Appeal decision

Appeal No. 2018-15362

Appellant SANKYO CO. LTD.

The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2016-36703, entitled "GAME MACHINE" (the application published on September 7, 2017, Japanese Unexamined Patent Application Publication No. 2017-153508, number of claims: (2)) has resulted in the following appeal decision:

Conclusion

The appeal of the case was groundless.

Reason

No. 1 History of the procedures

The application was filed on February 29, 2016, and a notice of reasons for refusal was issued on December 20, 2017. Against that, a written opinion and a written amendment were submitted on March 7, 2018, and a notice of reasons for refusal was issued on June 13, 2018. Despite submission of a written opinion and a written amendment on August 1, 2018, a decision to dismiss amendment on the written amendment dated August 1, 2018 was made and the examiner's decision of refusal was issued on August 20, 2018 (date of delivery: August 28, 2018).

An appeal against the examiner's decision of refusal was requested on November 20, 2018, and an appeal against the decision to dismiss amendment was simultaneously petitioned. The body issued a notice of the reasons for refusal on May 29, 2019 on the premise of revoking the decision to dismiss amendment, and subsequently a written amendment and a written amendment were submitted on August 2, 2019.

No. 2 Decision to dismiss amendment dated August 20, 2018

1 Subject of decision to dismiss amendment

The decision to dismiss the amendment dated August 20, 2018 made a decision to dismiss the written amendment dated August 1, 2018 (hereinafter, referred to as "the Amendment").

2 Regarding reasons for decision to dismiss amendment and judgment of propriety

(1) Reasons for decision to dismiss amendment dated August 20, 2018

The reasons for the decision to dismiss the amendment dated August 20, 2018 in the examiner's decision are that it is obvious that the Amendment does not correspond to those aiming for restricting the Scope of Claims and is not aiming at any item of Article 17-2(5) of the Patent Act, and thus it should be dismissed in accordance with the provisions of Article 53(1) of the Patent Act.

The decision to dismiss the amendment was examined on the matter "in the specific performance, a performance executed after the progress performance is finished has the same or higher expected degree of being controlled to the advantageous state as compared with a predetermined performance capable of being executed during the progress performance" specified by the Amendment.

Then, as the specific reasons for the decision to dismiss the amendment, it is mentioned that it is proper "if the expected degree is merely specified about 'a performance' executed 'after the progress performance is finished' originally specified in Claims 1-2 before amendment, however, it is obvious that bringing out 'a predetermined performance capable of being executed during the progress performance' which was not specified in Claims 1-2 before amendment does not correspond to a restriction in a limited way".

(2) Judgment of propriety of decision to dismiss amendment dated August 20, 2018

Since "a predetermined performance capable of being executed during the progress performance" specified in Claims 1-2 after the Amendment is a subject to be compared for specifying the expected degree of "a performance" executed "after the progress performance," it is recognized that the Amendment is one specifying and limiting the expected degree of "a performance" executed "after the progress performance" specified in Claims 1-2 before amendment, by using the subject to be compared.

Therefore, the Amendment corresponds to one aimed at the restriction in a limited way which is prescribed in Article 17-2(5)(ii) of the Patent Act.

Accordingly, since the decision to dismiss the amendment dated August 20, 2018 in the examiner's decision are illegal, it is revoked.

No. 3 Regarding Invention 1

1 Invention 1

The decision to dismiss the amendment dated August 20, 2018 were revoked as described in No. 2 above. Assuming that the Amendment is revoked, regarding Claims 1-2 of the Scope of Claims after the Amendment, when the reasons for refusal (hereinafter,

referred to as "the reasons for refusal by the body") were notified on May 29, 2019, a written opinion and a written amendment were submitted on August 2, 2019.

Accordingly, the inventions according to Claim 1 and Claim 2 of the present application are specified by the matters described in Claim 1 and Claim 2 of the Scope of Claims amended by the written amendment dated August 2, 2019, and the invention described in Claim 1 (hereinafter, referred to as "Invention 1") is as follows (A-G were added by the body for separately describing Invention 1.).

"[Claim 1]

A, G A game machine performing variable display comprising:

B a holding display means for displaying a variable display which has not yet started as a holding display in any one of a plurality of kinds of display modes including a specific mode; and

C a specific performance executing means for executing a progress performance for changing measurement time, capable of suggesting an end timing of a predetermined period with a lapse of a variable display for a predetermined period of time, and executing any one of a plurality of kinds of performances after the predetermined period of time is finished to execute a specific performance for announcing whether or not to be controlled to an advantageous state advantageous to a player,

D wherein the specific performance execution means

D-1 executes the specific performance at a different rate according to whether or not the holding display corresponding to the variable display is the specific mode when executing the variable display, and

D-2 executes a performance based on measurement time of the progress performance from the plurality of kinds of performances after the progress performance is finished, in the specific performance,

E wherein in the specific performance, a performance executed after the progress performance is finished has the same or higher expected degree of being controlled to the advantageous state as compared with a predetermined performance capable of being executed during the progress performance,

C-1 wherein there are a plurality of kinds of progress performances, and the progress performance changing the same measurement time includes a first progress performance executed for a first predetermined period and a second progress performance executed for a second predetermined period that is different from the first predetermined period, and

F wherein a special performance executing means for executing a special performance based on a lapse of time from a reference time point is further provided, and the special performance executing means sets the time when a specific power supply is started as the

reference time point, and does not set the time when a power supply is started other than the specific power supply as the reference time point."

2 Outline of reasons for refusal of the body

The reasons for refusal by the body are that Invention 1 could have been easily invented by a person ordinarily skilled in the art before the application was filed, on the basis of the invention described in Cited Document 1 distributed in Japan or abroad before the application was filed, the technical matters described in Cited Documents 2 and 5, and the well-known arts, and thus 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. 2013-140

Cited Document 2: Japanese Unexamined Patent Application Publication No. 2002-35269

Cited Document 5: Japanese Unexamined Patent Application Publication No. 2016-22051 (The reasons for refusal by the body exemplifies

Cited Document 3: Japanese Unexamined Patent Application Publication No. 2013-9899 and

Cited Document 4: Japanese Unexamined Patent Application Publication No. 2013-31476, as examples of well-known arts.)

3 Matters described in the Cited Documents

(1) Cited Document 1

In Cited Document 1 cited for the reasons for refusal of the body and distributed before the filing of the present application, the following matters are described with drawings (underlines are added by the body).

(1-a) "[0055]

The first special symbol working memory lamp 34a changes to a display mode after increasing one by one in order to remember that a winning has occurred each time a game ball flows into the upper starting winning opening 26 (up to a maximum of 4 pieces), and changes to a display mode after decreasing one by one each time the variation of the special symbol is triggered by the winning. Further, the second special symbol working memory lamp 35a changes to a display mode after increasing one by one in order to remember that a winning has occurred each time a game ball flows into the variable starting winning device 28 (lower starting winning opening) (up to a maximum of 4 pieces), and changes to a display mode after decreasing one by one each time the variation of the special symbol is triggered by the winning. In this embodiment, when the first special symbol working memory lamp 34a is not lit (the number of memory is 0), even if a game ball flows into the upper starting winning opening 26 while the first special symbol can already start changing (at the time of stop display), the display mode does not change. When the second special symbol working memory lamp 35a is not lit (memory number is 0), even if a game ball flows into the variable starting winning device 28 (lower starting winning opening) while the second special symbol can already start changing (at the time of stop display), the display start changing (at the time of stop display), the display mode does not change. When the second special symbol working memory lamp 35a is not lit (memory number is 0), even if a game ball flows into the variable starting winning device 28 (lower starting winning opening) while the second special symbol can already start changing (at the time of stop display), the display mode does not change. That is, <u>the number of memories</u> (maximum 4) represented by the display mode of each special symbol working memory lamp 34a, 35a represents the number of winnings at the time when the variation of the first special symbol or the second special symbol has not yet started."

(1-b) "[0353]

[Example of Effect Image]

Next, an effect image actually displayed on the liquid crystal display 42 in the pachinko machine 1 will be described with some examples. As described above, when the big hit internal lottery is performed in the pachinko machine 1, the variation pattern (variation time) is determined under the control of the main control CPU 72, and the variation display by the first special symbol and the second special symbol is performed (pattern display means). However, as described above, the first special symbol and the second special symbol and the second special symbol themselves are lit/blinking display by the 7-segment LED, so that they are not visually appealing. Therefore, in the pachinko machine 1, the variable display effect using the effect pattern is performed as described above."

(1-c) "[0357]

Further, at the bottom of the screen of the liquid crystal display 42, <u>a marker</u> (indicated by reference symbols M1 and M2 in the drawing) indicating the number of working memories of each of the first special symbol and the second special symbol is <u>displayed</u>. These markers M1, M2 represent the number of working memories of the first special symbol and the second special symbol corresponding to the respective display numbers (the display number of the first special symbol working memory lamp 34a, and the second special symbol working memory lamp 35a), and the display number increases or decreases in conjunction with the change in the number of working memories during the game. Further, for the markers M1 and M2, in order to facilitate visual discrimination, the marker M1 corresponding to the first special symbol is displayed, for

example, in the shape of a circle (O), and the marker M2 corresponding to the second special symbol is, for example, in the shape of a heart. In the example of (A) in FIG. 27, all four markers M1 are lit to indicate that the number of working memories of the first special symbol is four, and all the markers M2 are hidden (indicated by broken lines) to indicate that the number of working memories of the second special symbol is 0 (memory number display effect executing means)."

(1-d) "[0386]

[Notice Occurrence Timing Teaching Effect (Normal Mode)]

FIGS. 29 and 39 are continuous views each partially showing an example of the effect of the notice occurrence timing teaching effect executed in the normal mode. Here, the notice occurrence timing teaching effect is an effect of teaching (notifying or announcing) the occurrence timing of a specific notice effect to the player."

(1-e) "[0409]

Further, in the illustrated example, <u>the rightmost marker M2 is displayed by a</u> <u>special display M2a</u> (for example, a mark simulating the shape of a question mark). Here, it is assumed that the lottery element corresponding to the special display M2a has been previously determined to be a big hit.

Here, <u>the "special display" is a display that suggests that the notice occurrence</u> <u>timing teaching effect may be subsequently executed.</u> In the illustrated example, since the display by the "special display M2a" is performed, it is possible to inform the player that "something may happen when the special display M2a is consumed". [0410]

In FIG. 33 (C): With the variation of the next second special symbol, the variation display effect of the effect symbol is performed. Then, since the working memory at the beginning in the memory order is consumed and the remaining working memory of the second special symbol becomes three, the effect in which the three markers M2 (including the special display M2a) remaining on the screen are respectively shifted one by one in one direction (here, to the left) is performed. Further, the fourth symbol Z2 is variably displayed at the bottom of the screen of the liquid crystal display 42.

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[0419]

In FIG. 35 (I): With the variation of the next second special symbol, the variation display effect of the effect symbol is performed. Then, since the working memory at the beginning in the memory order is consumed and there is no remaining working

<u>memory of the second special symbol</u>, the effect in which all the markers M2 on the screen are erased is performed. Further, the fourth symbol Z2 is variably displayed at the bottom of the screen of the liquid crystal display 42.

Here, finally, <u>the working memory</u> (lottery element) <u>corresponding to the special</u> <u>display M2a is consumed and the variation of the second special symbol is started.</u> On the display screen of the timer T, character information '4 seconds' is displayed."

(1-f) "[0443]

Step S710: The effect control CPU 126 executes a display mode change effect selection processing. In this processing, the effect control CPU126 performs a processing of changing the display mode of the marker representing the number of working memories of the first special symbol or the second special symbol. Specifically, when the notice occurrence timing teaching effect is executed in the fireworks mode, there is executed a processing in which an effect pattern ((B) in FIG. 33, etc.) for changing the target marker M2 to the 'special display M2a (mark of a question mark)' is selected.

When the above procedure is finished, the effect control CPU 126 returns to the effect control processing (FIG. 37)."

(1-g) "[0448]

Step S804: <u>The effect control CPU 126 confirms whether or not a specific notice</u> <u>effect is included in the effect pattern previously determined in the effect pattern previous</u> <u>determination processing (step S802)</u>. <u>Specific notice effects include, for example,</u> <u>character fall effects, group notice effects, and the like</u>."

(1-h) "[0455]

Step S814: <u>The effect control CPU 126</u> executes a waiting time calculation processing (waiting time calculation means). By executing this waiting time calculation processing, it is possible to <u>calculate the waiting time until the target specific notice effect</u>. The contents of the waiting time calculation processing will be described later with reference to another drawing.

[0456]

Step S816: <u>The effect control CPU 126 executes waiting time countdown</u> <u>processing</u> (countdown execution means). Specifically, the value of the waiting time calculated in the waiting time calculation processing (step S814) is set in the waiting time timer in the waiting time calculation processing (step S814), and therefore <u>the effect</u> <u>control CPU 126</u> executes the countdown of the waiting time timer. When the count

value reaches '0', the above-mentioned notice occurrence timing teaching effect execution flag and a timer operation flag described later are set to OFF."

(1-i) "[0469]

Step S860: <u>The effect control CPU 126 executes a notice effect previous</u> <u>determination processing</u>. In this processing, <u>the effect control CPU 126 selects</u>, <u>by</u> <u>lottery</u>, <u>the content of the notice effect</u> that should be executed during the variable display effect when the lottery element that is the target of the previous determination is actually consumed and variably displayed. The content of the notice effect is determined based on, for example, the result of the internal lottery (winning or non-winning) and the current internal state (normal state, high probability state, time reduction state). As described above, <u>the notice effect is to notify the player of the possibility that the reach state will occur during the variable display effect</u>, or the possibility of a big hit eventually. Therefore, the selection ratio of the notice effect is set low at the time of non-winning, but the selection ratio of the notice effect is set relatively high at the time of winning in order to increase the player's expectation.

By this processing, the effect control CPU 126 can previously determine the notice effect pattern selected during the variation of 'during a small hit', 'during a big hit' or 'due to a loss'".

(1-j) "[0487]

In FIG. 43 (C): While the variable starting winning device 28 is open, when the winning of the game ball to the variable starting winning device 28 (starting winning opening 28a) occurs, the variation of the second special symbol is triggered by this (time t1).

The variation of the second special symbol started from the time t1 is a variation in a state in which the time shortening function is ON, and thus is set to a shortened variation time (for example, about 3.0 seconds). <u>Time T1 from time t1 to time t2 is a</u> <u>variable time of the second special symbol</u>. Then, when the variation of the second special symbol ends at time t2, the second special symbol is stopped and displayed over the time T2 from time t2 to time t3. Time T2 from time t2 to time t3 is the stop display time of the second special symbol (for example, about 0.5 seconds). [0488]

Similarly, the variable display and the stop display of the second special symbol are repeated thereafter. That is, <u>the second special symbol is variably displayed at time</u> <u>T3 from time t3 to time t4</u>, and the second special symbol is stopped and displayed at

time T4 from time t4 to time t5. <u>The second special symbol is variably displayed at time</u> <u>T5 from time t5 to time t6</u>, and the second special symbol is stopped and displayed at time T6 from time t6 to time t7.

[0489]

Then, the variation of the second special symbol started from the time t7 is assumed to be a variation in which a comparatively long variation time which is a deviation after the big hit or the super reach is secured. However, also in this case, similarly, the second special symbol is variably displayed at time T7 from time t7 to time t13, and the second special symbol is stopped and displayed at time T8 from time t13 to time t14.

[0490]

In FIG. 43 (D): And, <u>in the variation times T1, T3, T5 of the second special symbol</u>, non-reach effect (discontinuity stop effect of the effect symbol) is executed, and at the stop display times T2, T4, T6 of the second special symbol, a stop display effect (confirmation display effect of the effect symbol), is executed.

Further, <u>in the variation time T7 of the second special symbol</u>, the scroll effect of the effect symbol is started at time t7, and the first notice effect (for example, step-up notice effect) is executed using the time from time t8 to time t9. Then, the reach state occurs at time t10, and the second notice effect (for example, group notice effect) is executed using the time from time t11 to time t12.

[0491]

The schedule of such an effect pattern has already been clarified at the time of starting the variation of the special symbol or at the time of previous determination.

In this embodiment, in the fireworks mode, the notice occurrence timing teaching effect is executed across a plurality of variations. In the fireworks mode, <u>the 'second</u> notice effect (group notice effect)' is the target of the notice occurrence timing teaching <u>effect</u>.

[0492]

Here, it is assumed that, at time ta, the lottery element of the second symbol corresponding to the reach variation started at time t7 is newly stored. In this case, the first non-reach effect is already being executed, and the next and subsequent non-reach effects and the subsequent reach effects are not yet executed. In this case, the time obtained by adding the total variation (time obtained by adding the remaining variation time Ty from the time ta to the time t3 and the variation time Tz from the time t3 to the time t7) to the time Tx1 from the time t7 to the time t11, becomes the final waiting time Tx.

Then, if the 'timer appearance effect' can be executed at time ta, the effect control CPU 126 executes the 'timer appearance effect' and at the same time performs the 'waiting time information display effect', and starts also 'the countdown effect'. However, if the 'timer appearance effect' cannot be executed at the time ta, the 'timer appearance effect', 'waiting time information display effect', and 'countdown effect' are executed at the time t3 while internally counting down the value of 'Tx'. In any case, finally, the 'second notice effect (group notice effect)' is executed at time t11".

時間短縮機能

ON (A)時間短縮機能 OFF 変動 (B) 第1特別図柄 停止 変動 (C) 第2特別図柄 停止 T7 T2 T3 тí т5 P1 リーチ前演出 リーチ後演出 (D) 演出内容 非リーチ演出 非リーチ演出 非リーチ演出 第1予告演出 第2予告演出 тx τź Tx1 Ty | 11 t0t1 t2t3 t6 t7 t8 t9 t10 t11 t12 t13 t14 ta t4 t5

Time shortening function

(1-k) Recognized matter FIG. 43

第1特別図柄	First special symbol	
第2特別図柄	Second special symbol	
演出内容	Content of effect	
変動 Variation		
停止 Stop		
非リーチ演出	Non-reach effect	
リーチ前演出	Effect before reach	
リーチ後演出	Effect after reach	
第1予告演出	First notice effect	
第2予告演出	Second notice effect	

Paragraph [0487] describes that "time T1 from time t1 to time t2 is a variable time

of the second special symbol," Paragraph [0488] describes that "the second special symbol is variably displayed at time T3 from time t3 to time t4, ...the second special symbol is variably displayed at time T5 from time t5 to time t6," Paragraph [0489] describes that "the second special symbol is variably displayed at time T7 from time t7 to time t13," Paragraph [0490] describes that "the first notice effect s executed using the time from time t8 to time t9," Paragraph [0492] describes that "at time ta, the effect control CPU 126...starts also 'the countdown effect'," and FIG. 43 discloses that a time zone from time t1 to time t13 when the variable display of the second special symbol is executed, and the time zone from time t8 to t9 when "the first notice effect" is executed is within a range of the time zone from time t8 to time t0 to time t11 when "the count from time t8 to t9 when "the first notice effect" is executed is within a range of the time zone from time t8 to time t0 to time t11 when "the count from time t8 to t9 when "the first notice effect" is executed is within a range of the time zone from time t11 when "the count from time t8 to t9 when "the first notice effect" is executed is within a range of the time zone from time t11 when "the count from time t8 to t9 when "the first notice effect" is executed is within a range of the time zone from time t10 time t10 time zone from time t10 time t11 when "the count from time t10 time

Therefore, it is described that Cited Document 1 describes that "the countdown effect" is executed with a lapse of a variable display for the second special symbol and the first notice effect is executed during the execution of "the countdown effect".

In comprehensive consideration of the description matters of (1-a) to (1-j) above, and the recognition matter of (1-k) above, it is recognized that Cited Document 1 describes the following invention (hereinafter, referred to as "Cited Invention 1") (Codes at the heads of Paragraphs are added in association with the separate descriptions of Invention 1 by the body.).

"a, g A pachinko machine 1 in which variation display by a first special symbol and a second special symbol is performed ([0353]), comprising:

b a memory number display effect executing mean displaying markers M1 and M2 (including a special display M2a) that are the number of working memories representing the number of winnings at the time when the variation of a first special symbol or a second special symbol has not yet started ([0055], [0357], [0409], and [0410]); and

c an effect control CPU 126 which executes a countdown effect counting down waiting time Tx from time ta to time t11 when a second notice effect is executed with a lapse of a variable display of the second special symbol, selects, by lottery, the content of a notice effect that is to notify a player of the possibility that a reach state will occur during the variable display effect, or the possibility of a big hit eventually, in an effect pattern previous determination processing, and executes the second notice effect from the time t11 when the waiting time Tx finishes if specific notice effects such as character fall effects, group notice effects are included in an effect pattern previously determined ([0448], [0455], [0456], [0469], [0492], and the recognized matter (1-k)),

d wherein the effect control CPU126

d-1 starts the variation of the second special symbol and executes the second notice effect when consuming a working memory corresponding to the special display M2a that is a display suggesting that a notice occurrence timing teaching effect that is an effect of teaching the occurrence timing of the second notice effect may be subsequently executed ([0386], [0419], and [0491]),

d-2 executes the countdown effect to the time t11 and executes the second notice effect from the time t11 ([0492]), and

e executes the second notice effect from the time t11 and executes a first notice effect during the countdown effect ([0492], the recognized matter (1-k))."

(2) Cited Document 2

In Cited Document 2 cited for the reasons for refusal of the body and distributed before the filing of the present application, the following matters are described with drawings (underlines are added by the body).

(2-a) "[0024] [Second Embodiment] Next, the second embodiment is a diagram in which the present invention is applied to a first-type pachinko machine (one-line machine) as in the first embodiment, and will be described with reference to FIGS. 8 to 14. Here, FIG. 8 is a timing chart showing a display mode of the screen 20a. FIGS. 9 to 13 each show a display mode displayed on the screen 20a. In FIGS. 9 to 13, the same elements as those shown in FIGS. 4 to 7 are designated by the same reference numerals. Since the main configuration and processing procedure of <u>the pachinko machine 10</u> are the same as those in the first embodiment, only the display mode of the screen 20a different from the first embodiment will be described in the second embodiment.

[0025] When a pachinko ball wins the first-type starting opening 30 as in the first embodiment, as shown in FIG. 8, three symbol display columns 110, 130, and 150 on the screen 20a of the special symbol display 20 start variation almost simultaneously in the forward variation direction (direction of an arrow 10 in FIG. 2) (for example, at a high speed at which the symbol cannot be recognized). Then, after that, first, the left symbol display column 110 stops variation. As shown in FIG. 9, for example, the symbol '8' is displayed in the left symbol display column 110. Then, based on the random number read in advance, a reach state is formed, and the reach effect is started. Then, when it is announced that a big hit symbol array (corresponding to a predetermined display mode of the present invention) is formed, by the time the symbol display columns 130 and 150 stop variation and the symbols are fixed, the reach effect countdown, reach effect, and the like are performed.

[0026] The countdown of the reach effect is to notify the timing when the reach effect is displayed on the screen 20a. Specifically, as shown in FIG. 10, for example, the countdown symbol 90 (corresponding to the notification means of the present invention) is displayed at the lower right position of the screen 20a, and the countdown by the countdown symbol 90 is started from this point. In the second embodiment, the countdown symbol 90 first displayed at the start of notification is '3', and this value is the time required until the reach state is formed and the reach effect is started. In this case, with the passage of time, the value of the countdown symbol 90 decreases in the order of '3' \rightarrow '2' \rightarrow '1'... and the countdown will be continued until the countdown symbol 90 becomes '0'. Further, the countdown effect is performed in accordance with the countdown symbol 90.

[0027] In this countdown effect, for example, a character 92 (car symbol in the second embodiment) that effects the countdown is displayed on the screen 20a. As shown in FIG. 14, the character 92 has, for example, three types of symbols of an airplane, a ship, and a car, and the type of the character 92 selected and displayed corresponds to the type of the countdown symbol 90 at the start of the countdown. In the second embodiment, the countdown symbol 90 at the start of the countdown is '3', and therefore the corresponding vehicle symbol becomes the character 92 that effects the countdown. Then, the moving image of the character 92 is displayed on the screen 20a until the countdown of the countdown symbol 90 is finished. For example, as shown in FIGS. 10 and 11, a moving image in which the symbol of the car moves from the right side to the left side of the screen 20 is displayed during the countdown. Then, as shown in FIG. 11, when the countdown symbol 90 becomes '0' and the countdown and the countdown effect are finished, the right symbol display column 150 stops variation in accordance with this, and based on the random number read in advance, a reach symbol array (reach state) is formed. Then, when the reach symbol array is formed, the reach effect by the reach effect symbol 94 is subsequently started. In addition, the reach effect by the reach effect symbol 94 corresponds to the notification means (means for notifying that the big hit symbol array is formed) of the present invention.

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[0029] <u>As shown in FIG. 14, this reach effect symbol 94 has three types of backgrounds,</u> for example, sky, sea, and land, and it is decided which background is displayed as the reach effect symbol 94 according to the type of the character 92. In the second embodiment, the character 92 is a car symbol, and therefore the land background corresponding to this is the reach effect symbol 94. During the reach production, a moving image of the car with the land as the background is displayed on the screen 20a.

Further, in the reach state, for example, as shown in FIGS. 11 and 12, the symbol '8' is stopped in the left symbol display column 110 and the right symbol display column 130 to form the reach line L2. Then, finally, the symbols are fixed by stopping the variation of the middle symbol display column 130. For example, as shown in FIG. 13, when the symbol '8' is displayed in the middle symbol display column 130, the big hit symbol array '8,8,8' is formed on the reach line L2."

(2-b) Recognized matter FIG. 14

カウントダウン開始時の カウントダウン用國柄80,90	キャラクター82,92	リーチ演出用協柄84,94	大当たり確率
7	飛行機	空の背景	80%
5	8 3	海の育景	50%
3	ж	陸の背景	30%

カウントダウン開始前のカウントダウン用図柄80、90 Countdown symbols 80, 90 before starting the countdown キャラクター82、92 Characters 82, 92 リーチ演出用図柄84、94 Reach effect symbols 84, 94 大当たり確率 Big hit probability 飛行機 Airplane 空の背景 Sky background 船 Ship 海の背景 Sea background 重 Car 陸の背景 Land background

Considering the description of Paragraph [0026] "the countdown symbol 90 first displayed at the start of notification is '3', and this value is the time required until the reach state is formed and the reach effect is started," the description of Paragraph [0029] "as shown in FIG. 14, this reach effect symbol 94 has three types of backgrounds, for example, sky, sea, and land," and the correspondence relationship between "7," "5," and "3" of the countdown symbol 90 and "sky background," "sea background," and "land background"

of the reach effect symbol 94, which are the disclosed contents of FIG. 14, it is recognized that a reach effect respectively changing the reach effect symbol 94 to "sky background," "sea background," and "land background" according to the time "7," "5," and "3" required until the reach effect is started.

In comprehensive consideration of the described matter of (2-a) above and the recognized matter (2-b) above, it is recognized that Cited Document 2 describes the following matter (hereinafter, referred to as "the technical matter described in Cited Document 2") (Code at the heads of Paragraphs are added in association with the separate descriptions of Invention 1 by the body.).

"a, g A pachinko machine 10 in which three symbol display columns 110, 130, and 150 perform variation ([0024] and [0025]),

d-2 wherein a reach effect respectively changing a reach effect symbol 94 to 'sky background,' 'sea background,' and 'land background' according to the time '7,' '5,' and '3' required until the reach effect is started ([0026], [0027], [0029], and the recognized matter (2-b))."

(3) Cited Document 5

In Cited Document 5 cited for the reasons for refusal of the body and distributed before the filing of the present application, the following matters are described with drawings (underlines are added by the body).

(5-a) "[0014]

<u>The pachinko gaming machine 1</u> is composed of an outer frame (not shown) formed in a vertically long rectangular shape, and a game frame that is openably and closably attached to the inside of the outer frame. Further, the pachinko gaming machine 1 has a glass door frame 2 formed in a frame-shape which is openably and closably provided in the game frame. The game frame includes a front frame (not shown) installed to be openable and closable with respect to the outer frame, a mechanism plate (not shown) to which mechanical parts and the like are attached, and various parts attached to them (excluding the board 6 described below).

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[0016]

Near the center of the game area 7, an effect display device 9 composed of a liquid crystal display device (LCD) is provided. On the display screen of the effect display device 9, there is an effect symbol display area for <u>performing the variable display of effect symbols in synchronization with the variable display of the first special symbol or</u>

the second special symbol. Therefore, the effect display device 9 corresponds to a variable display device that variably displays effect symbols. In the effect symbol display area, for example, there is a symbol display area that variably displays the three effect symbols for decorations (for effect) of 'left', 'middle', and 'right'. The symbol display areas include 'left', 'middle', and 'right' symbol display areas, but the position of the symbol display area does not have to be fixed on the display screen of the effect display device 9, and the three areas of the symbol display area may be separated. The effect display device 9 is controlled by the effect control microcomputer mounted on the effect control board. When the variable display of the first special symbol is being executed by the first special symbol display device 8a, the effect control microcomputer causes the effect display device 9 to perform the effect display along with the variable display, and when the variable display of the second special symbol is being executed by the second special symbol display device 8b, the effect control microcomputer causes the effect display device 9 to perform the effect display along with the variable display, so that it is possible to easily grasp the progress status of the game."

(5-b) "[0256]

Next, the operation of the effect control means will be described. First, the In this embodiment, simultaneous effect is simultaneous effect will be described. executed for a predetermined period based on the satisfaction of a predetermined condition. The simultaneous effect is simultaneously executed in a plurality of gaming machines installed in the game store when the predetermined condition is satisfied. Specifically, a predetermined condition is established when 60 minutes have passed since the power was turned on or when the previous simultaneous effect was started, and an effect of the mode in which a predetermined moving image reproduction is simultaneously started for a predetermined period (for example, 5 minutes) is executed as a simultaneous effect. That is, the simultaneous effect is executed every 60 minutes after the power is turned on. It is expressed that the effect is executed simultaneously by a plurality of gaming machines, specifically, each gaming machine executes the same effect at the same timing, and it seems that the effects are being executed all at once as a phenomenon when a plurality of gaming machines are arranged side by side. For example, each gaming machine obtains time information from the real-time clock 108 to perform timekeeping, and when the timekeeping result satisfies a predetermined condition (60 minutes have passed since the power was turned on or when the previous simultaneous effect was started), by starting the simultaneous effect, the effect can be started at the same timing on a plurality of gaming machines.

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[0261]

In the effect control process, the effect control CPU 101 first confirms whether or not the time measurement timer has been set (step S703a). When the time measurement timer has not been set, the effect control CPU 101 reads full set time information (day/hour/minute/second) from the real-time clock 108 (step S703b). In step S703b, the read time information is stored as reference time information. Next, the effect control CPU 101 sets the time measurement timer based on the simultaneous effect setting data (step S703c). Then, processing proceeds to step S702. [0262]

The time measurement timer is realized by the effect control CPU 101 and is used to measure the timing of starting the simultaneous effect. In this embodiment, in step \$703c, a value is set in the time measurement timer so that the time measurement timer times out at the timing defined by the simultaneous effect setting data (the initial value is the timing when 60 minutes have passed since the power was turned on or the previous simultaneous effect was started). For example, when the time information read from the real-time clock 108 is June 11, 9:00, 30 minutes, and 0 seconds, a value corresponding to 60 minutes until 10:30 is set in the time measurement timer in step S703c. Specifically, the time measuring timer is set to 180,000 as a value corresponding to 60 minutes in step S703c, and the value is decremented by 1 in step S750b of the time measuring processing (details will be described later) executed every 20 ms. Then, when the value of the time measurement timer becomes 0; that is, when the time measurement timer times out, it indicates that 60 minutes (20 ms×180000) have elapsed, so that it is considered that the time measurement result satisfies the predetermined condition, and the simultaneous effect is started. In this embodiment, since the simultaneous effect is executed every time the period (initial value is 60 minutes) indicated in the simultaneous effect setting data after the power was turned on, on the basis of the time information read when the power was turned on in step S703b and the period indicated in the simultaneous effect setting data, each timing (hour/minute/second) at which the simultaneous effect is started may be stored. For example, when the time information read in step S703b is June 11, 9:00, 30 minutes, and 0 seconds, each timing (hour, minute, second) at which the simultaneous effect is started may be stored, such as 10:00, 30 minutes, and 0 seconds, 11:00, 30 minutes, and 0 seconds, and 12:00, 30 minutes, ..., 23:00, 30 minutes, 0 seconds."

(5-c) "[0292]

In this embodiment, <u>the simultaneous effect setting data</u> are stored in the backup RAM area of the effect control microcomputer 100, and <u>are initialized when the power-on instruction command</u> (initialization instruction command) <u>is received</u> (set to start the simultaneous effect when 60 minutes have passed since the power was turned on or the previous simultaneous effect was started, as an initial value), and it is not initialized when the power failure recovery instruction command is received. Therefore, the start timing of the simultaneous effect is initialized when the gaming machine is cold started, and the backed-up settings are inherited when the gaming machine is hot started."

In comprehensive consideration of the described matters of (5-a) to (5-c) above, it is recognized that Cited Document 5 describes the following matter (hereinafter, referred to as "the technical matter described in Cited Document 5") (Codes at the heads of Paragraphs are added in association with the separate descriptions of Invention 1 by the body.).

"a, g A pachinko machine 1 ([0014]) performing the variable display of a first symbol or a second symbol and variable display of effect symbols ([0014] and [0016]), comprising:

f an effect control means in which a simultaneous effect is executed when 60 minutes have passed since power was turned on ([0256], [0261], and [0262]), and simultaneous effect setting data are not initialized when a power failure recovery instruction command is received ([0292])".

4 Comparison

Invention 1 and Cited Invention 1 are compared (Headings (a) to (g) correspond to the specifying matters A to G of Invention 1).

(a) "Variation display by a first special symbol and a second special" and "a pachinko machine 1" in the component a of Cited Invention 1 respectively correspond to "variable display" and "a game machine" in the component A of Invention 1.

Then, the component a of Cited Invention 1 corresponds to the component A of Invention 1.

(b) "Displaying markers M1 and M2 (including a special display M2a) that are the number of working memories representing the number of winnings at the time when the variation of a first special symbol or a second special symbol has not yet started" and "a memory number display effect executing means" in the component b of Cited Invention 1 respectively correspond to "a holding display" "displayed" in "any one of a plurality of kinds of display modes including a specific mode, regarding a variable display which has not yet started" and "a holding display means" of the component B of Invention 1.

Then, the component b of Cited Invention 1 corresponds to the component B of Invention 1.

(c) "Waiting time Tx from time ta to time t11 when a second notice effect is executed," "counting down with a lapse of a variable display of the second special symbol" and "a countdown effect" in the component c of Cited Invention 1 respectively correspond to "measurement time capable of suggesting an end timing of a predetermined period," "changing with a lapse of a variable display," and "a progress performance" of the component C of Invention 1.

Further, "from the time t11 when the waiting time Tx finishes," "selects, by lottery, the content of a notice effect that is to notify a player of the possibility that a reach state will occur during the variable display effect, or the possibility of a big hit eventually," "executes the second notice effect," and "an effect control CPU 126" in the component c of Cited Invention 1, respectively correspond to "after the predetermined period of time is finished," "executing any one of a plurality of kinds of performances to execute a specific performance for announcing whether or not to be controlled to an advantageous state advantageous to a player," and "a specific performance executing means" in the component C of Invention 1.

Then, the component c of Cited Invention 1 corresponds to the component C of Invention 1.

(d), (d-1), and (d-2) It is as described in (c) above that "an effect control CPU 126" of Cited Invention 1 corresponds to "a specific performance executing means" of Invention 1.

Further, in the component d-1 of Cited Invention 1, "starts the variation of the second special symbol and executes the second notice effect when consuming a working memory corresponding to the special display M2a" means that when consuming working memories corresponding to markers M1 and M2 other than the special display M2a, although the variation of the second special symbol is started, the second notice effect is not executed, so that the component d-1 corresponds to "executes the specific performance at a different rate according to whether or not the holding display corresponding to the variable display is the specific mode when executing the variable display" in the component D-1 of Invention 1.

Further, "executes the second notice effect from the time t11" in the component d-2 of Cited Invention 1 corresponds to "executes a performance" "in the plurality of kinds of performances after the progress performance is finished" in the component D-2 of Invention 1.

Then, the components d, d-1, and d-2 of Cited Invention 1 and the components D, D-1, and D-2 of Invention 1 are common in the point that "the specific performance execution means executes the specific performance at a different rate according to whether or not the holding display corresponding to the variable display is the specific mode when executing the variable display, and executes a performance in the plurality of kinds of performances after the progress performance is finished, in the specific performance".

(e) "The second notice effect" "executed" "from the time t11" and "the first notice effect" "executed" "during the countdown effect" in the component e of Cited Invention 1 respectively correspond to "a performance executed after the progress performance" and "a predetermined performance capable of being executed during the progress performance" in the component E of Invention 1.

Then, the component e of Cited Invention 1 and the component E of Invention 1 are common in the point that "in the specific performance," "a performance executed after the progress performance is finished" and "a predetermined performance capable of being executed during the progress performance" are provided.

(g) It is as described in (a) above that "a pachinko machine 1" of Cited Invention 1 corresponds to "a machine" of Invention 1.

Then, the component g of Cited Invention 1 corresponds to the component G of Invention 1.

Therefore, the corresponding feature and the different features between Invention 1 and Cited Invention 1 are as follows.

(Corresponding Feature)

"A, G A game machine performs variable display comprising:

B a holding display means for displaying a variable display which has not yet started as a holding display in any one of a plurality of kinds of display modes including a specific mode; and

C a specific performance executing means for executing a progress performance for changing measurement time capable of suggesting an end timing of a predetermined

period with a lapse of a variable display for a predetermined period of time, and executing any one of a plurality of kinds of performances after the predetermined period of time is finished to execute a specific performance for announcing whether or not to be controlled to an advantageous state advantageous to a player,

D wherein the specific performance execution means

D-1 executes the specific performance at a different rate according to whether or not the holding display corresponding to the variable display is the specific mode when executing the variable display, and

D-2' executes a performance in the plurality of kinds of performances after the progress performance is finished, in the specific performance,

E' wherein in the specific performance, a performance executed after the progress performance is finished, and a predetermined performance capable of being executed during the progress performance are provided".

(Different Feature 1) (The component D-2)

Regarding "a performance is executed from the plurality of kinds of performances after the progress performance is finished, in the specific performance" in the component D-2, a performance "based on measurement time of the progress performance" is executed in Invention 1, whereas Cited Invention 1 does not specify that point.

(Different Feature 2) (The component E)

Regarding "a performance executed after the progress performance" is finished and "a predetermined performance capable of being executed during the progress performance" in the component E, the former "has the same or higher expected degree of being controlled to the advantageous state as compared with" the latter in Invention 1, whereas although the former and the latter are provided, the magnitude of expected degree in the former and the latter is unclear in Cited Invention 1.

(Different Feature 3) (The component C-1)

Invention 1 comprises the component C-1 wherein "there are a plurality of kinds of progress performances, and the progress performance changing the same measurement time includes a first progress performance executed for a first predetermined period and a second progress performance executed for a second predetermined period that is different from the first predetermined period," whereas Cited Invention 1 does not comprise the component.

(Different Feature 4) (The component F)

Invention 1 includes the component F wherein a special performance executing means for executing a special performance based on a lapse of time from a reference time point is further provided, and the special performance executing means sets the time when a specific power supply is started as the reference time point, and does not set the time when a power supply other than the specific power supply as the reference time point," whereas Cited Invention 1 does not include the component.

5 Judgment

The above-mentioned different features are examined. (Regarding Different Feature 1)

The technical matter described in Cited Document 2 is as described in "No. 3 3(2)" above.

"The time '7, 5, and 3' required until the reach effect is started" and "a reach effect respectively changing a reach effect symbol 94 to 'sky background,' 'sea background,' and 'land background" of the technical matter described in Cited Document 2 respectively correspond to "measurement time of the progress performance" and "a performance based on measurement time of the progress performance" in the component D-2 of Invention 1.

Then, Cited Invention 1 and the technical matter described in Cited Document 2 are common in that they are game machines executing a plurality of kinds of notice effects, and are common in the point of having function and effects transmitting the timing of an effect to a player by a countdown effect to make him/her aware of the points to be noticed, so that it would have been easy for a person skilled in the art to conceive of the configuration of Invention 1 associated with the Different Feature 1 by applying the technical matter described in Cited Document 2 in Cited Invention 1, and configuring to execute a performance based on measurement time of a progress performance from a plurality of kinds of performances after the progress performance is finished.

(Regarding Different Feature 2)

In the technical field of game machines, it is well-known technology that when executing a plurality of notice effects suggesting a possibility to be controlled to an advantageous state, the later performance has the same or higher expected degree of being controlled to the advantageous state as compared with the previous performance. (See, for example, the technology in which the later notice effect pattern has the same or higher expected degree of a big hit by regulating that when the notice effect pattern YP2 is previously determined, the notice effect pattern YP1 having a lower expected degree of a

big hit than that is not determined, and when the notice effect pattern YP3 is previously determined, the notice effect patterns YP1 and YP2 having a lower expected degree of a big hit that that are not determined ([0108]) of Cited Document 3 illustrated as a well-known art for the reasons of refusal by the body, and the technology in which the later notice effect has the same or higher expected degree of a big hit by setting the rank of the notice effect performed after the second time so that a rank with a low degree of expectation is not selected, according to the rank of the notice effect displayed one time before (just before) that ([0733]) similarly illustrated as the well-known art in the reasons of refusal by the body.)

Then, Cited Invention 1 and the well-known arts mentioned above are common that they are game machines that execute a plurality of notice effects to enhance the expectation of a big hit and improve amusement of the games.

Therefore, considering the well-known arts mentioned above, it would have been easy for a person ordinarily skilled in the art to conceive of the configuration of Invention 1 associated with the Different Feature 2 by making a performance executed after the progress performance have the same or higher expected degree to be controlled to an advantageous state as compared with a predetermined performance capable of being executed during the progress performance.

(Regarding Different Feature 3)

It is a well-known art that in a game machine performing a countdown effect, there are a plurality of kinds of progress performances, and the progress performance changing the same measurement time includes a first progress performance executed for a first predetermined period and a second progress performance executed for a second predetermined period that is different from the first predetermined period. (See, for example, the technology setting "normal notice" in which an increased effect of remaining time displayed in a region r of a timer image t is not executed, "special notice" in which the increase effect of the remaining time is executed, in the timer notice effect indicating a timing when a notice subject effect is started in Japanese Unexamined Patent Application Publication No. 2016-16280 ([0130], [0134], FIGS. 28 and 29) ("the remaining time" having passed while "the remaining time increase effect is not executed," "normal notice," "the remaining time" having passed while "the remaining time increase effect is executed," and "special notice" respectively correspond to "a first predetermined time," "a first progress performance," "a second predetermined period," and "a second progress performance" of Invention 1), the technology continuing the countdown of the remaining time displayed in the time display portion 40b at the same pace in the mission

effect, and the technology slowing down the base of the countdown to delay the timing for indicating the effect of Japanese Unexamined Patent Application Publication No. 2013-22100 ([0220]-[0223]) ("remaining time" having passed while "continuing the countdown at the same pace," "displaying" the "remaining time," "remaining time" having passed while "slowing down the pace of the countdown," and "displaying" the "remaining time" of this technology, respectively correspond to "a first predetermined time," "a first progress performance," "a second predetermined period," and "a second progress performance" of Invention 1.)

Then, Cited Invention 1 and the well-known arts mentioned above are common in that they are game machines that execute a progress performance displaying a finish timing of a predetermined period and enhancing the performance effect to improve amusement of the games.

Therefore, considering the well-known arts mentioned above, it would have been easy for a person ordinarily skilled in the art to conceive of the configuration of Invention 1 associated with the Different Feature 3 by providing a plurality of kinds of progress performance, and making the progress performance changing the same measurement time have a configuration that includes a first progress performance executed for a first predetermined period and a second progress performance executed for a second predetermined period that is different from the first predetermined period.

(Regarding Different Feature 4)

The technical matter described in Cited Document 5 is as described in "No. 3 3 (3) above".

Here, "since power was turned on," "a simultaneous effect," "an effect control means," and "simultaneous effect setting data are not initialized when a power failure recovery instruction command is received" of the technical matter described in Cited Document 5, respectively correspond to "a reference time point" "when a specific power supply is started," "based on a lapse of time from a reference time point," "a special performance," "a special performance executing means," and "does not set the time when a power supply other than the specific power supply as the reference time point" in the component F of Invention 1.

Then, in the technical field of game machines, it is an obvious object to improve amusement of games, and it is common general technical knowledge to assemble various performances, so that it would have been easy for a person ordinarily skilled in the art to conceive of the configuration of Invention 1 associated with the Different Feature 4 by applying to Cited Invention 1 the matter in which a special performance executing means for executing a special performance based on a lapse of time from a reference time point is provided, and the special performance executing means sets the time when a specific power supply is started as the reference time point, and does not set the time when a power supply other than the specific power supply as the reference time point, which is the technical matter described in Cited Document 5.

Further, examining the function and effect exerted by Invention 1, the function and effect exerted by Invention 1 could easily be conceived by a person ordinarily skilled in the art, from Cited Invention 1, the technical matters described in Cited Documents 2 and 5, and the well-known arts mentioned above, and it cannot be said that it is a particular one.

Therefore, Invention 1 could have been easily made by a person ordinarily skilled in the art on the basis of Cited Invention 1, the technical matters described in Cited Documents 2 and 5, and the well-known arts mentioned above, and thus the appellant should not be granted a patent for the Invention under the provisions of Article 29(2) of the Patent Act.

6 Regarding Appellant's allegation

The appellant alleges as follows in the written opinion.

"Cited Documents 1 to 6 do not disclose and suggest at least the feature E among the features of the Invention (the feature that 'there are a plurality of kinds of progress performances, and the progress performance changing the same measurement time includes a first progress performance executed for a first predetermined period and a second progress performance executed for a second predetermined period that is different from the first predetermined period (for example, a longer period than the first predetermined period by restarting after time measuring action is stopped in the middle of time measurement for a predetermined period)').

Specifically, although Cited Documents 1 and 2 are supposed to disclose the countdown notice, they do not disclose that the countdown stops midway, so they do not disclose the idea that the time required for the countdown (predetermined period) is different even if the count value is the same.

Further, Cited Documents 3 and 4 (well-known arts) merely disclose that there is no so-called fall in the expected degree of the effect, and Cited Documents 5 and 6 are cited as examples of other features of the Invention, and do not disclose progress performances or performances after the progress performances are finished. Therefore, even if Cited Documents 1 to 6 are combined, the feature E cannot be conceived."

However, the idea of the feature E alleged in the written opinion is as judged in "No. 3 5 (Regarding Different Feature 3)," and the appellant's allegation cannot be accepted.

7 Closing

Invention 1 could have been easily made by a person ordinarily skilled in the art on the basis of the invention described in Cited Document 1, the technical matters described in Cited Documents 2 and 5, and the well-known arts mentioned above, and thus the appellant should not be granted a patent for the Invention under the provisions of Article 29(2) of the Patent Act.

Accordingly, the present application should be rejected without examining inventions according to the other claims.

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

October 29, 2019

Chief administrative judge: YOSHIKAWA, Yasushi Administrative judge: OYA, Jun Administrative judge: TAKAHASHI, Yusuke