manually or automatically moving the nursing-care user name displayed with "No staff" on the matrix to a suitable service blank cell on the matrix.

[Claim 8]

The matrix management method for nursing care services comprising, in Claim 6, a step of indicating, by the computer of the nursing-care office, "No staff" by inputting absence of a staff member or change in the shifts when a change occurs in the nursing-care schedule, displaying a nursing-care user name, scheduled nursing-care time, and nursing-care service items on the display, and shifting the time to a vacant time and allocating a corresponding staff member to adjust matching between the nursing-care user and the nursing-care staff member.

[Claim 9]

A matrix management method for nursing care services comprising: a step of determining whether a nursing-care service has been conducted as scheduled, by manually or automatically inputting, by a computer of a nursing-care office, work results of each staff member to a schedule matrix indicating a nursing-care schedule; a step of comparing the schedule matrix indicating the nursing-care schedule with a monthly service providing form D1 for each nursing-care user created by a care manager; a step of creating an actual working-hour matrix by manually or automatically inputting the actual work results of each nursing-care staff member to the schedule matrix; a step of displaying a scheduled service not provided by collating the schedule matrix with the actual work matrix; and a step of auditing a false claim for a nursing-care service not provided.

[Claim 10]

The matrix management method for nursing care services comprising, in Claim 9, a step of obtaining an actual work input signal of each staff member for each work day from individual authentication of each nursing-care staff member."

(2) Claims 1 to 7 of the scope of claims after the Amendment were as follows. (The underlines were as added by the appellant.)

"[Claim 1]

A matrix management method for nursing care services using a computer characterized by:

using the computer including manual input means, a display screen, and processing means;

<u>displaying</u>, on a computer screen, a nursing-care service management schedule matrix for each day of the week, formed by arranging the same number of nursing-care service time series, formed by sequentially placing unit service time cells in columns or rows, as the number of available staff members of one or multiple nursing-care offices for each day of the week, segmented by the multiple cells in the matrix, formed of displayed unit service cells, and indicating nursing-care capacity of the nursing-care offices with work unit cells;

and <u>executing computer processing so as to</u> display a nursing-care service distribution in a nursing-care service matrix (capacity) formed of multiple cells in a matrix of the nursing-care office displayed on the computer screen <u>when</u> nursing-care services to be provided for each day of the week <u>are manually input</u> from a monthly service providing form D1 of a nursing-care user to blank unit service cells of the nursing-care service management schedule matrix <u>displayed</u> on the computer <u>screen</u>, in order of time, along time series, from one side of staff columnss arranged in parallel in the matrix for each day of the week.

[Claim 2]

The matrix management method for nursing care services described in Claim $\underline{1}$ comprising:

using, in the method of Claim 1, the computer <u>including manual input means</u>, <u>a display screen</u>, and processing means;

<u>displaying, on the computer screen</u>, the actual working-hour matrix of the nursing-care office <u>formed by</u> inputting staff members and shifts thereof to the management matrix (capacity) formed of multiple cells in the matrix in advance;

and <u>executing computer processing so as to create</u> a monthly service providing form D1 when a vacant time on the actual working-hour matrix <u>displayed</u> on the computer <u>screen</u> of the nursing-care office <u>is manually</u> selected <u>by</u> a care manager.

[Claim 3]

The matrix management method for nursing care services described in Claim 2 comprising:

linking, in the method of Claim 2, a terminal having a digitized monthly service providing form D1 created by a care manager with a terminal which displays the actual working-hour matrix (capacity) formed by inputting in advance staff members for each day of the week of the nursing-care office and shifts thereof; and <u>executing computer processing so as to create</u> a monthly service providing form <u>when</u> the nursing-care time and nursing-care service item codes <u>are</u> input to the monthly service providing form D1 of the nursing-care user displayed on the terminal, by the care manager who <u>visually confirms vacant information of the actual working-</u> hour matrix for each day of the week of the nursing-care office.

[Claim 4]

The matrix management method for nursing care services <u>described in Claim</u> <u>3</u> which <u>executes computer processing so as to</u> complete, in Claim 3, input for booking on the actual working-hour matrix for each day of the week of the nursing-care office <u>when</u> the monthly service providing form D1 of the nursing-care user <u>is input</u>.

[Claim 5]

The matrix management method for nursing care services described in Claim 1 comprising:

<u>displaying</u>, in the method of Claim 1, using the computer, <u>on a computer</u> <u>screen</u>, a nursing-care service management schedule matrix formed of multiple cells in a matrix by arranging service unit time series corresponding to the number of staff members;

displaying nursing-care services to be provided in a nursing-care service schedule matrix (capacity) of the nursing-care office <u>when</u> nursing-care service units to be provided for the nursing-care user requested by the care manager<u>are manually input</u> on the basis of the monthly service providing form D1 created by the care manager of the nursing-care office, in order of time, along time series, from one side of staff columns arranged in parallel in the matrix for each day of the week;

and <u>executing computer processing</u> so as to fill, by the computer of the nursing-care office, necessary unit service cells in time series of <u>shifts of the nursing-care staff members</u> corresponding to the number of arranged service time series, for all nursing-care service distributions on the schedule matrix.

[Claim 6]

The matrix management method for nursing care services described in Claim 5 comprising:

displaying, in Claim <u>5</u>, by the computer of the nursing-care office, a nursing-care user name with "No staff" on the schedule matrix together with nursing-care time and nursing-care service items when no corresponding staff member is provided for the nursing-care service to be provided;

and <u>executing computer processing</u> so as to allocate a staff member to a service unit with "No staff" <u>when</u> the nursing-care user name displayed with "No staff" on the schedule matrix is <u>manually</u> moved to a suitable service blank cell on the matrix.

[Claim 7]

The matrix management method for nursing care services described in Claim 5 which <u>executes computer processing</u> so as to indicate, in Claim 5, by the computer of the nursing-care office, "No-staff" <u>when</u> absence of a staff member or change in the shifts <u>is input due to</u> a change in the nursing-care schedule, to display a nursing-care user name, scheduled nursing-care time, and nursing-care service items on the display,

to shift the time to a vacant time, and to allocate a corresponding staff member to adjust matching between the nursing-care user and the nursing-care staff member."

2. Propriety of amendment

The Amendment was made in response to violation of requirements for clarity in Article 36(6)(ii) of the Patent Act, which is "the reasons for refusal of the examiner's decision" discussed below, <u>is intended for "clarification of ambiguous statement" in Article 17-2(5)(iv)</u>, and is to cancel Claims 5, 9 and 10 before the Amendment, which <u>is intended for "cancellation of a claim or claims stipulated in Article 36(5)" in Article 17-2(5)(i)</u>.

Thus, the Amendment is legitimate.

No. 3 Regarding the Invention

Since the Amendment was made legitimately as described in "2. Propriety of amendment" of "No. 2 Regarding the Amendment (Amendment by the Written amendment submitted on January 31, 2018)", the invention (hereinafter referred to as "the Invention") according to Claim 1 of the application is specified by the matters ("(2) [Claim 1] in "No. 2 Regarding the Amendment (Amendment by the Written amendment submitted on January 31, 2018")) described in Claim 1 of the scope of claims amended by the Amendment.

No. 4 Reasons for refusal of the examiner's decision

The reasons for refusal of the examiner's decision are as described in the following "Reason 1", "Reason 2", and "Reason 3".

Since the invention according to Claim 9 of the application could be easily invented by a person who has ordinary skill in the art of the invention before the application was filed on the basis of the invention described in the following Cited documents 1 to 3 distributed in Japan or abroad before the application was filed or an invention publicly available through electric telecommunication lines, the appellant should not be granted a patent for the invention under the provisions of Article 29(2) of the Patent Act.

Since the invention according to Claim 10 of the application could be easily invented by a person who has ordinary skill in the art of the invention before the application was filed on the basis of the invention described in the following Cited documents 1 to 4 distributed in Japan or abroad before the application was filed or an invention publicly available through electric telecommunication lines, the appellant should not be granted a patent for the invention under the provisions of Article 29(2) of the Patent Act.

Cited document 1: Japanese Unexamined Patent Application Publication No. 2006-133830

[•] Reason 1 (Novelty)

Cited document 2: Japanese Unexamined Patent Application Publication No. 2001-067413

Cited document 3: Total Solution for Supporting Healthy and Prosperous Aging Society, Integrated information system for supporting improvement of operation efficiency of home-care-service providers related to nursing-care insurance, Hiroaki ONODA and one other, Hitachi Review, Japan, October 1, 2003, vol. 85, no. 10, pp. 35-40

Cited document 4: Japanese Unexamined Patent Application Publication No. 2009-288828

• Reason 2 (Eligibility for a patent)

Since the matters described in Claims 1 to 10 of the application do not meet the requirement stipulated in the main paragraph of Article 29 (1) of the Patent Act, the appellant should not be granted a patent for the invention.

• Reason 3 (Clarity)

The matters described in Claims 1 to 10 of the application do not meet the requirement stipulated in Article 36(6)(ii) of the Patent Act.

No. 5 Judgment by the body

We will examine the reasons for refusal of the examiner's decision "• Reason 2 (Eligibility for a patent)" as follows.

(1) Regarding the standpoint "Utilization of a law of nature"

Article 2(1) of the Patent Act stipulates that "'invention' in this Act means the highly advanced creation of technical ideas utilizing the laws of nature". The main paragraph of Article 29 (1) of the Patent Act stipulates that "An inventor of an invention that is industrially applicable may be entitled to obtain a patent for the said invention, except for the following". Therefore, since an invention relating to a patent application which is not a "creation of a technical idea utilizing a law of nature" does not meet the requirement stipulated in the main paragraph of Article 29 (1) of the Patent Act, the person that invents the invention may not obtain a patent for the invention.

We will examine as to whether the Invention "utilizes a law of nature" or not, as follows.

(1-1) The constituent feature, "using the computer including manual input means, a display screen, and processing means", can be recognized to specify a technical configuration of a computer.

(1-2) The constituent feature, "displaying, on a computer screen, a nursing-care service management schedule matrix for each day of the week, formed by arranging the same number of nursing-care service time series, formed by sequentially placing unit service time cells in columns or rows, as the number of available staff members of one or multiple nursing-care offices for each day of the week, segmented by the multiple cells

in a matrix, formed of displayed unit service cells, and indicating nursing-care capacity of the nursing-care offices with work unit cells" can be recognized to specify a matter of specifying specifications (format) of the "nursing-care service management schedule matrix for each day of the week," and a matter of displaying the "nursing-care service management schedule matrix for each day of the week" with the specified specifications (format) on a computer screen.

The matter of specifying the specifications (format) of the "nursing-care service management schedule matrix for each day of the week" is <u>designation of specifications (format) arbitrary arranged by a "human being", and it cannot be recognized that "a law of nature" is utilized.</u>

Meanwhile, the matter of displaying the "nursing-care service management schedule matrix for each day of the week" on a computer screen can be recognized to specify, in some way, a technical matter of "displaying" the nursing-care service management schedule matrix for each day of the week "on a computer screen".

(1-3) The constituent feature, "executing computer processing so as to display a nursing-care service distribution in a nursing-care service matrix (capacity) formed of multiple cells in a matrix of the nursing-care office displayed on the computer screen when nursing-care services to be provided for each day of the week are manually input from a monthly service providing form D1 of a nursing-care user to blank unit service cells of the nursing-care service management schedule matrix displayed on the computer screen, in order of time, along time series, from one side of staff columns arranged in parallel in the matrix for each day of the week", can be recognized to specify a matter of "manually inputting nursing-care services to be provided for each day of the week from a monthly service providing form D1 of a nursing-care user to blank unit service cells of the nursing-care service management schedule matrix displayed on the computer screen from one side of staff columns arranged in parallel in the matrix for each day of the week," and a matter of "executing computer processing so as to display a nursing-care service distribution in a nursing-care service matrix (capacity) formed of multiple cells in a matrix of the nursing-care office displayed on the computer screen".

The matter of "manually inputting nursing-care services to be provided for each day of the week from a monthly service providing form D1 of a nursing-care user to blank unit service cells of the nursing-care service management schedule matrix displayed on the computer screen from one side of staff columns arranged in parallel in the matrix for each day of the week" <u>specifies an action of a "human being", as is</u> <u>obvious from the words "manually input", and it cannot be recognized that "a law of nature" is utilized.</u>

Meanwhile, the matter of "executing computer processing so as to display a nursing-care service distribution in a nursing-care service matrix (capacity) formed of multiple cells in a matrix of the nursing-care office displayed on the computer screen", which includes the words "executing computer processing", specifies only a technical matter that merely uses a computer in order to "display in a nursing-care service matrix (capacity) formed of cells in a matrix of the nursing-care office displayed on the computer screen".

(1-4) The constituent component "A matrix management method for nursing care services using a computer", which includes the words "using a computer", <u>specifies</u> <u>only "a management method for nursing care services" that a "human being" manages</u> by use of data (input information) obtained by inputting "nursing-care services to be provided for each day of the week from a monthly service providing form D1 of a nursing-care user" by "manual input" to the "nursing-care service management schedule matrix for each day of the week " displayed on the display screen of the computer.

(1-5) As described in (1-1) to (1-4) above, the Invention, which partially uses technical means "computer" as "input means" and "display means", is, <u>as a whole, a</u> "management method for nursing care services" configured to "manually input" "nursing-care services to be provided for each day of the week from a monthly service providing form D1 of a nursing-care user" to "the nursing-care service management schedule matrix for each day of the week" based on the specifications (format) arbitrary arranged by a "human being", and "manage" it by use of data obtained by reflecting the input data (input information). Therefore, it cannot be said that the Invention is a "creation of a technical idea utilizing a law of nature" stipulated in Article 2(1) of the Patent Act. Since the Invention does not meet the requirement stipulated in the main paragraph of Article 29(1) of the Patent Act, the appellant should not obtain a patent for the invention.

(2) Regarding the standpoint "Computer software-related invention"

In view of the fact that the words "using the computer including manual input means, a display screen, and processing means", "executing computer processing", "matrix management method for nursing care services using a computer", or the like, are included in the Claim, the Invention is considered to be a so-called "computer software-related invention". Therefore, we will examine the invention from that standpoint.

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

When for software of a software-related invention, "information processing by the software is concretely realized by using hardware resources," said software is a "creation of a technical idea utilizing a law of nature."

"Information processing by the software is concretely realized by using hardware resources" means that "a specific information processor or an operation method thereof depending on intended use is constructed through cooperation of the software and the hardware resources." (see Application example of the specific technical fields of "Examination Guidelines for Patent and Utility Model" Annex B "2.1.1.2 Idea based on the standpoint of software")

(2-1) The Invention specifies, in light of the Claim, using so-called "hardware resources", such as the "manual input means", "display screen", and "processing means".

(2-2) The "information processing" to be executed by the "processing means" according to the Invention is, in light of the descriptions in the Claim, (C) "A matrix management method for nursing care services using a computer (A) "displaying, on a computer screen, a nursing-care service management schedule matrix for each day of the week, formed by arranging the same number of nursing-care service time series, formed by sequentially placing unit service time cells in columns or rows, as the number of available staff members of one or multiple nursing-care offices for each day of the week, segmented by the multiple cells in the matrix, formed of displayed unit service cells, and indicating nursing-care capacity of the nursing-care offices with work unit cells", and (B) "executing computer processing so as to display a nursing-care service distribution in a nursing-care service matrix (capacity) formed of multiple cells in a matrix of the nursing-care office displayed on the computer screen when nursing-care services to be provided for each day of the week are manually input from a monthly service providing form D1 of a nursing-care user to blank unit service cells of the nursing-care service management schedule matrix displayed on the computer screen, in order of time, along time series, from one side of staff columns arranged in parallel in the matrix for each day of the week. "

(2-3) The contents of the information processing in the above (A) and (B) are <u>merely</u> information processing, which is to be executed naturally by a computer including "manual input means", "display means", and "processing means", of simply displaying data (input information) input by input means on a computer screen.

(2-4) The contents of (C) which <u>specify</u>, as described in (1-4), <u>only "a management</u> <u>method for nursing care services" that a "human being" manages</u> by use of data (input information) obtained by inputting "nursing-care services to be provided for each day of the week from a monthly service providing form D1 of a nursing-care user" by "manual input" to the "nursing-care service management schedule matrix for each day of the week" displayed on the display screen of the computer, do not specify the contents of information processing to be executed by the computer.

(2-5) Therefore, the contents of the "information processing" to be executed by the "processing means" according to the Invention are information processing to be executed <u>naturally</u> by a computer including "manual input means", "display means", and "processing means", and it cannot be said that the above information processing is "<u>specific information processing depending on intended use</u>". The Invention, which is a "computer software-related invention", is not a "creation of a technical idea utilizing a law of nature" from any standpoint.

Thus, since the Invention is not a "creation of a technical idea utilizing a law of nature" stipulated in Article 2(1) of the Patent Act, and does not meet the requirement stipulated in the main paragraph of Article 29 (1) of the Patent Act, the appellant should not be granted a patent for the invention.

No. 6 Closing

As described above, the Invention does not meet the requirement stipulated in the main paragraph of Article 29(1) of the Patent Act, and the appellant should not be granted a patent for the Invention. Therefore, the application should be rejected without examining inventions according to other claims.

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

February 1, 2019

Chief administrative judge: WATANABE, Satoshi Administrative judge: SATO, Tomoyasu Administrative judge: MIYAKUBO, Hiroyuki