

Patent Right	Date	October 17, 2018	Court	Intellectual Property High Court, Second Division
	Case number	2017(Gyo-Ke)10232		
- A case in which the invention titled "Steak providing method" is applicable to "creation of the technical ideas utilizing the laws of nature" prescribed in Article 2, paragraph(1) of the Patent Act.				

Case type : Rescission of Patent Revocation Decision

Result : Granted

References : Article 2, paragraph(1) of the Patent Act

Number of related rights, etc. : Patent No. 5946491, Opposition No. 2016-701090

### Summary of the Judgment

1. The present case is a lawsuit against the revocation decision based on the patent opposition to the grant of a patent related to the patent invention titled "Steak providing system."

The revocation decision determined that [i] The present patent invention 1 has its nature directed to an economic activity and its entirety is not applicable to "creation of the technical ideas utilizing the laws of nature" and thus, it is not applicable to the prescribed "invention" in Article 2, paragraph(1) of the Patent Act; and [ii] The present patent inventions 2 to 6 obtained further restricting the present patent invention 1 are determined to be not applicable to the "invention" prescribed in the paragraph, and the present patent (Patent No. 5946491) was revoked.

2. The judgment held as follows and rescinded the revocation decision.

(1) Grounds for rescission 1 (error in determination on invention applicability of the patent invention 1)

A. The present patent invention 1 has an object (problem) to provide steak in a preferable amount inexpensively to customers. In addition, [i] By means of configuration executing the providing method of steak (the present steak providing method) defined by the constituent feature A, the customer can eat a preferable amount of steak, and since seats for the customers can be increased in a small area and a seat turnover rate can be improved, the steak can be provided inexpensively. Moreover, [ii] By means of the configuration including "label," "measuring apparatus," and "seal (mark)" (the present measuring apparatus, etc.) defined by the constituent features B to F, there can be prevented confusion of meat cut in accordance with a request of a customer with the meat of another customer.

B. The present steak providing method specifies means executed by a human from reception of an order to serving at a steak restaurant.

Therefore, the configuration according to the execution of the present steak providing method cannot be considered to provide substantial technical means as the "steak providing system."

C. The present measuring apparatus, etc. are specific articles or equipment (devices) such as "label," "measuring apparatus," and "seal (mark)" and exert the effect of preventing confusion of the meat cut in accordance with a request of a customer with the meat of another customer by "stating a table number to which a customer was guided" on the "label," by "measuring meat cut in accordance with a request by the customer" by a "measuring apparatus," by "outputting a seal on which the measured meat amount and the table number stated on the label are stated," and by using this "seal" as a "mark discriminating the meat cut in accordance with the request of the customer from that of another customer."

Since information of the table number can be accurately carried by using the label, when the information of the table number is combined with the information of the amount of meat ordered by the customer in the measuring apparatus, confusion with another table number (another customer) can be suppressed, and it is found that stating the table number on the "label" and by connecting the information on the table number have a technical meaning in a relationship with the effect of preventing confusion with another customer's meat. Moreover, since the amount of meat is different depending on a customer, to combine the table number and the amount of meat to output by the "measuring apparatus" is found to have a technical meaning in a relationship with the effect of preventing confusion of another customer's meat. Furthermore, since the "seal" can prevent confusion with the mark for another customer by being fixed to the customer's meat or an order slip, to utilize the seal as a mark for preventing confusion with another customer's meat is found to have a technical meaning in the relationship with the effect of preventing confusion with another customer's meat.

On the other hand, the effect of preventing confusion with another customer's meat satisfies a request unavoidably generated by a need to associate the cut meat with the customer who requested the amount of the meat on a one-to-one basis, since the configuration for executing the present steak providing method includes a "step of asking the customer of a steak amount" and a "step of cutting the asked steak amount from a meat block" as the object (problem) to provide a preferable amount of steak to a customer. As described above, the aforementioned effect is found to directly contribute to solving of the problem of the present patent invention 1.

D. As described above, in view of the technical meanings such as a technical problem of the present patent invention 1, constitution of technical means for solving

the problem, an effect led by the constitution, etc., the present patent invention 1 utilizes the specific article or equipment (the present measuring apparatus, etc.) such as the label, measuring apparatus, and seal (mark) as the technical means for solving the problem of the present patent invention 1 by preventing confusion with another customer's meat, and the entirety can be considered to be applicable to the "creation of the technical ideas utilizing the laws of nature."

Therefore, the present patent invention 1 is applicable to the "invention" provided for in Article 2, paragraph(1) of the Patent Act.

(2) Grounds for rescission 3 (error in determination on invention applicability of the present patent inventions 2 to 6)

The present patent inventions 2 to 6 are obtained by restriction of limiting the constitution of the present patent invention 1, but the present patent invention 1 is applicable to the "invention" provided for in Article 2, paragraph(1) of the Patent Act as described in the aforementioned (1). Therefore, the present patent inventions 2 to 6 are also applicable to the "invention" provided for in the paragraph.

Judgment rendered on October 17, 2018

2017 (Gyo-Ke) 10232 Case of Seeking Rescission of Patent Revocation Decision

Date of Conclusion of Oral Argument September 26, 2018

#### Judgment

Plaintiff: Pepper Food Service Co., Ltd.

Defendant: Commissioner of the Japan Patent Office

Supporting intervener of the Defendant: Y

#### Main text

1. The decision rendered by the Japan Patent Office on November 28, 2017 for the case of Opposition No. 2016-701090 shall be rescinded.
2. The defendant-supporting intervener shall bear the court costs incurred by supporting intervention, and the defendant shall bear the remaining court costs.

#### Facts and reason

No. 1. Judicial decision sought by the plaintiff

Same effect as main text

No. 2. Background

The present case is a lawsuit against a revocation decision based on a patent opposition. The point of dispute is presence of an error in determination on invention applicability.

1. Outline of procedures, etc. at the JPO

(1) The plaintiff filed a patent application on June 4, 2014 (hereinafter, referred to as the "date of filing of the present application") on the invention titled "Steak providing system" (Patent Application No. 2014-115682) and was granted registration of establishment of the patent on June 10, 2016 (Patent No. 5946491, Number of claims 6, hereinafter, referred to as the "present patent" Exhibit Ko 1).

(2) The defendant-supporting intervener made an opposition to the grant of a patent for claims 1 to 6 of the present patent on November 24, 2016 (Opposition No. 2016-701090, Exhibit Ko 18), and the plaintiff made a request for correction for correcting a scope of the claims as of September 22, 2017 (hereinafter, referred to as the "present correction" Exhibit Ko 8).

Japan Patent Office made a decision on November 28 in the same year stating

"correction of the scope of claims of Patent No. 5946491 as the scope of claims attached to the request for correction is approved for correction for the corrected claims [1 to 6]. The patent related to claims 1 to 6 in Patent No. 5946491 is revoked," and the copy was delivered to the plaintiff on December 7 in the same year.

## 2. Summary of the present patent invention

The description in the scope of claims of the invention according to claims 1 to 6 of the present patent after the present correction (hereinafter, referred to as the "present patent invention 1" or the like according to the number of claim together with the "present patent invention") is as follows (Exhibit Ko 8, underlined portions refer to corrected portions; the Description and Drawings [Exhibit Ko 1] of the present patent after the present correction are referred to as the "present description").

(1) Present patent invention 1 (for convenience, illustrated separately in accordance with the separate description by the plaintiff; Hereinafter, referred to as the "constituent element A" or the like in accordance with the given reference character).

[Claim 1]

A. a steak providing system for implementing a method of providing steak including a step of guiding a customer to a table of a buffet-style meal, a step of asking the customer about an amount of steak, a step of cutting the asked amount of steak out of a meat block, a step of grilling the cut meat, and a step of conveying the grilled meat to the customer's table, comprising:

B. a label on which a table number to which the customer was guided is described;

C. a measuring apparatus for measuring the meat cut in accordance with a request by the customer; and

D. a mark for distinguishing the meat cut in accordance with the request by the customer from that of another customer, wherein

E. a seal on which the amount of the meat measured by the measuring apparatus and the table number described on the label are described is output; and

F. the mark is the seal on which the amount of meat output by the measuring apparatus and the table number are described.

G. the steak providing system defined by the above constituent features.

(2) Present patent invention 2

[Claim 2]

The steak providing system according to claim 1, further comprising lava and/or charcoal fire heated by gas or electricity for grilling the meat cut in accordance with the request by the customer and an iron plate heated to a predetermined temperature by electromagnetic induction heating for keeping warm the meat grilled by the lava and/or

charcoal fire heated by the gas or electricity.

(3) Present patent invention 3

[Claim 3]

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

(4) Present patent invention 4

[Claim 4]

The steak providing system according to any one of claims 1 to 3, further comprising a pot in which a warm steak sauce is put, placed on the table to which the customer is guided.

(5) Present patent invention 5

[Claim 5]

The steak providing system according to any one of claims 1 to 4, wherein the table to which the customer is guided is for multiple persons, and a movable partition partitioning the table is further provided.

(6) Present patent invention 6

[Claim 6]

The steak providing system according to claim 5, wherein the movable partition is constituted by a low barrier having a height of 250 mm or less and a leg for making the barrier stand independently.

### 3. Main points in reasons for rescission decision

(1) Invention applicability of present patent invention 1

A. According to the description in the claims and the description in the present description ([0001] to [0003], [0005], [0016]), the present patent invention 1 has an "object" "to provide steak in an amount preferred by a customer inexpensively" and is to provide steak in an amount requested by a customer by cutting it from a block by employing "a steak providing step including a step of guiding a customer to a table of a buffet-style meal, a step of asking the customer about an amount of steak, a step of cutting the asked amount of steak out of a meat block, a step of grilling the cut meat, and a step of conveying the grilled meat to the customer's table" as "configuration of technical means for solving the problem" and thus, the customer can eat the steak in the amount preferred by himself/herself arbitrarily to his/her satisfaction, while the customer can eat the steak provided in the buffet-style and thus, customer seats can be increased in a small area, a turnover rate of customers; that is, a turnover rate of customer seats becomes high, and the "effect introduced by the configuration of the

technical means" "to be able to provide steak in an amount preferred by a customer inexpensively" is exerted.

Then, by considering the entirety of the present patent invention 1 on the basis of this object and this effect, technical meaning of the present patent invention 1 is intended to a shop operating method in a restaurant where steak in a preferred amount is provided to customers inexpensively; that is, the economic activity itself, by employing the method of providing steak of guiding the customer to a table of the buffet-style meal and of providing the steak in an amount requested by the customer.

B. The present patent invention 1 is specified as a "steak providing system comprising: a label on which a table number to which the customer was guided is described; a measuring apparatus for measuring the meat cut in accordance with a request by the customer; and a mark for distinguishing the meat cut in accordance with the request by the customer from that of another customer, wherein a seal on which the amount of the meat measured by the measuring apparatus and the table number described on the label is described is output; and the mark is the seal on which the amount of meat output by the measuring apparatus and the table number are described, and articles such as the "label", "the "measuring apparatus", the "mark", and the "seal" are constituent elements thereof.

However, an original function of the "label" is to note required matters for some purpose thereon or to certify something, and the "label" of the present patent invention 1 also describes the table number of the table to which the customer was guided, and the table number is described on the label so that confusion with another customer does not occur or the table number of the customer who was guided thereto is made clear.

Moreover, the original function of the "measuring apparatus" is to measure the amount of the article such as a length and a weight and to display the amount of the article, and the "measuring apparatus" of the present patent invention 1 also measures the weight of the meal cut in accordance with the request by the customer and displays the weight of the meat on the seal.

Moreover, the original function of the "mark (embodied as the 'seal')" is to take a note for distinguishing so as not to confuse with others or to certify something, and the "mark (seal)" of the present patent invention 1 also describes the amount of meat output by the measuring apparatus and the table number on the seal in order to distinguish the meat cut in accordance with the request by the customer from that of another customer.

Then, the present patent invention 1 only illustrates one use form of the original function of these articles, and use of these articles simply as tools is only specified and

thus, it is not reasonable to consider that the technical meaning of the present patent invention 1 is directed to the articles themselves such as the "label", the "measuring apparatus", the "mark," and the "seal."

C. The present patent invention 1 has the "system" called the "steak providing system" as its configuration.

However, from the viewpoint that the technical meaning of the present patent invention 1 is directed to the economic activity itself as described above, the "steak providing system" in the present patent invention 1 only specifies a social "mechanism" (social "system").

D. According to the above, in view of the technical meaning of the present patent invention 1 examined on the basis of the technical problem, the configuration of the technical means for solving the problem, the effect introduced by the configuration, and the like of the present patent invention 1, the essence of the present patent invention 1 is directed to the economic activity itself and is not generally applicable to the "creation of the technical ideas utilizing the laws of nature."

Therefore, the present patent invention 1 is not applicable to the "invention" provided for in Article 2, paragraph (1) of the Patent Act.

E. In the present patent invention 1, it can be considered that the table number is transmitted from the "label" to the "measuring apparatus" and from the "measuring apparatus" to the "mark," but the transmission cannot be considered to be organic or is not transmission of special information.

(2) Invention applicability of the present patent inventions 2 to 6

A. The present patent inventions 2 to 6 are obtained by further restricting the present patent invention 1.

B. The present patent invention 2 is "the steak providing system according to claim 1, further comprising lava and/or charcoal fire heated by gas or electricity for grilling the meat cut in accordance with the request by the customer and an iron plate heated to a predetermined temperature by electromagnetic induction heating for keeping warm the meat grilled by the lava and/or charcoal fire heated by the gas or electricity," but only one use form of the original functions of each of the articles such as gas, electricity, lava, charcoal fire, electromagnetic induction heating, and iron plates is specified and thus, it cannot be considered that the technical meaning of the present patent invention 2 is directed to these articles.

C. The present patent invention 3 is "the steak providing system according to claim 1 or 2, further comprising a large number of forks and knives placed on the table to which the customer is guided," but only one use form of the original functions of each

of the articles such as a table, forks, and knives is specified and thus, it cannot be considered that the technical meaning of the present patent invention 3 is directed to these articles.

D. The present patent invention 4 is "the steak providing system according to any one of claims 1 to 3, further comprising a pot in which a warm steak sauce is put, placed on the table to which the customer is guided," but only one use form of the original functions of each of the articles such as a table, a steak sauce, and a pot is specified and thus, it cannot be considered that the technical meaning of the present patent invention 4 is directed to these articles.

E. The present patent invention 5 is "the steak providing system according to any one of claims 1 to 4, wherein the table to which the customer is guided is for multiple persons, and a movable partition partitioning the table is further provided," but only one use form of the original functions of each of the articles such as a table and a movable partition is specified and thus, it cannot be considered that the technical meaning of the present patent invention 5 is directed to these articles.

F. The present patent invention 6 is "the steak providing system according to claim 5, wherein the movable partition is constituted by a low barrier having a height of 250 mm or less and a leg for making the barrier stand independently," but only one use form of the original functions of each of the articles such as a movable partition, a barrier, and a leg is specified and thus, it cannot be considered that the technical meaning of the present patent invention 6 is directed to these articles.

G. According to the above, the present patent inventions 2 to 6 are not applicable to the "invention" provided for in Article 2, paragraph (1) of the Patent Act.

(omitted)

#### No. 5. Judgment of this court

##### 1. Present patent invention

The present description (Exhibit Ko 1) has the following description.

##### (1) Technical field

[0001]

The present invention relates to a steak providing system and particularly to a steak providing system for providing steak in a preferred amount to a customer inexpensively.

##### (2) Background Art

[0002]

Steak provided in restaurants is generally eaten by those seated comfortably on chairs and enjoying conversation, which takes costs for place and labor and is expensive. Moreover, a size of steak to be provided is fixed, or even if it can be selected, the amounts are determined such as 100 g, 150 g, 200 g, and the like, and the customers could not eat their preferred amounts arbitrarily to their satisfaction.

(3) Technical Problem

[0003]

The present invention was made in view of the aforementioned problems of the background art and has an object to provide a preferred amount of steak to the customer inexpensively.

(4) Solution to Problem

[0004]

In order to achieve the aforementioned object, the present invention is a steak providing system described in the following [1] to [6].

[1] A steak providing system for implementing a method of providing steak including a step of guiding a customer to a table of a buffet-style meal, a step of asking the customer about an amount of steak, a step of cutting the asked amount of steak out of a meat block, a step of grilling the cut meat, and a step of conveying the grilled meat to the customer's table, comprising a label on which a table number to which the customer was guided is described; a measuring apparatus for measuring the meat cut in accordance with a request by the customer; and a mark for distinguishing the meat cut in accordance with the request by the customer from that of another customer.

[2] The steak providing system described in the above [1], further comprising lava and/or charcoal fire heated by gas or electricity for grilling the meat cut in accordance with the request by the customer and an iron plate heated to a predetermined temperature by electromagnetic induction heating for keeping warm the meat grilled by the lava and/or charcoal fire heated by the gas or electricity.

[3] The steak providing system described in the above [1] or [2], further comprising a large number of forks and knives placed on the table to which the customer is guided.

[4] The steak providing system described in any one of the above [1] to [3], further comprising a pot in which a warm steak sauce is put, placed on the table to which the customer is guided.

[5] The steak providing system described in any one of the above [1] to [4], wherein the table to which the customer is guided is for multiple persons, and a movable partition partitioning the table is further provided.

[6] The steak providing system described in the above [5], wherein the movable partition is constituted by a low barrier having a height of 250 mm or less and a leg for making the barrier stand independently.

(5) Advantageous effect of Invention

[0005]

According to the aforementioned steak providing system according to the present invention, steak in an amount requested by a customer is provided by cutting it from a block and thus, the customer can eat the steak in the amount preferred by himself/herself arbitrarily to his/her satisfaction, while the customer eats the steak provided in the buffet-style and thus, customer seats can be increased in a small area, a turnover rate of customers; that is, a turnover rate of customer seats, becomes high.

According to the above, the steak providing system according to the present invention can provide the steak in a preferred amount to the customer inexpensively.

(6) Description of Embodiment

[0007]

Hereinafter, the aforementioned steak providing system according to the present invention and an embodiment of a movable partition used in the steak providing system will be described in detail.

[0008]

The steak providing system according to the present invention is a steak providing system for implementing a method of providing steak including at least a step of guiding a customer to a table of a buffet-style meal, a step of asking the customer about an amount of steak, a step of cutting the asked amount of steak out of a meat block, a step of grilling the cut meat, and a step of conveying the grilled meat to the customer's table.

[0009]

In the present invention, the table to which the customer is guided is assumed to be a buffet-style, that is, only a table and no chairs to sit on is prepared, and the customer is guided to the seat.

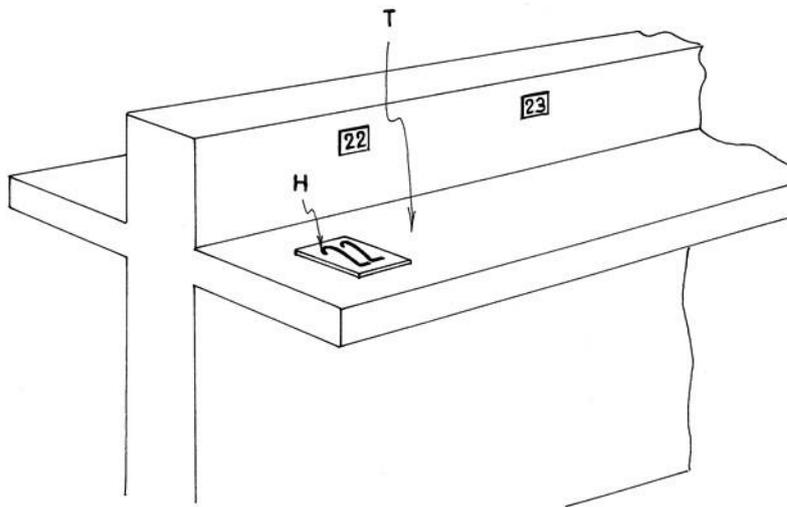
At this time, if the table is a table for five persons, for example, and customers to be guided are a group of three persons, immediately before the customers are guided or immediately after they are guided, the table for five persons is partitioned by a movable partition which will be described later in detail into a space for three persons and a space for two persons so that the table for five persons is not occupied by the three customers, and a space is ensured in the table so that customers can be guided thereto later.

[0010]

The table to which the customer is guided is given a table number as illustrated in Figure 1, and a label on which the table number is described or a label H with number 22 is placed on a table T with number 22 as illustrated, for example.

A service staff member first asks a customer who was guided to the table for an order other than steak from a menu list. The menu list describes drinks, salad, rice, and the like, and steak which is a main menu is assumed to be mainly eaten. After the order other than steak is asked, and an order slip indicating the table number is made, the customer is asked to move to a cut stage while carrying the label H on which the table number is described.

[Figure 1]

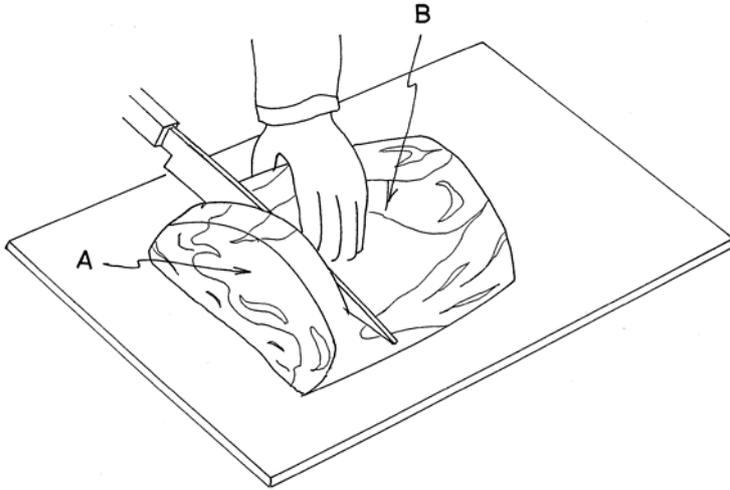


[0011]

At the cut stage, the label H with the table number described is received from the customer, and a type and an amount of steak; that is, a type and an amount by the grams of the steak requested by the customer such as 400 g of sirloin or 350 g of rib roast, is asked about.

Then, before the asked amount of steak is to be cut, the staff member asks the customer "Is it OK that the amount is not exact?" in advance without fail, cuts the amount of steak asked of the customer from a meat block B as illustrated in Figure 2 upon consent, places the cut meat A on a measuring apparatus in front of the customer, allows the customer to check the numerical value indicated by the measuring apparatus such as 362 g of rib roast, and obtains consent on the amount of steak.

[Figure 2]



[0012]

Prices of the steak such as a unit price per gram are determined in accordance with the type in advance such as 6 yen for 1 gram of sirloin (without tax) and 5 yen for 1 gram of rib roast (without tax), for example, and the numerical value indicated by the measuring apparatus or in the case of 362 g of rib roast, for example,  $362 \text{ (g)} \times 5 \text{ (yen/g)} = 1810 \text{ (yen)}$  is made a price of the steak A, for example.

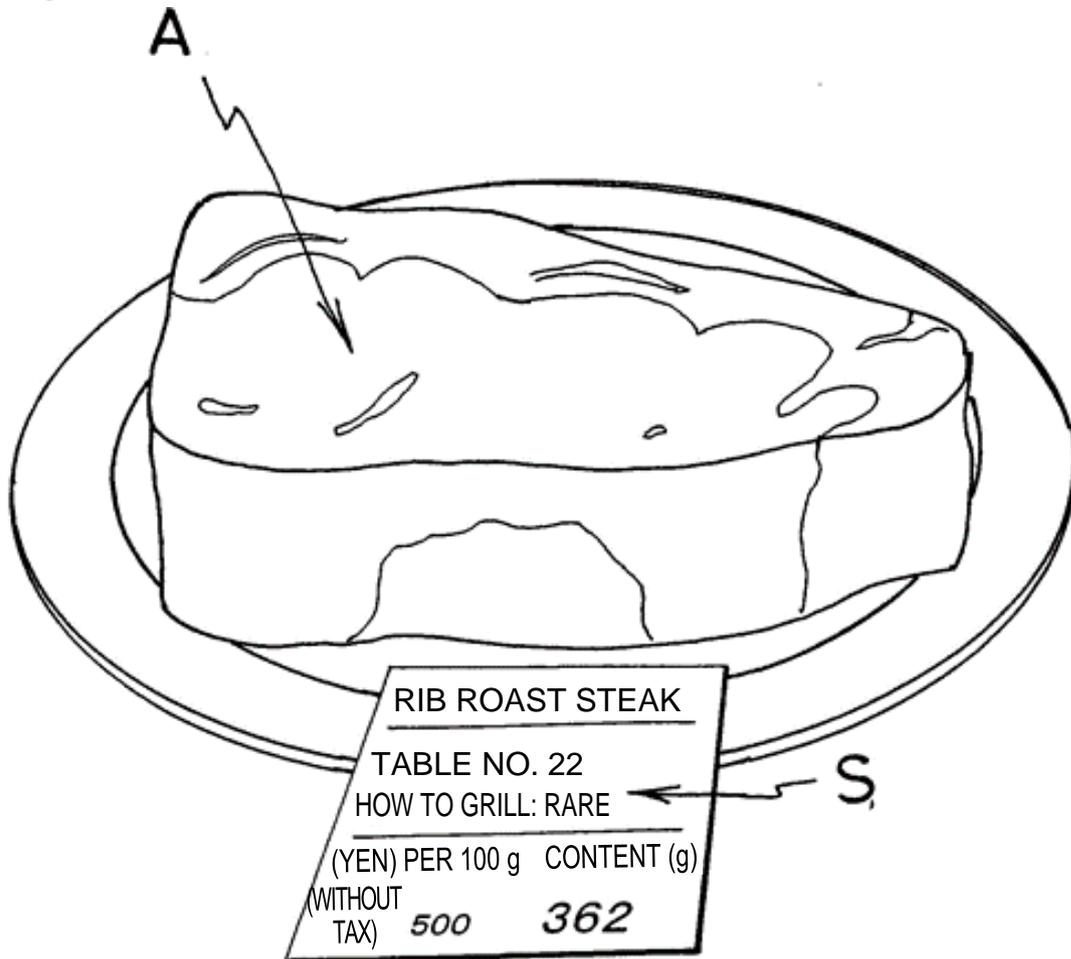
Then, one of two sheets of seal indicating the type, amount, and price of the steak and the table number output by the measuring apparatus is made an order slip of the steak and kept by bonding it to the previous order slip for those other than the steak, and the customer is asked to return to the table to which he/she was guided.

[0013]

To the meat A cut in accordance with the request by the customer, the other seal S printed out by the aforementioned measuring apparatus and indicating the type and the amount of the steak, the table number, and the like is attached as illustrated in Figure 3 so that it is not confused with other customers', and the meat A is moved to the step of grilling. Instead of the seal S attached to the cut meat A so as not to be confused, a measure such as a flag on which the table number is described may be used as a mark for preventing the confusion by sticking it to the cut meat A or the like.

The step of grilling the meat is performed by lava and/or charcoal fire heated by gas or electricity, and the meat is grilled by far infrared rays emitted from them in a rare state in principle (a medium grilled state or a well-done state depending on the request) and then, placed on an iron plate heated by electromagnetic induction heating to 200 to 350°C or more preferably to 220 to 300°C. Onions and corn are placed in advance on the heated iron plate, and the grilled meat is placed on them so as to prevent excessive grilling of the meat.

[Figure 3]



[0014]

The steak grilled by lava and/or charcoal fire heated by gas or electricity and placed on the heated iron plate is checked with the stored order slip together with the other ordered items such as rice (for drink and salad, before that) and is conveyed to the customer's table with the order slip.

A large number of forks and knives are prepared in advance on the table as illustrated in Figure 4, and the provided steak and the like are offered to the customer for eating in the buffet style using the fork and the knife. Moreover, a pot in which a warm steak sauce is put is prepared on the table as illustrated in Figure 5 in addition to containers for salt and pepper generally placed so that the customers can freely put it on the steak in accordance with their preference during eating.

[0015]

When the meal is finished, the customer is asked to move to a cashier with the order slip and to make payment for the provided food. The staff member clears the

iron plates left on the table and cleans them; that is, performs bussing, places the label H describing the table number on the table, and guides a subsequent new customer to the table.

[0016]

The steak providing system according to the present invention is as described above, and particularly since the amount of steak requested by the customer is provided after being cut from a block, the customer can eat the preferred amount of steak arbitrarily to his/her satisfaction.

Moreover, since the meat cut in accordance with the request by the customer is placed on the measuring apparatus so that the customer checks the amount and the price is calculated by the unit of gram, this steak providing system has clear price setting.

Moreover, since the customer eats the provided steak in the buffet style, the number of customer seats can be increased in a small area, and the turnover rate of customers; that is, the turnover rate of customer seats, also becomes high.

Furthermore, by means of measures such that the label describing the number is placed on the table to which the customer is guided, the customer is asked to move to the cut stage with the label, and is asked about the preferred amount of steak, and a large number of forks and knives are prepared in advance on the table to which the customer is guided and moreover, menu other than steak is restricted to drink, salad, rice, or the like, a burden on the staff can be reduced, and the servicing work with a small number of staff members can be realized.

Moreover, the step of grilling meat is grilling with lava and/or charcoal fire heated by gas or electricity emitting a large amount of far infrared rays, and by the measures such that the meat grilled by lava and/or charcoal fire heated by gas or electricity is placed on the iron plate heated to a predetermined temperature by electromagnetic induction heating and conveyed to the customer's table and that the pot in which a warm steak sauce is put is prepared in advance on the table to which the customer is guided and the like, the customer can eat steak in a warm state at all times.

As described above, according to the steak providing system according to the present invention, a preferred amount of delicious steak can be provided to customers inexpensively.

2. Grounds 1 for rescission (error in determination on invention applicability of the present patent invention 1)

(1) Technical meaning of present patent invention 1

A. According to the description in claims according to the present patent invention 1 (aforementioned No. 2, 2(1)) and the description in the present description (aforementioned 1), the present patent invention 1 is found to be as follows

(A) Technical problem

Conventionally, steak provided in restaurants is generally eaten by those seated comfortably on chairs and enjoying conversation, which takes costs for place and labor and is expensive. Moreover, a size of steak to be provided is fixed or the amounts are determined, and the customers cannot eat their preferred amounts. ([0002])

Thus, the present patent invention 1 has an object to provide a preferred amount of steak to the customer inexpensively as an object to solve the aforementioned problem ([0003]).

(B) Configuration of technical means for solving the problem

The present patent invention 1 employs the configuration described in its claim (claim 1) as the technical means for solving the problem in the aforementioned (A) ([0004], [0013]).

That is, it employs [v] "steak providing system" (constituent elements A, G) [i] "for implementing a method of providing steak including a step of guiding a customer to a table of a buffet-style meal, a step of asking the customer about an amount of steak, a step of cutting the asked amount of steak out of a meat block, a step of grilling the cut meat, and a step of conveying the grilled meat to the customer's table" (constituent element A) and includes [ii] "a label on which a table number to which the customer was guided is described" (constituent element B), [iii] "a measuring apparatus" "for measuring the meat cut in accordance with a request by the customer" and "a seal on which the amount of the measured meat and the table number described on the label is output" (constituent elements C, E), and [iv] "a mark for distinguishing the meat cut in accordance with the request by the customer from that of another customer" which is "the seal on which the amount of meat output by the measuring apparatus and the table number are described" (constituent elements D, F).

As described above, the steak providing system of the present patent invention 1 has the configuration (the aforementioned [ii] to [iv]) including the configuration (the aforementioned [i]) for implementing the steak providing method prescribed by the constituent element A (hereinafter, referred to as the "present steak providing method") and the "label," the "measuring apparatus," and the "seal (mark)" prescribed in the constituent elements B to F (hereinafter, referred to as the "present measuring apparatus and the like") as the technical means for solving the problem.

(C) Effect derived from configuration

a. The steak providing system of the present patent invention 1 exerts the following effect by employing the configuration for implementing the present steak providing method (the aforementioned (B) [i]).

First, since the steak in the amount requested by the customer is cut from the block and provided, the customer can eat the steak in the preferred amount. Moreover, since the customer eats the steak provided in the buffet-style, customer seats can be increased in a small area, and the turnover rate of customer seats becomes high ([0005], [0016]).

b. The steak providing system of the present patent invention 1 exerts the following effect by employing the configuration related to the present measuring apparatus and the like (the aforementioned (B) [ii] to [iv]).

First, since the "measuring apparatus" is to measure the meat cut in accordance with the request by the customer and to output the "seal" describing the measured meat amount and the table number described on the "label," and this "seal" is to distinguish the cut meat from another customer's meat, the step can be moved to the grilling step in a state where confusion with another customer's meat does not occur, by attaching this "seal" to the cut meat (including bonding of the seal to the plate on which the meat is placed) ([0013], [Figure 3]).

Moreover, when the "seal" is stored as the order slip of the steak, and the grilled meat is conveyed to the customer's table, the items can be checked with this order slip ([0012], [0014]).

c. As described above, the present patent invention 1 can provide the preferred amount of steak to the customer inexpensively ([0005], [0016]).

B. According to the aforementioned A, the present patent invention 1 has an object (problem) to provide a preferred amount of steak to a customer inexpensively. And by means of the configuration related to the implementation of the present steak providing method (the aforementioned A. (B) [i]), the customer can eat the preferred amount of steak, the customer seats can be increased in a small area, and the turnover rate of customer seats can be improved and thus, the steak can be provided inexpensively. Moreover, according to the configuration related to the present measuring apparatus and the like (the aforementioned A. (B) [ii] to [iv]), confusion of the meat cut in accordance with the request by the customer with another customer's meat can be prevented.

C. Here, the present steak providing method includes the "step of guiding a customer to a table of a buffet-style meal," the "step of asking the customer about an amount of steak," the "step of cutting the asked amount of steak out of a meat block,"

the "step of grilling the cut meat," and the "step of conveying the grilled meat to the customer's table."

The present description describes these steps as "The staff member ... guides a subsequent new customer to the table." ([0015]), "At the cut stage, ... from the customer, and a type and an amount by the gram of steak requested by the customer is asked about.", "cuts the amount of steak asked of the customer from a meat block B as illustrated in Figure 2" ([0011]) (Figure 2 illustrates a state where a person is cutting the steak meat), "To the meat A cut in accordance with the request by the customer, ... seal S ... is attached ...is moved to the step of grilling." ([0013]), and "The steak grilled ... and placed on the heated iron plate is checked with the stored order slip ...and is conveyed to the customer's table with the order slip." ([0014]), and it is assumed that the steps are carried out by a person. And in the present description, there is no description suggesting that these steps are realized by mechanical processing and no evidence sufficient to find that it is common general technical knowledge.

Then, the present steak providing method is found to specify procedures implemented by a person from reception of an order to serving at a steak restaurant.

Thus, the configuration (the aforementioned A. (B) [i]) according to implementation of the present steak providing method cannot be considered to provide substantial technical means as the "steak providing system."

D. On the other hand, since the present measuring apparatus or the like is a specific article or an instrument (device) such as a "label," a "measuring apparatus," and a "seal (mark)," and since the "label" "describes the table number to which the customer was guided," the "measuring apparatus" "measures the meat cut in accordance with the request by the customer" and "outputs the seal describing the measured meat amount and the table number described on the label," and by using this "seal" as a "mark for distinguishing the meat cut in accordance with the request by the customer from that of another customer," there is exerted the effect that confusion of the meat cut in accordance with the request by the customer with another customer's meat can be prevented.

And since information of the table number can be accurately carried by the label, when the information of the table number is combined with information of the amount of meat ordered by the customer in the measuring apparatus, confusion with another table number (another customer) can be suppressed, and when the table number is described on the "label" so as to have the information of the table number combined, it is found to have technical meaning in the relationship with the effect of preventing confusion with another customer's meat. Moreover, since the meat amount is

different depending on the customer, the output of the table number and the meat amount in combination by the "measuring apparatus" is found to have technical meaning in a relationship with the effect of preventing confusion with another customer's meat. Furthermore, since the "seal" can prevent confusion with the mark for another customer by being fixed to the customer's meat or the order slip as described as "by bonding it to the previous order slip" ([0012]) and "attached to the cut meat A" ([0013]) in the present description, to use the seal as a mark for preventing confusion with another customer's meat is found to have technical meaning in the relationship with the effect of preventing confusion with another customer's meat. As described above, when the description in the present description and the common general technical knowledge of a person ordinarily skilled in the art are considered, any one of the "label," the "measuring apparatus," and the "seal (mark)" is found to have technical meaning in the relationship with the effect of preventing confusion with another customer's meat.

On the other hand, the effect of preventing confusion with another customer's meat satisfies the request unavoidably generated by necessity to associate the cut meat with the customer who requested the amount of the meat in a one-to-one manner by employing the configuration (the aforementioned A. (B) [i]) for implementing the present steak providing method including the "step of asking the customer about an amount of steak" and the "step of cutting the asked amount of steak out of a meat block" for the purpose (problem) of providing a preferred amount of steak to a customer, and this can be considered to be apparent for a person ordinarily skilled in the art of the food service industry even if it is not explicitly described in the present description. As described above, the effect of preventing confusion with another customer's meat is found to directly contribute to solution of the problem of the present patent invention 1.

E. According to the above, it can be understood that the present patent invention 1 includes the procedures of the person from reception of an order to servicing at a steak restaurant (the present steak providing method) as an element, but goes beyond that and satisfies the request unavoidably generated when the present steak providing method is implemented and solves the problem of the present patent invention 1 that "the preferred amount of steak is provided to the customer inexpensively" by employing the configuration related to the present measuring apparatus and the like including the specific articles or instruments (devices) such as the label, the measuring apparatus, and the seal (mark) so as to prevent confusion with another customer's meat.

(2) Invention applicability of present patent invention 1

As described in the aforementioned (1), in view of the technical problem of the present patent invention 1 and the configuration of the technical means for solving the problem and the technical meaning such as the effects derived from the configuration, and the like, the present patent invention 1 has the specific articles or devices (the present measuring apparatus and the like) such as the label, the measuring apparatus, and the seal (mark) as the technical means for solving the problem of the present patent invention 1 by preventing confusion with another customer's meat and can be considered to be generally applicable to the "creation of the technical ideas utilizing a law of nature."

Therefore, the present patent invention 1 can be considered to be applicable to the "invention" provided for in Article 2, paragraph (1) of the Patent Act.

### (3) Allegation by defendant

A. The defendants allege that in the present patent invention 1, a process of transmitting the "table number" from the "label" to the "measuring apparatus" and from the "measuring apparatus" to the "mark" or the "seal" or a process of transmitting this "table number" between each of the steps specified in the present patent invention 1 is not explicitly present and that a main constituent for transmitting the table number on the "label" to the measuring apparatus as information, for example, is not specified at all in the claims.

However, as described in the aforementioned (1) D, the present patent invention 1 has its technical meaning in that the meat cut in accordance with the request by the customer is not confused with another customer's meat by "describing the table number to which the customer was guided" on the "label," by "measuring the meat cut in accordance with the request by the customer" and "outputting the seal describing the measured meat amount and the table number described on the label" by the "measuring apparatus," and by using this "seal" as the "mark for distinguishing the meat cut in accordance with the customer's request from that of another customer." Who transmits the table number in what way between each of the steps of the present steak providing method cannot be considered as configuration indispensable in the relationship with the aforementioned technical meaning and thus, the fact that the configuration according to the main constituent and the process is not specified in the claims does not affect the determination on the invention applicability of the present patent invention 1.

B. The defendants allege that, in the present patent invention 1, the "table number" has a meaning only on the premise of man-made arrangement that the number is assigned to the "table," and the customer eats steak at the table with that table number

and thus, even if the information including such table number is transmitted, the technical meaning of the present patent invention 1 is not characterized as technical idea using a law of nature.

However, whether or not the fact that the customer eats steak at the table with that table number is the man-made arrangement and the information including that table number is transmitted by the present measuring apparatus and the like are applicable to the technical idea using a law of nature is another question, and a conclusion of the latter is not derived directly from the former. And the fact that the present measuring apparatus and the like are used as the technical means for solving the problem of the present patent invention 1 by preventing confusion with another customer's meat, and the present patent invention 1 is applicable to the "creation of the technical ideas utilizing a law of nature" is as described in the aforementioned (2).

C. The defendants allege that, in the present patent invention 1, the meat in the amount requested by a specific customer is not confused with another customer's meat because the "customer" and the "meat" are associated in a one-to-one manner by using the "table number" as "key information" and it is irrelevant to the "meat amount" itself.

It is certain that the present description describes that "Instead of the seal S attached to the cut meat A so as not to be confused, a measure such as a flag on which the table number is described may be used as a mark for preventing the confusion by sticking it to the cut meat A or the like." ([0013]), and the technical idea that the "customer" and the "meat" are associated in a one-to-one manner by using the "table number" as the "key information" can be inferred.

However, as described in the aforementioned (1) D, the amount of meat is different among customers. And the present description describes that "one of two sheets of seal indicating the type, amount, and price of the steak and the table number output by the measuring apparatus is made an order slip of the steak and kept by bonding it to the previous order slip for those other than the steak" ([0012]) and "The steak grilled ... and placed on the heated iron plate is checked with the stored order slip together with the other ordered items such as rice ...and is conveyed to the customer's table with the order slip" ([0014]) and describes that no confusion with another customer's meat is checked by the seal describing the meat amount.

Then, unlike the method of "sticking the flag on which the table number is described to the cut meat A" as a mark for preventing confusion, which was no longer included in the technical scope of the present patent invention 1 by the present correction, the present patent invention 1 can be considered to prevent confusion with another customer's meat by using a combination of a plurality of pieces of information;

that is, the meat amount described on the seal output by the measuring apparatus and the table number and thus, it cannot be considered that the information of the meat amount does not contribute the effect of preventing confusion with another customer's meat.

D. The defendants allege that the present patent invention 1 does not specify that the table to which the customer is guided and the cut stage are present at different spots in the restaurant and the procedure that the customer moves from the table to which the customer was guided to the cut stage and checks the meat cut at the cut stage and then, returns to the guided table and thus, confusion between the meat of the specific customer and another customer's meat does not necessarily occur.

However, as described in the aforementioned (1) D, prevention of confusion with another customer's meat is a request unavoidably generated by the necessity to associate the cut meat with the customer who requested the amount of the meat in a one-to-one manner by employing the configuration (the aforementioned (1) A. (B) [i]) for implementing the present steak providing method including the "step of asking the customer about an amount of steak" and the "step of cutting the asked amount of steak out of a meat block" for the purpose (problem) of providing a preferred amount of meat to a customer, and it cannot be considered that the necessity to prevent confusion with another customer's meat is not generated unless the procedure alleged by the defendants is specified.

E. The defendants allege that in the present patent invention 1, each of the "label," the "measuring apparatus," the "mark," and the "seal" is an article present independently from the others and they collectively do not constitute a single article and that only one use form of the original functions is specified.

However, although the "label," the "measuring apparatus," and the "seal (mark)" do not constitute a single article, as described in the aforementioned (1) D, any one of them has a technical meaning in a relationship with the effect of preventing confusion with another customer's meat and it cannot be considered that only one use form of the original function of the article is specified or that only use of these articles only as tools is specified in the man-made arrangement.

#### (4) Summary

According to the above, the grounds 1 for rescission have reasons.

3. Grounds 3 for rescission (error in determination on invention applicability of the present patent inventions 2 to 6)

The present patent inventions 2 to 6 are obtained by further restricting the configuration of the present patent invention 1 with limitation, and since the present

patent invention 1 can be considered to be applicable to the "invention" provided for in Article 2, paragraph (1) of the Patent Act as described in the aforementioned 2, the present patent inventions 2 to 6 can be considered to be also applicable to the "invention" provided for in the same.

The grounds 3 for rescission have reasons.

#### 4. Conclusion

According to the above, the grounds 1 and 3 for rescission both have reasons, and without necessity to determine the grounds 2 for rescission, since the revocation decision has illegality affecting the conclusion thereof, the plaintiff's claim is approved, the judgment is rendered as in the main text.

Intellectual Property High Court, Second Division

Presiding Judge

MORI Yoshiyuki

Judge

MORIOKA Ayako

Judge

FURUSHO Ken