

Patent Right	Date	May 25, 2022	Court	Intellectual Property High Court, Fourth Division
	Case number	2019 (Ne) 10027		

- A case in which the court determined the contribution degree of the employer to be 95% or 97% when calculating reasonable compensation for employee inventions based on Article 35, paragraph (3) of the Patent Act before amendment by Act No. 79 of 2004 (hereinafter referred to as the "Former Patent Act"), and, concerning the contribution degree among co-inventors, the court ruled that it should be an equal percentage in principle, but in this case, there are special circumstances, and determined the contribution degree that exceeds an equal percentage.

- A case in which the court determined that the "amount of profits that the employer, etc. should receive" as defined in Article 35, paragraph (4) of the Former Patent Act refers to the amount of profits that are objectively expected for an employer, etc. when succeeding to the rights, and this is not limited to the profits actually received by the working of the invention, and the court calculated the exclusive profits that the employer obtained not by using the profits actually obtained from a licensing agreement, but by the use of the "Virtual Accumulation Method."

- A case in which the court found that the employer lost the ground of renewal of prescription or the right to invoke prescription concerning the extinctive prescription of the right to demand payment of compensation for employee inventions that the employer invoked.

Case type: Appeal case on seeking payment of compensation for employee inventions

Results: Modification of the prior instance judgment, partially granted

References: Article 35, paragraph (3) and paragraph (4) of the Patent Act before amendment by Act No. 79 of 2004

Related rights, etc.: US Patent No. 4998252 and US Patent No. 5805564

Summary of the Judgment

No. 1 Outline of the case

In this case, the First-instance Plaintiff, who was an employee of the First-instance Defendant, alleged that the invention of error-correcting technology for optical discs that the First-instance Plaintiff made while in service (hereinafter the invention is referred to as the "Invention") is an employee invention, that the First-instance Defendant succeeded to the right to receive its patent pursuant to employment regulations, etc., and therefore that the First-instance Plaintiff has the right to receive

payment of reasonable compensation from the First-instance Defendant. Based on these allegations, the First-instance Plaintiff demanded that the First-instance Defendant pay 3 billion yen, which is part of the amount of reasonable compensation, 27,815,620,335 yen, pursuant to Article 35, paragraph (3) of the Patent Act before amendment by Act No. 79 of 2004 (hereinafter referred to as the "Former Patent Act") and delay damages accrued thereon at the rate of 5% per annum as prescribed by the Civil Code before amendment by Act No. 44 of 2017 for the period from May 13, 2015 (the day following the day on which the complaint was served) until the completion of the payment.

The judgment in prior instance granted the demand of the First-instance Plaintiff to seek payment to the extent of 8,336,319 yen and the amount of delay damages accrued thereon at the rate of 5% per annum for the period from May 13, 2015 until the completion of the payment, and dismissed the remaining demand.

The First-instance Plaintiff filed an appeal, being dissatisfied with the part against him/herself to the extent of demanding from the First-instance Defendant the payment of one billion yen and delay damages accrued thereon at the rate of 5% per annum from May 13, 2015 until the completion of the payment, while the First-instance Defendant filed an appeal, being dissatisfied with all of the parts against itself.

The First-instance Plaintiff limited the subject patents for which he/she seeks payment of compensation for employee inventions to 5. (US patent No. 4998252; Patent 1-5) and 6. (US patent No. 5805564; Patent 2-1) stated in the Attachment "Patent List" of the judgment in prior instance.

No. 2 Outline of the judgment in second instance

The second instance altered the judgment in prior instance and granted the demand of the First-instance Plaintiff to seek payment to the extent of 32,048,673 yen and the amount of delay damages accrued thereon at the rate of 5% per annum for the period from May 13, 2015 until the completion of the payment. The outline of the judgment is as stated below.

1. Patent 1-5

The First-instance Defendant received royalty allocations, concerning the working of Patent 1-5 based on [i] a licensing program where the First-instance Defendant and Philips jointly license patents necessary for the manufacturing and selling of products based on CD-ROM standards to licensee candidates (hereinafter referred to as the "Joint License Program") and [ii] an agreement on licensing patent rights, etc. for PlayStation Series concluded with SCE (hereinafter referred to as the "SCE License Agreement").

(1) The amount of profits that the First-instance Defendant should receive from the invention related to Patent 1-5 (hereinafter referred to as "Invention 1-5")

A. Joint License Program

(A) According to the contractual provisions under the Joint License Program, royalties that licensees pay under the licensing program can be deemed to be compensation for the use of patents subject to licensing throughout the world. Since it is difficult to analyze patents subject to licensing throughout the world, the most appropriate calculation method is found to estimate the royalty allocation amount for Patent 1-5 by identifying US patents subject to licensing and based on the percentage that Patent 1-5 contributed to said patents among royalties for the portion in the U.S.A.

The First-instance Defendant also does not argue about dividing the royalties (worldwide) allocated to the First-instance Defendant by Philips into the portion for manufacturing and the portion for selling, and 15% of the former portion and 25% of the latter portion are to be presumed to be the portion in the U.S.A.

(B) Concerning the contribution percentage of Patent 1-5, there are provisions in the agreement used from fiscal year 1993 through fiscal year 2002 that standard essential patents for CD-ROM players ([a]) and patents for CD audio players ([b]) are included, but they are not limited to patents [b] ([c]). There are the same provisions for other standards, such as those for discs, etc. There is no dispute between the parties concerning the number of patents [a] and [b] and patents related to [c] need to be patents related to CD audios based on the tenor of the license agreement. Concerning "Releasable cover locking device" (US4412320A) and "Optical reproducing apparatus" (US4592038A), they are expected to be worked or are able to be worked for CD audio players and, therefore, they fall under [c].

And, CD-ROM discs and their derivatives, CD-R discs, etc., are based on the standards for music CDs and standards for patents related to discs have been established. Accordingly, it is presumed that most patents related to [b], which are related to CD audios (discs), are patents related to formats that have no other choice. Therefore, it is reasonable to treat patents related to [a], which are the standard essential patents for CD-ROM discs, etc., and patents related to [b], which are related to CD audio (discs), by deeming them having the same value. On the other hand, concerning CD-ROM players and their derivatives, i.e., each drive-related product, the EFM patents related to the modulation system (US patent 4501000) and CIRC patents related to error-correction (US patent 4413340), from among patents related to [b] for CD audio (players, etc.), are also essential patents for the drives and have major value. However, patents related to other drives are different from discs and most of them are presumed to include selectable patents at each company. The patents related to [a] for CD-ROM drives, etc. and the EFM patents and CIRC patents, from among patents related to CD

audios (players, etc.) ([b]), have the same value as patents under the license; however, it is reasonable to calculate the contribution percentage by considering that other patents in [b] have 0.5 of the value of standard essential patents for CD-ROM drives, etc. and that patents related to [c] have 0.1 of the value of patents of [a], etc. since all the patents related to [c] are patents that are worked or have possibility to be worked only.

Meanwhile, patents [a] alone are subject to the number of patents subject to each product category in fiscal year 2003 and after and therefore, they are considered to have the same value as Patent 1-5.

B. SCE License Agreement

Article 35, paragraph (4) of the Former Patent Act stipulates that the amount of reasonable compensation for employee inventions shall be determined in consideration of the "amount of profits that the employer, etc. should receive" from the invention and the contribution degree of the employer, etc. for achievement of the invention. The expression, "amount of profits that the employer, etc. should receive" provided for by said paragraph refers to the amount of profits that are objectively expected for the employer, etc. when succeeding to the rights, and it is understood that this is not limited to the profits actually received by working the invention, but includes cases of self-working, etc. and refers to exclusive profits that the employer, etc. could have received originally.

PS1 gaming console main body and game discs and PS2 gaming console main body are the products subject to the Joint License Program. If the First-instance Defendant concluded a cross-license agreement with Philips for patents held by each party concerning the manufacturing and selling of the PlayStation Series, SCE would have become an affiliated company of the First-instance Defendant that does not have to pay royalties again under the Joint License Program, and the profits that the First-instance Defendant received under the cross-license agreement would have been "the amount of profits that the employer, etc. should receive." However, even examining all articles of evidence in this case, it is insufficient to find that the First-instance Defendant concluded a cross-license agreement with Philips concerning the manufacturing and selling of the PlayStation Series. It is rather found that the First-instance Defendant concluded a license agreement (SCE License Agreement) with SCE for licensing patent rights, etc. (including Patent 1-5 and Patent 2-1) held by the First-instance Defendant that are helpful for manufacturing, selling, developing or otherwise handling the PlayStation Series, gave favorable treatment to SCE over other licensee companies, and received compensation from SCE.

In this way, since the First-instance Defendant treats SCE not as an affiliated

company under the Joint License Program, but as a licensee concerning the manufacturing and selling of the PlayStation Series that are products subject to licensing under said program, which is operated jointly with Philips, according to the fact that the program adopts a so-called open policy to grant licenses under open and non-discriminatory conditions, the exclusive profits that the First-instance Defendant could have received for the manufacturing and selling of PS1 gaming console main body and game discs and PS2 gaming console main body should be the amount calculated based on the royalty amount that is obtained by multiplying the amount calculated by the royalties determined under said license program by the allocation rate for the First-instance Defendant (hereinafter referred to as the "Virtual Accumulation Method") based on the assumption that SCE received a license for the manufacturing and selling of the PlayStation Series from Philips. Therefore, said exclusive profits do not have to be limited to the profits that the First-instance Defendant actually received under the SCE License Agreement.

(2) Degree of the First-instance Defendant's contribution related to Invention 1-5

A. Joint License Program

Invention 1-5 is an error-correction technology that makes it possible to apply music CDs to the computer field and it has high technical value, for example, it is adopted as a standard essential patent for CD-ROMs, etc. However, it cannot be denied that there is an aspect where part of the prior art accumulated by the First-instance Defendant was used in Invention 1-5. In addition, during the procedures to establish the right for Invention 1-5, there was no contribution of the First-instance Plaintiff, including the procedures related to Patent 1-1 and Patent 1-2 that are the basis for priority right. The procedures were commissioned to the office in the U.S.A. The Intellectual Property Department of the First-instance Defendant made considerable contributions, including having taken appropriate actions for the grounds for refusal received from the US Patent and Trademark Office.

In addition, the First-instance Defendant and Philips adopted a so-called open license policy that is non-discriminatory and open, and provided licensing opportunities broadly. The First-instance Defendant and Philips also took the initiative and created not only the physical format of CD-ROMs, but also unified the logical format of CD-ROMs and provided compatibility. In addition, they achieved unified transmission data standards to connect peripheral devices of personal computers, thereby making CD-ROMs broadly used as personal computers or gaming software.

Furthermore, the First-instance Defendant established manufacturing factories for contract production of CD-ROM discs, prepared to increase production capacity of CD-

ROM drive units, engaged in the planning and development of various goods using CD-ROMs, and established alliances, etc. with companies in other business categories. As a marketing promotion, the First-instance Defendant organized licensee meetings, proactively approached the content industry, developed the technology of devices to disseminate the standards, and provided technical support to licensees. Therefore, it is found that the First-instance Defendant engaged in research and development and promotion for improvement of not only CD-ROM standards, but also CD-Family standards, such as CD-Rs, etc.

In consideration of the aforementioned circumstances, concerning the exclusive profits that the First-instance Defendant received under the Joint License Program, it is reasonable to consider that the contribution degree of the First-instance Defendant is 95%.

B. SCE License Agreement

PS1 and PS2 are proud of their high operational performance and graphic performance and system G technology that the First-instance Defendant developed for broadcasting stations is used for the graphic technology adopted by PS1, and PS2 is equipped with a processor that was jointly developed with Toshiba, etc. Cutting-edge technologies are incorporated in them in addition to CD-ROMs and DVD-ROMs.

The First-instance Defendant, jointly with affiliated companies, established SCE, which engages in the development of gaming consoles, such as PS1, etc., and in licensing business with software manufacturers, and made a significant investment to develop gaming consoles of PS1 and PS2 in which cutting-edge technologies of the time are incorporated. In addition, SCE proactively encouraged new software manufacturers to enter the market, made it possible for various kinds of game software to be played on PS1 and PS2 and adopted direct marketing for software to enable appropriate inventory management. In addition, SCE released low-end versions of the gaming console main body and developed PS2 compatible with the next generation network. These SCE acts led PS1 and PS2 to acquire dominant position in the game market and resulted in increases in exclusive profits that the First-instance Defendant received under the SCE License Agreement. These marketing efforts and investment activities, etc. by SCE should be included in the contribution degree of the side of the First-instance Defendant that is a joint investment company.

In addition to the contribution degree of the First-instance Defendant that is explained related to the Joint License Program as stated above, when adding the contribution degree of the First-instance Defendant and SCE concerning the PlayStation Series, it is reasonable to determine the contribution degree of the First-instance

Defendant to be 97% concerning exclusive profits that the First-instance Defendant received under the SCE License Agreement.

(3) Degree of the First-instance Plaintiff's contribution among co-inventors of Invention 1-5

The inventors of Invention 1-5 are five persons, namely the First-instance Plaintiff, , <D>, <E>, and <C>, and the 4 persons excluding <C> are employees of the First-instance Defendant.

The contribution degree in the joint invention between inventors is found to be equal unless there are special circumstances. The First-instance Plaintiff is found to have fulfilled a certain role for Invention 1-5; however, there is not enough evidence to find that the First-instance Plaintiff took initiatives or had an important role.

Rights were established for Invention 1-5 based on the patent application form naming <E>, <D>, and <J> as the inventors (however, a notice naming <E>, <D>, , the First-instance Plaintiff, and <C> as the inventors, was submitted subsequently) and the patent application form naming , the First-instance Plaintiff, and <D> as the inventors. In the "Annex A (Standards) Coding for error-correction by RSPC" for the CD-ROM standards, examples of embodiment of Patent 1-5 (Figure 6 and Figure 7) are stated. These examples of embodiment are the same figures, etc. attached to the patent application form naming , the First-instance Plaintiff, and <D> as the inventors, and it is presumed that they are based on multiple drafts that the First-instance Plaintiff created at the request of . Therefore, it is found that the contribution of the First-instance Plaintiff for standardization of the error-correcting system of CD-ROMs is greater than that of <E>, etc.

Consequently, it is considered that there are special circumstances where the contribution degree of the First-instance Plaintiff among co-inventors of Patent 1-5 exceeds the equal percentage, and it is reasonable to consider the First-instance Plaintiff's contribution degree to be one-third.

2. Patent 2-1

The First-instance Defendant received royalty allocation concerning Patent 2-1 based on [i] a joint license program concluded between the First-instance Defendant and Philips in which the First-instance Defendant jointly licensed with Pioneer the patents related to DVD standards held by the First-instance Defendant and Philips (hereinafter referred to as the "3C License Program"); [ii] a license program in which One-Red, LLC, which was established by Philips, the First-instance Defendant, and other companies, provides joint licensing for DVD products (hereinafter referred to as the "One-Red License Program"); [iii] a license program in which One-Blue, LLC, which

was established by Philips, the First-instance Defendant, and other companies, provides joint licensing of patents, including essential patents for Blu-ray discs (hereinafter referred to as the "One-Blue License Program"); and [iv] the SCE License Agreement.

(1) The amount of profits that the First-instance Defendant should receive from the invention related to Patent 2-1 (hereinafter referred to as "Invention 2-1")

A. License programs

There is no dispute between the parties concerning royalties that the First-instance Defendant received under each license program (concerning the 3C License Program, the court-related costs were deducted) and the number of US patents for each product category under each license program. They are standard essential patents and therefore, it is reasonable to make calculations by deeming that the contribution percentages of Patent 2-1 in royalties have the same value.

B. SCE License Agreement

It is reasonable to treat PS2 game discs and PSP game discs as products subject to licensing under the 3C License Program or in accordance with such products. Under the 3C License Program, patents subject to licensing held by the First-instance Defendant are licensed to Philips with sub-license. Therefore, if SCE had received a license under the 3C License Program from Philips when manufacturing and selling PS2 and PSP, SCE would not have to pay royalties again to the First-instance Defendant. The royalties to be allocated to the First-instance Defendant by Philips would be the "amount of profits that the employer, etc. should receive." However, after examining all the articles of evidence in this case, there is no evidence to find that SCE received a license for the manufacturing and selling of PS2 or PSP. Rather, it is found that the First-instance Defendant concluded the SCE License Agreement on the assumption that SCE had not received a license, gave more favorable treatment to SCE, which is an affiliated company of the First-instance Defendant, than to other licensees, and obtained compensation from SCE.

In this way, since the First-instance Defendant treats SCE as a licensee that has not received a license from Philips concerning the manufacturing and selling of PS2 or PSP, based on the fact that the 3C License Program adopts a so-called open policy to grant licenses under open and non-discriminatory conditions, the exclusive profits that the First-instance Defendant could have received originally for the manufacturing and selling PS2 or PSP game discs should be the amount calculated based on the royalties specified by said license program (the Virtual Accumulation Method) on the assumption that SCE had received a license under said license program, and it is not necessary for said exclusive profits to be limited to the profits that the First-instance Defendant

actually received under the SCE License Agreement.

(2) Degree of the First-instance Defendant's contribution related to Invention 2-1

A. License programs

Invention 2-1 is an essential patent for DVD standards, including DVD-ROMs, etc., and therefore, its technical value is considered to be high. However, the patent claims related to Patent 2-1 contain a statement that enables data recording discs and their recording devices, etc. to belong broadly to the technical scope and there is not enough evidence to find that the First-instance Plaintiff contributed to procedures to establish rights for Patent 2-1, including the Patent Filed in Japan that is the basis for priority right of Patent 2-1. The Intellectual Property Department of the First-instance Defendant made considerable contributions, including establishing rights for said wide range of claims.

In addition, [i] it can be said that the DVD standards spread more broadly as the DVD Forum and the DVD+RW Alliance, in which the First-instance Defendant also participated, established various standards for physical formats after an agreement was reached between the SD side that was announced by Toshiba, etc. and the First-instance Defendant's MMCD side and standards were unified: [ii] Patent 2-1 is a patent subject to licensing for DVD-standards products under the 3C License Program, One-Red License Program, and One-Blue License Program, and it can be valued that the First-instance Defendant endeavored to disseminate DVD standards through these joint licensing activities with other companies; and [iii] it is found that, in order to respond to the expansion of demand for DVDs, the First-instance Defendant established production bases not only in Japan, but also overseas and made a large investment, developed DVD-R with other companies, planned and sold various goods using DVD standards, and newly commenced the DVD recorder business, in addition to engaging in promotion activities through contract production business of DVD-ROMs that can be used for sales promotion of new products and for company guides, etc., jointly with its group company, SME.

In consideration of the aforementioned circumstances, concerning the exclusive profits that the First-instance Defendant received under each license program, it is reasonable to determine the contribution degree of the First-instance Defendant to be 95%.

B. SCE License Agreement

PS2 is proud of its high operational performance and graphic performance, and is equipped with the processor that was developed jointly with Toshiba. In this manner, cutting-edge technologies, in addition to DVD-ROMs, are incorporated in PS2. In

addition, SCE proactively facilitated the entry of new software manufacturers to make it possible to offer a variety of game software and enable appropriate inventory management, and it developed PS2 to be compatible with next generation networks. These marketing efforts and investment activities, etc. by SCE should be included in the contribution degree of the side of the First-instance Defendant side that is a joint investment company.

In addition, a portable gaming console that SCE developed, PSP, is a multimedia terminal that draws graphics with a quality close to PS2 and is also equipped with multimedia viewing, Wi-Fi, and web browser. These technology developments by SCE should also be included in the contribution degree of the First-instance Defendant.

In addition to the contribution degree of the First-instance Defendant that is explained related to license programs above, when adding the contribution degree of the First-instance Defendant and SCE related to the PlayStation Series, concerning exclusive profits that the First-instance Defendant received under the SCE License Agreement, it is reasonable to determine the contribution degree of the First-instance Defendant to be 97%.

(3) Degree of the First-instance Plaintiff's contribution among co-inventors of Invention 2-1

The inventors of Invention 2-1 are found to be three persons, including the First-instance Plaintiff, <F>, and <G>.

The contribution degree between inventors in a joint invention should be found to be equal unless there are special circumstances. Invention 2-1 was found to be completed after discussions on the idea were held between <F> and <G> based on the format that the First-instance Plaintiff conceived of; however, concerning the degree of contribution to the invention, <G> had a lower contribution degree than the First-instance Plaintiff and <F>, for example <G> did not prepare the invention report for which <G> was in charge. In light of these circumstances, there are special circumstances to find that the First-instance Plaintiff made special contributions to the completion of the invention related to Patent 2-1. In addition, in light of processes, etc. for the completion of the invention, the contribution degree of the First-instance Plaintiff and <F> are considered to be at the same level and that of <G> is half of theirs. It is reasonable to determine that the contribution degree of the First-instance Plaintiff is two-fifths.

3. Whether the period of extinctive prescription has expired

The First-instance Defendant's Invention and Device Rules do not conform to the purport and details of Article 35, paragraph (4) of the Former Patent Act. The First-

instance Defendant naturally recognized that the compensation for employee inventions that is paid based on the rules is only part of reasonable compensation as determined in paragraph (3) and paragraph (4) of said Article and the compensation is less than the amount of reasonable compensation that is specified in accordance with Article 35, paragraph (4) of the Former Patent Act.

Based on the above, the payment of incentive remuneration for Patent 1-5 falls under the acknowledgment of debt after completion of prescription. Therefore, the First-instance Defendant lost the right to invoke prescription in relation to the right to demand payment of reasonable compensation for Patent 1-5 under the principle of good faith. Meanwhile, the payment of incentive remuneration for Patent 2-1 falls under the acknowledgment of debt before completion of prescription and therefore, it falls under grounds for renewal of prescription and extinctive prescription started on December 18, 2004. However, the First-instance Plaintiff demanded payment by the First-instance Defendant based on the right to demand payment of reasonable compensation for Invention 2-1 and filed this action on April 28, 2015, within six months from making the demand. Therefore, the period of extinctive prescription has not expired.

Judgment rendered on May 25, 2022

2019 (Ne) 10027, Appeal case seeking payment of compensation for employee invention

(Court of prior instance: Tokyo District Court, 2015 (Wa) 11651)

Date of conclusion of oral argument: March 14, 2022

Judgment

Appellant and Appellee (First-instance Plaintiff): X

(hereinafter referred to the "First-instance Plaintiff")

Appellee and Appellant (First-instance Defendant): Sony Group Corporation

(hereinafter referred to the "First-instance Defendant")

Main text

1. Based on the appeal by the First-instance Plaintiff, the judgment in prior instance shall be changed as follows.

(1) The First-instance Defendant shall pay to the First-instance Plaintiff 32,048,673 yen and the amount accrued thereon at the rate of 5% per annum for the period from May 13, 2015 until the completion of the payment.

(2) The remaining claims of the First-instance Plaintiff shall be dismissed.

2. The appeal by the First-instance Defendant shall be dismissed.

3. Court costs in the first and second instances shall be divided into fifty and the First-instance Defendant shall bear one-fiftieth of the costs and the First-instance Plaintiff shall bear the remaining costs.

4. This judgment may be enforced provisionally only for Paragraph 1 (1).

Facts and reasons

No. 1 Object of the appeal

1. The First-instance Plaintiff

(1) The judgment in prior instance shall be changed as follows.

(2) The First-instance Defendant shall pay to the First-instance Plaintiff one billion yen and the amount accrued thereon at the rate of 5% per annum for the period from May 13, 2015 until the completion of the payment.

2. The First-instance Defendant

(1) The part of the judgment in prior instance which is against the First-instance Defendant shall be rescinded.

(2) Concerning the part defined in the preceding paragraph, claims of the First-instance

Plaintiff shall be dismissed.

No. 2 Outline, etc. of the case (Unless particularly noted, the same abbreviations used in the judgment in prior instance shall be used herein.)

1. Outline of the case

In this case, the First-instance Plaintiff, who was an employee of the First-instance Defendant, alleged that the invention of error-correcting technology for optical discs that the First-instance Plaintiff made while in service (hereinafter this invention is referred to as the "Invention") is an employee invention, the First-instance Plaintiff had the First-instance Defendant succeed to the right to receive the patent pursuant to employment regulations, etc., and therefore, the First-instance Plaintiff has the right to receive payment of reasonable compensation from the First-instance Defendant. Based on these allegations, the First-instance Plaintiff demanded that the First-instance Defendant pay 3.0 billion yen, which is part of the amount of reasonable compensation, 27,815,620,335 yen, pursuant to Article 35, paragraph (3) of the Patent Act before amendment by Act No. 79 of 2004 (hereinafter referred to as the "Former Patent Act") and delay damages accrued thereon at the rate of 5% per annum as prescribed by the Civil Code before amendment by Act No. 44 of 2017 (hereinafter simply referred to as the "Civil Code") for the period from May 13, 2015 (the day following the day on which the complaint was served) until the completion of the payment.

The judgment in prior instance granted the demand of the First-instance Plaintiff to seek payment to the extent of 8,336,319 yen and the amount of delay damages accrued thereon at the rate of 5% per annum for the period from May 13, 2015 until the completion of the payment, and dismissed the remaining demand.

The First-instance Plaintiff was dissatisfied with the part against him/herself and filed an appeal to the extent of the Object of the appeal (No. 1, 1. above), while the First-instance Defendant was dissatisfied with all of the parts against itself and filed an appeal.

In this instance, the First-instance Plaintiff limited the subject patent for which he/she seeks payment of compensation for an employee invention to 5. (Patent 1-5) and 6. (Patent 2-1) stated in the Attachment "Patent List" of the judgment in prior instance.

2. Basic facts

The basic facts are as stated in No. 2, 2. in the "Facts and reasons" section of the judgment in prior instance, except for the corrections as stated below, and therefore they are cited.

(Correction of the judgment in prior instance)

(1) The term "5" in line 4, page 4 is altered to "7", and the phrase from "Patent 2-1" in

line 9 through the end of line 11, page 4 and the phrase from "(see No. 3, 4. (1) A. (B) c. below)" in line 22 through "(see No. 3, 4. (1) A. (B) a. below)" in line 23, page 4 are deleted respectively.

(2) The following is added as a new line after the end of line 21, page 5.

"(5) Royalties, etc. that the First-instance Defendant received by the working of Patent 1-5

A. Royalties, etc. related to the Joint License Program

(A) The First-instance Defendant and Philips started a license program from June 1990 to jointly license patents necessary for manufacturing and selling products based on CD-ROM standards to licensee candidates (hereinafter the program is referred to as the 'Joint License Program'). Under this program, Philips was to engage in administration, such as negotiations with licensees and receipt of royalties, etc., and to decide the allocation rate of royalties in consideration of the administration fees. However, both companies reached an agreement on the allocation rate on December 30, 1992 and therefore, royalties came to be allocated quarterly from Philips to the First-instance Defendant in January 1993 onward (Exhibits Otsu 51, 54, 68, and 152).

(B) The royalties to be paid by a licensee under the Joint License Program were not calculated per subject patent and were not to change even in cases of addition or deletion of any patent from a standard license agreement (Exhibit Otsu 26).

For the period from fiscal year 1993 until fiscal year 2005, when the patent term of Patent 1-5 expired, the amounts allocated to the First-instance Defendant from Philips as royalties for subject patents, including Patent 1-5, (worldwide) were as stated below. (From fiscal year 1993 to fiscal year 2002)

Product category	Royalty (*)
CD-ROM Disc	●●●●●●●●●●●●●●●●
CD-ROM Drive	●●●●●●●●●●●●●●●●
CD-R Disc	●●●●●●●●●●●●●●●●
CD-R Drive	●●●●●●●●●●●●●●●●
CD-RW Disc	●●●●●●●●●●●●●●●●
CD-RW Drive	●●●●●●●●●●●●●●●●
Video CD Disc	●●●●●●●●●●●●●●●●
Video CD Drive	●●●●●●●●●●●●●●●●
	* ●●●●●●●●●●●●●●●●

(From fiscal year 2003 to fiscal year 2005)

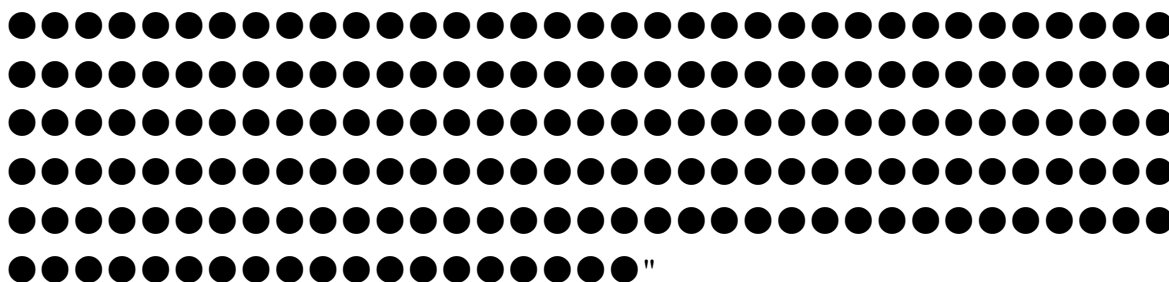
Product category	Royalty (*)
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'One-Blue License Program'; Exhibit Ko 178 and Exhibit Otsu 198).

The amounts that were allocated to the First-instance Defendant by One-Blue, LLC in relation to the One-Blue License Program as allocation of royalties, including Patent 2-1, for the period from 2012 through June 2016 were as stated below.

BD Recorder	●●●●●●●●●●
BD Recorder Drive	●●●●●●●●●●

B. Royalties related to PlayStation Series



(3) The term "(5)" in line 22, page 5 is altered to "(7)"; the term "(6)" in line 9, page 6 is altered to "(8)"; the phrase from "争いがないが" [There is no dispute ... ; however,]" in line 15, page 6 through "争いがある。 [there are disputes]" in line 16, page 6 is altered to "争いがない。 [There is no dispute]"; the phrase "争いがないが [There is no dispute ... ; however,]" in line 20, page 6 through "争いがある。 [there are disputes]" in line 23, page 6 is altered to "争いがない。 [There is no dispute]"; the term "(7)" in line 24, page 6 is altered to "(9)"; and the term "(8)" in line 3, page 7 is altered to "(10)" respectively.

3. Issues

(1) Issues related to Patent 1-5

- A. The amount of profit that the First-instance Defendant should receive from the invention related to Patent 1-5 (hereinafter referred to as "Invention 1-5") (Issue 1-1)
- B. Degree of the First-instance Defendant's contribution related to Invention 1-5 (Issue 1-2)
- C. Degree of the First-instance Plaintiff's contribution among co-inventors of Invention 1-5 (Issue 1-3)
- D. The amount of reasonable compensation for Invention 1-5 (Issue 1-4)

(2) Issues related to Patent 2-1

- A. The amount of profit that the First-instance Defendant should receive from the invention related to Patent 2-1 (hereinafter referred to as "Invention 2-1") (Issue 2-1)
- B. Degree of the First-instance Defendant's contribution related to Invention 2-1 (Issue 2-2)

C. Degree of the First-instance Plaintiff's contribution among co-inventors of Invention 2-1 (Issue 2-3)

D. The amount of reasonable compensation for Invention 2-1 (Issue 2-4)

(3) Whether the period of extinctive prescription for the right to demand payment of reasonable compensation for Invention 1-5 and Invention 2-1 has expired (Issue 3)

(omitted)

No. 4 Judgment of this court

1. Facts found in this case

Based on No. 2, 2. of the judgment in prior instance related to citation (after correction), evidence (Exhibits Ko 4 through 7, 9, 12 through 16, 110, 133 through 138, 141, 142, 145, 159, 160, 163, 165, 174, 175, 177, 178, 194, 195, 199, 200, 207, 210 through 212, 216 (including branch numbers; the same applies hereinafter), 221, 237, 273 through 282, 290, 295 through 306, and 319 through 325; Exhibits Otsu 4 through 8, 10 through 15, 17 through 23, 26, 28, 29, 31, 32, 37, 44, 46, 51, 54 through 59, 68 through 73, 77, 80 through 82, 84, 88 through 91, 131, 132, 137, 140 through 144, 148, 150 through 168, 170, 172 through 183, 190, 194 through 196, 198 through 202, 205 through 208, 211, 213 through 216, 218, 220, 225, 228 through 231, 235 through 239, 242 through 246, 251, 252, 261, 263 through 295, 297 through 302, 323, 324, 329, 337, 339, 344, 361, 363, 365, 367, 370, 377, 380, 390, 410, 417, 419 through 421, 423, 425, 426, 429, and 435; Witness <H>, the First-instance Plaintiff him/herself), and the entire import of oral arguments, the following facts are found.

(1) Career, etc. of the First-instance Plaintiff at the First-instance Defendant

After graduating from university in March 1979, the First-instance Plaintiff joined the First-instance Defendant, was assigned to the technology laboratory, started research on Cross Interleave Code using computer simulations, participated in a joint development project of CD-DA (music CD; hereinafter simply referred to as "CD" in some cases) from 1980, and jointly engaged in the employee invention of error-correcting system CIRC, etc.

The First-instance Plaintiff was transferred from the technology laboratory to the information processing laboratory in April 1981 and was transferred to a research group for speech recognition in April 1982. However, as stated in (2) A. (B) below, the First-instance Plaintiff was requested by , who was involved in the development project of CD-ROMs, and jointly made Invention 1-5.

In November 1991, the First-instance Plaintiff was appointed as the Director of the

"ESPER Research Room." However, as stated in (3) A. (B) below, after having jointly made Invention 2-1 from April to May 1995, the First-instance Plaintiff was transferred to the DVD Strategy Headquarters and was appointed as Director of the Technology Strategy Department in April 1998, and then as Technical Director of the Technology Development Headquarters in March 2006, and finally quit the First-instance Defendant in March 2013.

(2) Patent 1-5

A. Details, etc. led to the invention

(A) The First-instance Defendant and Philips reached an agreement on the joint development of CD-DA in June 1979; after further deliberations on CD disc diameter, sampling frequency, quantization bit rate, error-correcting system, modulation system, etc. from August 1979 through June 1980, they standardized CD-DA by establishing a written standard, RedBook, in 1981.

(B) The First-instance Defendant and Philips determined to deliberate on application to the computer field after the introduction of CDs, and started meetings towards the development of the CD-ROMs in March 1983. <I>, , <D>, etc. from the First-instance Defendant and <C> from Philips participated in the meetings and deliberations were held on a continuing basis.

The First-instance Defendant recognized that even in the case of using CDs as external storage media, the original error-correcting technology was not necessary since there was CIRC; however, Philips proposed to the First-instance Defendant that if CDs are used for computers to record digital data, CIRC alone would be insufficient and original error-correction should be added. Therefore, requested that the First-instance Plaintiff, who belonged to a different department from the technology laboratory to which belonged, examine the proposal.

The First-instance Plaintiff and examined and deliberated on multiple proposals that the First-instance Plaintiff created and, as a result, they conceived block-completion type error-correcting codes with two different direction systems, P system and Q system, where 2352 bytes (including 2K bytes of user data) per sector (block) are divided into two planes, a high plane and low plane, and where each plane consists of error-correcting codes on an 8-bit Galois extension field $GF(2^8)$.

(C) The First-instance Defendant proposed the error-correcting system defined in (B) above at the discussion with Philips held on December 21, 1983. On the other hand, Philips proposed a format comprising error-correcting codes on a 16-bit Galois extension field $GF(2^{16})$ in a single system (hereinafter referred to as "Philips16") and a format where 2,352 bytes per block are divided every 98 bytes into a total of 24

segments, and (98.86) Reed-Solomon Codes with a minimum distance of 13 on a Galois field $GF(2^8)$ are comprised of 24 systems in the same direction system (hereinafter referred to as "Philips8").

As a result of verification by comparing the performances of the two aforementioned proposals of the First-instance Defendant and Philips by themselves, it was proven that the First-instance Defendant's proposal was superior in performance and an agreement was reached to accept it as a format.

B. Details, etc. led to the registration

(A) According to the First-instance Defendant's Invention and Device Rules, there is a provision that if an employee makes an employee invention, the employee shall immediately report it to the superior before announcing it externally and shall transfer the right to receive registration of industrial property rights to the First-instance Defendant.

<E> determined the invention title to be "CD-ROM 'Super Heavy' Error Correction Method (1)" as of October 23, 1983, and created and submitted a patent application form (Exhibit Otsu 55) naming <E>, <D>, <J> as the inventors to the Patent Department of the First-instance Defendant (subsequently, a notice naming <E>, <D>, , the First-instance Plaintiff, and <C> as the inventors was submitted.). In addition, determined the invention title to be "A method to use digital audio equipment as digital data equipment" on February 2, 1984 and created and submitted a patent application form (Exhibit Otsu 57) naming , the First-instance Plaintiff, and <D> as the inventors to the Patent Department of the First-instance Defendant.

Around March 23, 1984, the First-instance Plaintiff, <E>, <D>, , and <C> transferred to the First-instance Defendant the right to receive patents concerning inventions related to Patent 1-1 and Patent 1-2 and inventions related to Patent 1-5, etc. that is the overseas patent of Patent 1-1 and Patent 1-2.

Applications for Patent 1-1 and Patent 1-2 were made by patent attorney <K> by proxy. However, a meeting before the procedures for Patent 1-1 was held among <E>, <L>, and <M> and a meeting before the procedures for Patent 1-2 was held among and <M> respectively.

(B) The First-instance Defendant filed an application for Patent 1-3, for which Patent 1-1 and Patent 1-2 are the basis for the priority right, on March 22, 1985 naming five people in total, i.e., , the First-instance Plaintiff, <D>, <E>, and an employee of Philips <C>, as the inventors; however, around September 19, 1986, the First-instance Defendant received a notice of grounds for refusal stating that disclosure of the description for Claims 13 through 16 was insufficient, from the US Patent and

Trademark Office. Therefore, the First-instance Defendant filed an application for Patent 1-5 on August 5, 1987 as a continuation-in-part application of Patent 1-3. However, Patent 1-3 had already become effective. The First-instance Defendant received grounds for refusal from the US Patent and Trademark Office stating that the filing date of the application could not be retroacted. In order to avoid Patent 1-5 from being refused due to double patenting of Patent 1-3, the First-instance Defendant added a terminal disclaimer to waive the patent term of Patent 1-5 for the part exceeding July 14, 2004, until when Patent 1-3 would be valid.

Patent 1-5 was registered on March 5, 1991.

(C) The First-instance Defendant filed an application for Patent 1-4 in the U.S.A. as a reissue patent of Patent 1-3 on July 13, 1989. Patent 1-4 was registered on November 27, 1990 and Patent 1-3, which was the original patent, was deemed to be waived on the same day.

C. Technical meaning, etc. of Patent 1-5

(A) Music signals have a high correlation among data and therefore, interpolation processing may be conducted by interpolating the mean values of adjacent data points. However, this interpolation processing cannot be conducted with digital data and there was a problem where it was desirable to have a better error rate for reading data compared to music signals.

Claim 1 of Patent 1-5 is an invention of an information transmitting device that can correct errors by the third Reed-Solomon Codes in addition to correcting errors by the first and second Cross Interleave Reed-Solomon Codes (CIRC). The invention consists of the following: where the third Reed-Solomon Codes adopt a block completion type that detects and corrects errors by completing only with data in the predetermined block (sector), each user word is divided into a high symbol and a low symbol, the sector can consist of "Planes," where the first plane of the sector receives a high symbol for the sector, and the second plane receives a low user symbol for the sector. Claim 5 of Patent 1-5 is an invention of a method concerning error-correcting coding of the third Reed-Solomon coder and Claim 7 of said Patent is an invention of a method that has a decoding step for the first and second error-correcting codes respectively.

Consequently, Patent 1-5 corrects errors by the third Reed-Solomon codes in addition to error-correction by CIRC; it detects and corrects errors by completing only with data in the predetermined block (sector); and thereby, it can decrease the error rate in reading data and it enables CDs to be discs for digital data storage. Patent 1-5 also performs error-correction in parallel on the high plane and low plane and thereby makes it possible to shorten processing time.

The error-correction of Patent 1-5 can improve the error correction rate to 10^{-12} , while the error correction rate of existing music CDs is 10^{-9} to 10^{-10} after correction; and it has increased data reliability and enabled CDs to be used as a data storage for computers.

(B) Japanese Industrial Standards (JIS) related to CD-ROMs (120mm read-only type optical discs) (Exhibit Ko 9) stipulate that "It must be noted that the following US patents are particularly related to using this standard." and list US patent 4413340 (patent related to CIRC), US patent 4680764 (Patent 1-3), and other patents.

In the "Annex A (Standards) Coding for error-correction by RSPC" of the JIS, embodiment examples of Patent 1-5 (Figure 6 and Figure 7) are described. These embodiments have the same figures and explanations as those stated in "Re. Compact Disc Digital Audio System License Agreement" that is attached to the patent application form as mentioned in B. (A) above (Exhibit Otsu 57) naming , the First-instance Plaintiff, and <D> as the investors.

D. CD-ROM standardization and joint license

(A) The First-instance Defendant and Philips established a written standard, Yellow Book, in 1985 and standardized the CD-ROMs; disclosed a list of the patents, etc. held by the First-instance Defendant and Philips that are necessary for the manufacturing and selling of storage media conforming to standards related to optical discs and their reading and writing devices; and started a licensing program (hereinafter referred to as the "Joint License Program") to jointly license to licensee candidates the products, such as CD-ROM standards, etc., and the patents necessary for selling in June 1990. As stated in (B) below, under the Joint License Program, Philips was to be in charge of negotiation for agreements with licensees. As stated in (C) below, in a template of an agreement related to CD-ROMs (Exhibit Otsu 152) presented by Philips to licensees, there are provisions stating that the patents subject to licensing shall be "the patent right with the earliest filing date before January 1, 1985 or the patent right with the right of the earliest filing date" and the patent rights specified as essential patents on the list, in addition to the patent rights related to CD audios, and the patents subject to licensing shall be licensed non-exclusively. Patent 1-5 was listed as an essential patent under the aforementioned license program, including Patent 1-1 and Patent 1-2 that are Japanese patents serving as the basis for priority right, Patent 1-3 before the continuation-in-part application was filed, and Patent 1-4 that is a reissue patent of Patent 1-3.

The Joint License Program adopted a so-called open license policy, where a license is granted under open and non-discriminatory conditions.

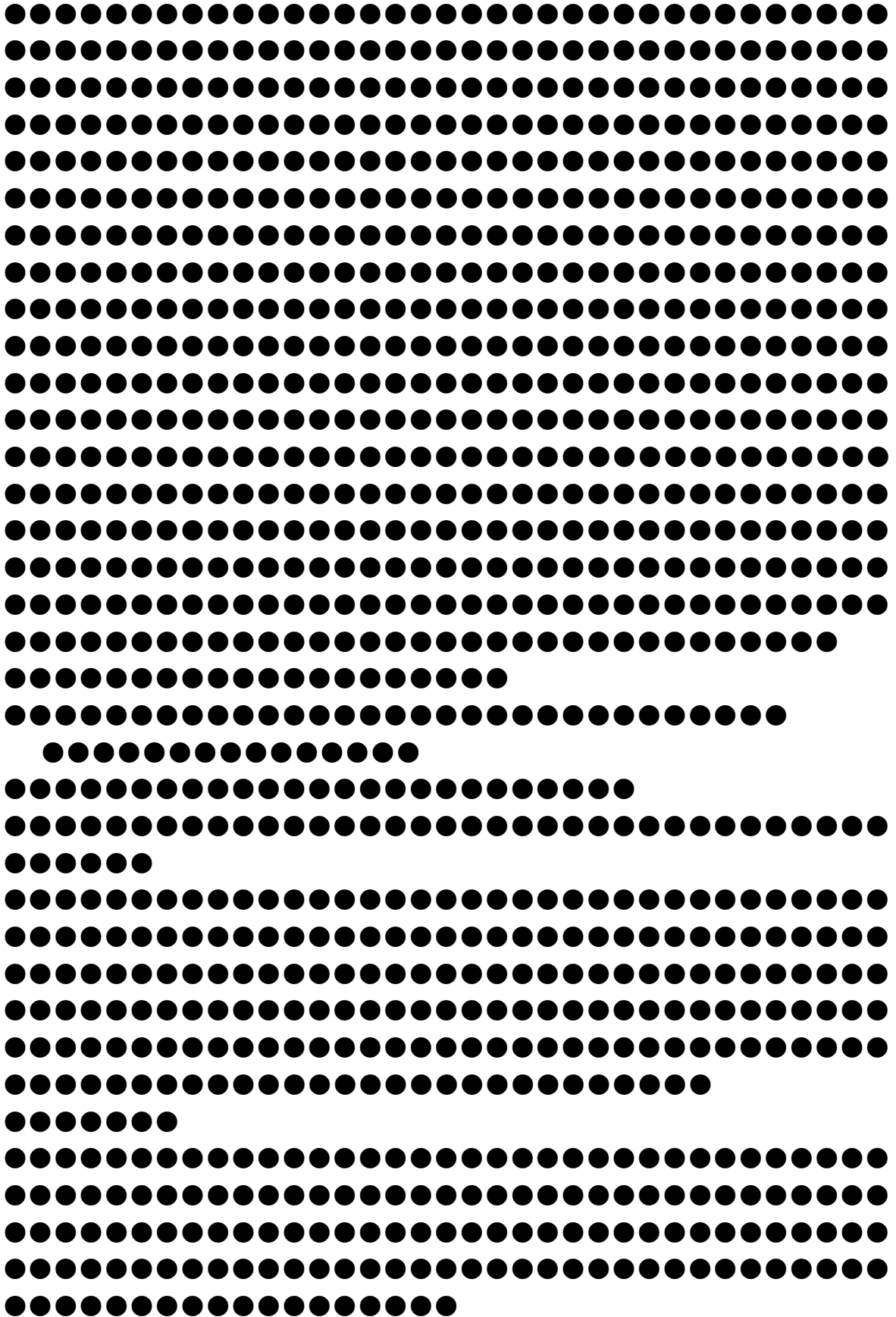
(B) Under the Joint License Program, it was determined that Philips would engage in

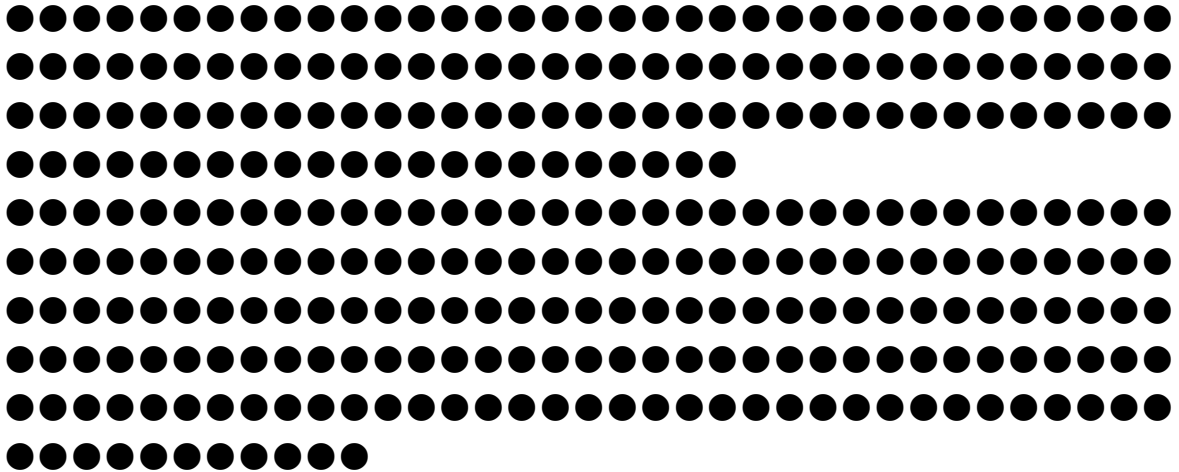
administration, such as negotiations for agreements with licensees, receipt of royalties, etc., and the allocation rate of the royalty would be determined in consideration of the administration fees. However, [REDACTED]. Since it was agreed that the allocation rate to the First-instance Defendant would be [REDACTED] (see Attachment 1 "Appendix 2" "Royalty Matrix" in Exhibit Otsu 51), Philips allocated the royalties to the First-instance Defendant quarterly since January 1993.

Philips paid royalties to the First-instance Defendant after deducting court-related costs for lawsuits against persons who manufactured and sold products based on the CD-ROM standards without obtaining a license under the Joint License Program from the royalty allocation amount. For example, according to the report dated December 19, 2003 created by Philips (Attachment 1 in Exhibit Otsu 54), court-related costs (the court-related costs include those related to DVD standards as stated below) until 2002 were [REDACTED]; the costs were deducted from total royalties for the portion to be paid to the First-instance Defendant in a quarter, [REDACTED]; and the remaining amount, [REDACTED], was paid as actual income from the royalties. In addition, according to the report dated December 29, 2004 (Exhibit Otsu 190), court-related costs in 2003 were [REDACTED]; the costs were deducted from total royalties for the portion to be paid to the First-instance Defendant in a quarter, [REDACTED]; and the remaining amount, [REDACTED], was paid to the First-instance Defendant. In the same way, according to the report dated December 21, 2005 (Attachment 2 in Exhibit Otsu 54), court-related costs for full-year in 2005, [REDACTED], were deducted from total royalties for the First-instance Defendant from October through December 2005, [REDACTED]; and then, the remaining amount, [REDACTED], was paid to the First-instance Defendant.

(C)

[REDACTED]





(E) The First-instance Defendant received allocation of the amounts stated in the columns for royalties (worldwide) in Attachment 4-1 from Philips as royalties of patents that the First-instance Defendant holds, including Patent 1-5, for the period from 1993 until 2005 when the patent term of Patent 1-5 expired, concerning the following product categories: [i] CD-ROM disc, [ii] CD-ROM drive, [iii] CD-R disc, [iv] CD-R drive, [v] CD-RW disc, [vi] CD-RW drive, [vii] Video CD disc, and [viii] Video CD drive.

E. Dissemination of CD-ROMs, investment in CD-ROM-related business by the First-instance Defendant, etc.

(A) Concerning CD-ROM standards, the physical format was determined in Yellow Book between the First-instance Defendant and Philips; however, a logical format was not determined and CD-ROMs were not compatible. In 1985 and 1986, mainly the First-instance Defendant, Philips, Microsoft Corporation, Apple Inc., and other computer manufacturers and software houses in Japan, U.S.A., and Europe started discussions towards unification of logical formats. In 1988, the logical format (International standard, ISO 9660) was unified.

(B) Concerning CD-ROMs, data transmission standards to connect personal computers with peripheral devices, such as CD-ROM drives, etc., were unified as SCSI in 1986 and as ATAPI in 1998. It became therefore possible to attach a CD-ROM drive to personal computers easily after the release of Windows 95, and the use of CD-ROMs expanded for the enhancement of game software and as a supplement for magazines. The First-instance Defendant built manufacturing factories for CD-ROM discs to receive entrustment of manufacturing of discs in which these contents were recorded proactively, prepared to increase production capacity of CD-ROM drive units, enhanced the lineup of ICs for decoders to be used for reading CD-ROM data, released CD-ROM search software as software for the e-publication market, manufactured and sold CD-ROMs on which photographs taken by professional photographers were stored, released

goods to be connected with IBM personal computers in order to enhance CD-ROM business in the U.S.A., started to produce CD-ROMs by establishing a joint company with a US company, and made other investments, and also facilitated alliances with companies in other business types equipped with CD-ROMs.

(C) The First-instance Defendant held licensee meetings, exhibited and advertised at electronics shows, and made proactive approaches to the content industry as marketing promotions concerning CD-ROMs, and also engaged in technical development of devices to disseminate standards and provided technical support to licensees.

(D) The First-instance Defendant engaged in research and development and promotions to improve CD family standards, such as those for CD-Audios, CD-ROMs, CD-Rs, CD-RWs, etc.

F. Release of PlayStation Series by SCE and its business development

(A) The First-instance Defendant and Sony Music Entertainment (Japan) Inc. (hereinafter referred to as "SME") established SCE through joint investment on November 16, 1993. It engages in the development and selling of home video game consoles and software and in licensing to software manufacturers. SCE became a wholly owned subsidiary of the First-instance Defendant on April 1, 2004.

(B) On December 3, 1994, SCE released PlayStation Series PS1. Before this home video game console was released, the "Family Computer" (commonly called, "Fami-con") of Nintendo had monopolized the home video game console market. Fami-con of Nintendo adopted a dedicated cartridge, mask ROM, as storage media; however, PS1 adopted a CD-ROM as storage media which enabled it to process and store high-capacity images and sounds, as well as to achieve a lower price than Fami-con with mask ROM.

In addition, PS1 increased operational performance (equipped with 32-bit RISC processor), had a basic design specializing in 3D graphics using polygons (multilateral data), and was equipped with calculation functions for polygon vertex operations and coordinate transformations, etc. in its hardware, which made it possible to play 3D video smoothly. The graphics technology adopted by PS1 was created using "System G" technology, which the First-instance Defendant had developed for broadcasting stations, as a prototype.

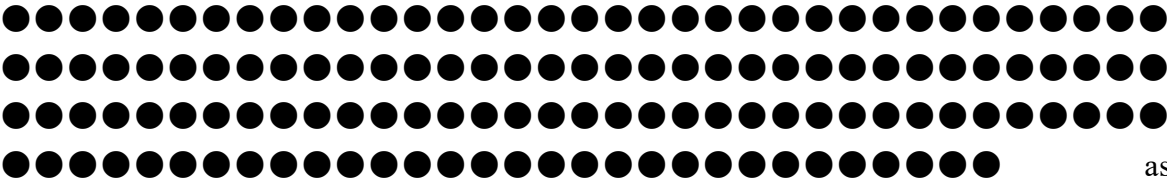
In addition, PS1 had a different controller from existing gaming consoles (flat shape with press buttons) and adopted a controller to be gripped by both hands so that the fingers of both hands could be used.

(C) SCE, as distinct from Nintendo, adopted an open method in relation to the development and supply of game software, provided development equipment at a low price, and thereby made it easier for software manufacturers to newly enter the market.

In addition, concerning the distribution and selling of game software, SCE did not adopt the indirect and multi-step distribution method that Nintendo had adopted, but adopted a method to distribute software directly into the market in order to prevent price collapse and to enable appropriate inventory control.

These SCE strategies focused on software were successful and the new releases of "Dragon Quest," "Final Fantasy," and other popular software were made compatible with PS1. As a result, 3 million units of PS1 were sold in Japan in 1996. PS1 accounted for 45% of the market, and it achieved a shipping volume of 70 million units worldwide in 1999.

In addition, SCE reduced the number of components and adopted cost-reduction measures to lower the price of the gaming console body. It also sold popular editions and low-end versions of the PS series and further increased the number of units sold (concerning the sales of PS2, they are as indicated in (3) F. (B) below.).

(D) On December 29, 1995, the First-instance Defendant agreed to [i] license to SCE concerning patents (the patent rights (including Patent 1-5 and Patent 2-1) and utility model rights (including rights in application procedures) that are helpful for the manufacturing and selling of the "System" (home video game consoles and computers and relevant equipment thereto that are sold with the trademark, "PlayStation," home-use application software that operates on the PlayStation and that is recorded on CD-ROM media, devices, etc. for the development of said software) held by the First-instance Defendant concerning the manufacturing, selling, or development, etc. of the "System" during the agreement period and SCE pays  as compensation (hereinafter referred to as the "SCE License Agreement").

The First-instance Defendant received payment of royalties (for the portion in the U.S.A.) as stated in Attachment 4-4 from SCE for the period from April 1, 1995 until March 31, 2005 in the fiscal year including the day when the patent term of Patent 1-5 expired (March 22, 2005).

G. Payment of incentive remuneration for employee inventions by the First-instance Defendant

(A) The First-instance Defendant started manufacturing and selling of CD-ROM drives to work the invention stated in Claim 7 of Patent 1-5 and CD-R drives to work the invention stated in Claims 1 and 5 of said patent at least by around 1990.

Compact Disc) standards that the First-instance Defendant and Philips announced and SD (Super Density Disc) standards that Toshiba, etc. announced were competing. As an error-correcting system for DVDs, the MMCD side, including the First-instance Defendant, etc., supported the use of CIRC plus (improved CIRC to block-completion type) and the SD side supported the use of block-completion type iterated codes.

The MMCD side and SD side agreed to hold a meeting towards the unification of DVD standards on September 15, 1995 and the standards were unified by including the suggestions of both sides. On December 8, 1995, unified DVD standards were announced as a joint proposal of both sides. The organization for the establishment of these standards was renamed to become the DVD Forum, including the First-instance Defendant and Philips, etc., in August 1997.

(B) The First-instance Plaintiff was in the position of Director of ESPER Research Room that had no relationship with DVDs at the time in 1995; however, since the MMCD side was inferior in the competition for DVD standards, the First-instance Plaintiff looked ahead and considered not only use for videos, but also use for computers; considered that it would be necessary to create a format that can be achieved using both CIRC plus under MMCD standards and block-completion type iterated codes under SD standards; and conceived of a format where high-speed access was achieved by creating a sector structure with error-correction encoded addresses concerning the error-correcting system, where multiple sectors were collected to form a block, error-correction was encoded by said unit, thereby making it possible to also correct burst errors.

The First-instance Plaintiff held discussions concerning the idea with <G>, who was engaged in the development of magneto-optical disk drives at the First-instance Defendant at that time, and <F>, who was involved in MMCD standards, and compiled six ideas including [i] a format that has a header in which the address signal is recorded for each predetermined sector interval and the error-correction block can be divided for each sector interval; [ii] a format where it is designed to synchronize with the frame so that errors can be corrected and detected and error-correction is encoded by LCD codes; [iii] a format where address and data are deemed to be one block in which address has an error detection number that completes in one block and data has an error correction block that is completed in multiple blocks; [iv] a format comprised of a header frame where a sector consists of one frame and a data frame consisting of other multiple frames; [v] a format that can share and switch CLV (constant linear velocity) and zone CAV (constant angular velocity); and [vi] a format that is compatible with the existing CD-ROM format. The First-instance Plaintiff was responsible for the creation and

submission of these invention reports for [i] and [ii], <F> was responsible for [iii] through [v], and <G> was responsible for [vi] respectively.

B. Details, etc. led to the registration

(A) As stated in (2) B. (A) above, according to the regulations for the First-instance Defendant's Invention and Device Rules, there is a provision that if an employee makes an employee invention, the employee shall immediately report it to the superior before announcing it externally and shall transfer the right to receive registration of industrial property rights registration to the First-instance Defendant.

In April 1995, the First-instance Plaintiff submitted two invention reports related to (3) A. (B), [i] and [ii] above to the First-instance Defendant, and <F> submitted invention reports related to [iii] through [v] (Invention Report 1 for [iii] and Invention Report 2 for [v]) to the First-instance Defendant respectively. <G> did not complete an invention report related to [vi] and therefore, <F> submitted Invention Report 3 to the First-instance Defendant on May 8, 1995. In the inventor column in Invention Report 1, Invention Report 2, and Invention Report 3 above, only the name of <F> was stated. (B) Around May 1995, the First-instance Plaintiff received consultation from the person in charge from the Patent Department of the First-instance Defendant concerning Invention Report 1 that there was no inventive step in the details and the application could not be filed. In order to clarify the difference from prior art, on May 15, 1995, the First-instance Plaintiff created and submitted to the First-instance Defendant, Invention Report 4 stating "Data recording method and media" in the column for the invention title and "Data recording method that has a preformed header unit for each predetermined unit, forms error-correction encoded data with multiple pieces of the unit as a block, switches the zone for each predetermined unit of the header unit, and offers high-speed access and can achieve high-capacity recording, and storage media formed in that way" in the column for outline of the invention. In the inventor column in said invention report, the First-instance Plaintiff was named as the lead inventor and then in order of <G> and <F> at first. Then, it was amended to switch the order of the First-instance Plaintiff and <F> by adding a hand-written arrow to assign <F> as the lead inventor.

(C) On May 25, 1995, the First-instance Defendant combined Invention Report 1 with Invention Reports 2, 3, and 4, and determined to file one patent application as an invention titled "Optical disc record reading format." The First-instance Plaintiff, <F>, and <G> transferred the right to receive the patent for the inventions related to the Patent filed in Japan in question (the "Patent Filed in Japan") and inventions related to Patent 2-1 and Patent 2-2 that are overseas patents for the Patent Filed in Japan around

that time.

A meeting on the invention related to the Patent Filed in Japan was held on May 25, 1995 at the office of patent attorney <N> and the meeting was held with said patent attorney as well as <F>, who was named as the lead inventor, and <O> from the Patent Department.

(D) The First-instance Defendant filed a patent application (Patent Application No. 1995-136329) with the Japan Patent Office concerning an invention related to the Patent Filed in Japan titled "Data recording disc" on June 2, 1995. The Patent Filed in Japan included divisional applications (Patent Application No. 2003-312127, Patent Application No. 2006-36416, and Patent Application No.2006-327318), but the application was refused on the grounds that it lacked an inventive step by using, as reference, inventions stated in prior art documents (Unexamined Patent Application Publication No. 1986-182676, Unexamined Patent Application Publication No. 1994-195878, and Unexamined Patent Application Publication No. 1995-130092, etc.). Therefore, the First-instance Defendant filed an appeal against the examiner's decision concerning the original application and part of the divisional applications; however, the First-instance Defendant received the examiner's decision of refusal, and said decision became final and binding.

(E) On May 29, 1996, the First-instance Defendant filed a patent application related to Patent 2-1 with the US Patent and Trademark Office using the Patent Filed in Japan as the basis for priority right, and on April 11, 1997, the First-instance Defendant filed a patent application related to Patent 2-2 using the divisional application for Patent 2-1. Patent 2-1 was registered on September 8, 1998 and Patent 2-2 was registered on October 12, 1999.

C. Technical meaning, etc. of Invention 2-1

(A) Invention 2-1 responds to a problem to realize a data recording disc resistant to burst errors and capable of rapid access without decreasing disc recording capacity, and includes the following in the particulars for identifying the invention: the invention related to Claims 1, 4, and 5 is characterized by the fact that the first code to detect an address error is completed in the first field and that the second code to correct a data error is completed in multiple sectors; and the invention related to Claims 2, 3, 6, and 7 is a zone CAV method recording disc or data recording device.

Patent 2-1 achieves high-speed access and high-error correction capacity that is resistant to burst error, etc. and it is a format optimized for both computer and video use and it can be achieved not only in recording media, but also in read-only media.

(B) The claims related to Patent 2-1 contain a statement that enables data recording

discs and their recording devices, etc. to belong broadly to the technical scope of the patent. As stated in D. below, Patent 2-1 is subject to the licensing of various DVD standards.

In addition, the first-instance Defendant disclosed Patent 2-1 on a website as an essential patent for the following product categories: [i] DVD-ROM, DVD-Audio, [ii] DVD-R/-RW/RAM/+R/+RW Drive, and [iii] DVD-R/-RW/RAM/+R/+RW Disc.

In light of these circumstances, although application for Patent 2-1 was refused as a Japanese patent, it is found to be an essential patent for DVD standards.

D. License programs

(A) 3C License Program

a. On November 24, 1997, the First-instance Defendant concluded a joint license program (hereinafter referred to as "3C License Program") with Philips to license jointly with Pioneer Corporation the patent related to DVD standards held by the First-instance Defendant and Philips. Under this license program, the patent subject to licensing held by the First-instance Defendant would be licensed to Philips with the sub-licensing right; however, Patent 2-1 was listed as a patent subject to licensing for the following product categories: DVD+R disc, DVD+RW disc, DVD+RW/+R recorder, DVD-R disc, DVD-RW disc, DVD-R/-RW recorder, and DVD-video/ROM disc. In addition, under the 3C License Program, from among royalties that licensees paid, ●●●●●●●● per DVD-ROM disc was allocated from Philips to the First-instance Defendant as royalties for the standard essential patent held by the First-instance Defendant (see Attachment 1 "DVD-Video and DVD-ROM Agreement," "Article 3," in Exhibit Otsu 231).

In the same way as the Joint License Program as defined in (1) E. (A) above, the 3C License Program adopted the so-called open license policy, where a license is granted under the open and non-discriminatory conditions.

b. Under the 3C License Program, in the same way as the Joint License Program defined in (1) D. (B) above, Philips deducted the court-related costs concerning lawsuits against persons who manufactured and sold products related to DVD standards without obtaining a license under the 3C License Program, from the royalty allocation amount and made payments to the First-instance Defendant (the amounts required for court-related costs are stated in the columns for "DVD Video/ROM player" and "DVD-Video/ROM disc" of Attachment 1 "Litigation costs regarding DVD" in Exhibit Otsu 54 for fiscal year 2003, and of Attachment 2 "the costs of litigation related to the share for Sony Corporation ... regarding:" in Exhibit Otsu 54 for fiscal year 2005, and in the columns for DVD standards listed in "Litigation costs in EUR regarding:" in Exhibit

Otsu 190 for fiscal year 2004 respectively).

c. The First-instance Defendant received allocation of the amounts stated in the column for "Royalties (worldwide)" in Attachment 4-3 "3C License Program" for the following product categories: [i] "DVD-ROM Disc," [ii] "DVD Video Disc," [iii] "DVD Recordable Disc," and [iv] "DVD Recordable Drive" as the royalty allocation amount of subject patents, including Patent 2-1, from Philips concerning 3C License Program for the period from 1999 through June 2016.

(B) One-Red License Program

a. One-Red, LLC started providing joint patent license of DVD products on July 1, 2012 and started providing joint patent license of DVD software products on October 15, 2012 (hereinafter referred to as the "One-Red License Program"). Under this license program, Patent 2-1 was listed as a patent subject to the licensing of product categories of DVD-ROM disc and DVD-Video disc.

b. The First-instance Defendant received allocation of the amounts stated in the column for "Royalties (worldwide)" in Attachment 4-3 "One-Red License Program" for the following product categories: [i] "DVD-ROM Disc" and [ii] "DVD Video Disc" as the royalty allocation amount of subject patents, including Patent 2-1, from One-Red LLC concerning One-Red License Program for the period from 2012 through June 2016.

(C) One-Blue License Program

a. One-Blue, LLC started to provide joint patent license, including essential patent, etc. for Blu-ray Disc (hereinafter referred to as 'BD') products on July 1, 2011 as a patent pool formed by more than ten licensors, including the First-instance Defendant (hereinafter referred to as "One-Blue License Program"). Under this license program, Patent 2-1 was listed as patent subject to product categories of DVD-RAM, DVD-RW, DVD+RW, DVD+R, and DVD-R.

b. The First-instance Defendant received allocation of the amounts stated in the column for "Royalties (worldwide)" in Attachment 4-3 "One-Blue License Program" for the following product categories: [i] "BD Recorder" and [ii] "BD Recorder Drive" as royalty allocation amount of subject patents, including Patent 2-1, from One-Blue, LLC concerning One-Blue License Program for the period from 2012 through June 2016.

E. Dissemination of DVD standards and investment in DVD standard-related business by the First-instance Defendant

(A) The DVD Forum is divided into working groups for DVD video application, DVD-ROM physical standards, DVD-RAM physical standards, DVD-R/RW physical standards, etc. Many companies from Japan, Europe, and the U.S.A., including the First-instance Defendant, participated in the forum and held technical discussions, and

established standards. The DVD Forum established DVD-ROM physical standards, as well as physical formats of DVD-R (1997), DVD-RAM (1997), and DVD-RW (1999) respectively.

(B) In March 2001, with the initiative of Philips, seven companies, including the First-instance Defendant, organized "DVD+RW Alliance" that is different from the DVD Forum and started to promote new standards for rewritable DVDs (DVD+RW). In addition, the "DVD+RW Alliance" established the DVD+R standards as standards for rewritable DVDs.

(C) The First-instance Defendant and its affiliated companies made a large amount of investment in overseas production bases, such as the U.S.A., Malaysia, Taiwan, Australia, Mexico, Hungary, etc., in addition to Japan, in order to respond to expanding demand for DVDs mainly in North America and Europe; and also built new factories for red semiconductor lasers to be used for DVD players, etc.

Along with Taiyo Yuden Co., Ltd., the First-instance Defendant developed DVD-R; sold optical pickups for DVDs and portable DVD players; released DVD-RW method-compatible personal computers; produced and released DVD video players compatible with both DVD-RW and DVD+RW; developed a large-scale integrated (LSI) circuit compatible with MPEG2, which is an international standard for compression and elongation of videos, where video calculation functions and compression devices are compiled into one chip, a large-scale integrated (LSI) circuit that output sound, which is called "5.1 channel," from DVD, etc., and a semiconductor that emits two types of lasers necessary for DVD recording and reading from one chip; and also entered the DVD recorder business on a full scale.

In addition, in 1998, the First-instance Defendant engaged in activities with SME, which is a group company of the First-instance Defendant, for the promotion of DVD standards, such as engaging in the entrusted business of creating DVD-ROMs, etc. that can be used for the sales promotion of new products and company guide, etc.

F. Release of PlayStation 2 (PS2) by SCE and its business development

(A) In April 1999, the First-instance Defendant and SCE invested 120 billion yen and established a joint company with Toshiba to produce processors towards the development of the next generation of PS. In addition, SCE cooperated with the First-instance Defendant, invested 70 billion yen, and established a new company to produce graphics chips for the next generation devices.

(B) SCE released PS2 on March 4, 2000 (on October 26, 2000 in North America). PS2 can use DVD-ROMs in addition to CD-ROMs on which existing games are stored; as it is equipped with a DVD-Video player, it can also be used for viewing movies. In

addition, PS2 has an IEEE1394 (iLINK) terminal, in addition to USB and PC card Type III slot; it is compatible with the next generation network; and it can respond to the digital market, such as DVDs and internet distribution. An affiliated company of the First-instance Defendant (Sony Computer Entertainment of America) started to provide online games in the U.S.A. on August 27, 2002.

CPU (Emotion Engine) mounted on PS2 is equipped with 300Mhz RISC processor, which was jointly developed with Toshiba. Its data transmission speed is 3.2GB/sec. and a drawing performance of 75,000,000 polygons/sec. was achieved thanks to the development of a chip on which 4 megabytes DRAMs are integrated jointly with Toshiba for its graphic chip.

More than 150 software manufacturers expressed their entry into the market related to PS2 on the announcement of release of PS2 and, in July 2001, a game software for PS2, "Final Fantasy X," reached sales of more than 2 million pieces. 10 million units of PS2 main body were shipped throughout the world by March 2001. Its shipping quantity in the world reached more than 20 million units by October 2001 and 40 million units by September 2002.

(C) SCE released a portable gaming console, PSP, on December 12, 2004 (on March 24, 2005 in North America). Games can be enjoyed on a PSP by using dedicated UMD and download games are digitally distributed.

PSP adopted a 4.3-inch mobile ASV liquid crystal display and UMD memory stick PRO Duo interface, which draws graphics with a quality close to PS2, and is equipped with a multimedia viewing function, Wi-Fi, and a web browser, and therefore, it succeeded in securing its position as a multimedia terminal.

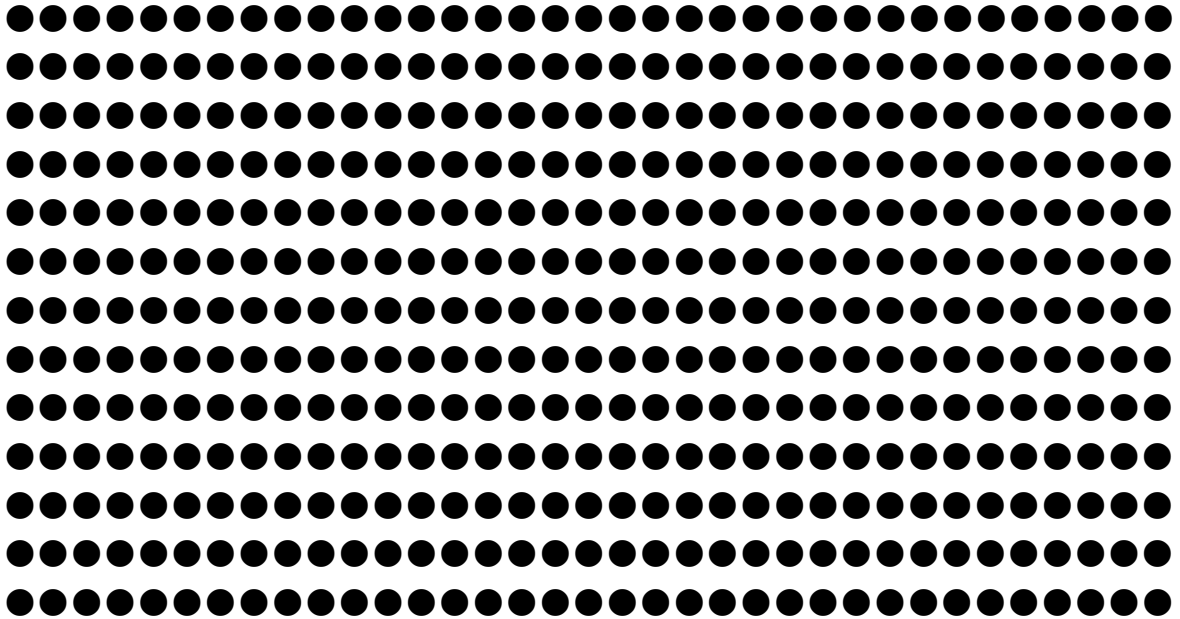
PSP's UMD disc belongs to the technical scope of Patent 2-1.

(D) The First-instance Defendant received payment of royalties (for the portion in the U.S.A.) as stated in Attachment 4-4 from SCE based on the SCE License Agreement for the period from April 1, 1998 until March 31, 2017, which is the fiscal year including the day when the patent term of Patent 2-1 expired (May 29, 2016).

G. Payment of incentive remuneration for employee inventions by the First-instance Defendant

(A) The First-instance Defendant started manufacturing and selling a DVD-RAM recorder, in which the invention stated in Claims 1 through 7 of Patent 2-1 is worked no later than October 9, 2004.

(B) In the First-instance Defendant's Invention and Device Rules (Exhibit Otsu 32) and internal rules (Exhibit Otsu 44) at the time in October 2004, there were provisions concerning incentive remuneration for employee inventions,



based on summary

(C) The First-instance Defendant evaluated incentive remuneration for Patent 2-1 to be ●● and paid ●●● yen to the First-instance Plaintiff on December 17, 2004.

2. Patent 1-5

(1) The amount of profit that the First-instance Defendant should receive from Invention 1-5 (Issue 1-1)

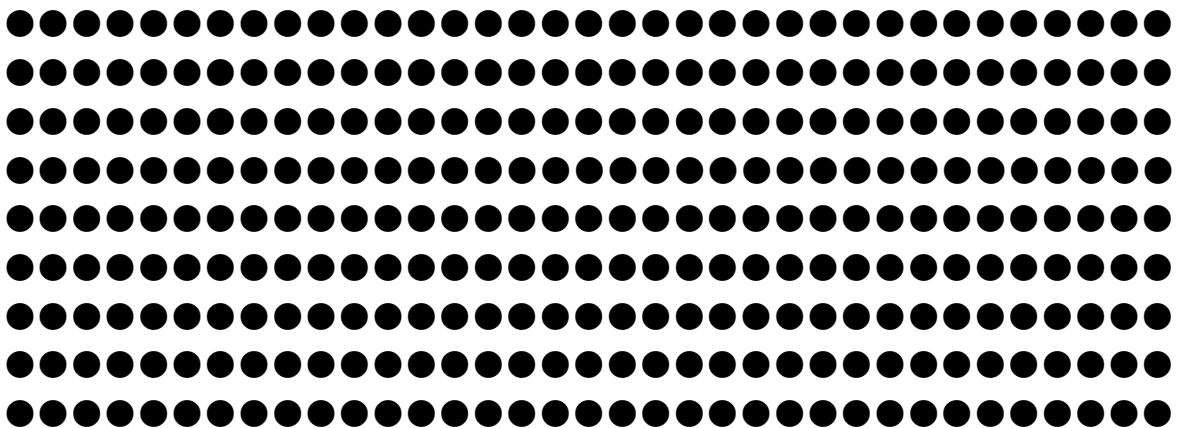
A. Joint License Program

(A) Royalty allocation amount

Under the Joint License Program, the royalties that the First-instance Defendant received are as stated in No. 2, 2. (5) A. (B) of the judgment in prior instance (after correction) related to the citation.

a. From fiscal year 1993 through fiscal year 2002

In the Joint License Program, there are the following provisions (hereinafter referred to as the "Provisions")



In addition, in an agreement under the Joint License Program used for the period approximately from 1991 through 2002, concerning CD-ROM players, the standard essential patents that are stated in the list of Attachment 2 of said agreement ([a]) and patents related to CD audio players as stated in Attachment 1 of said agreement ([b]) are included. However, there are provisions stating that the patents are not limited thereto ([c]) (there are the same provisions for other standards) and patents related to [c] are not stated in the list. Therefore, it is extremely difficult to analyze the number of patents corresponding to [c]. In this regard, the First-instance Defendant alleged before that the number of patents related to [b] and [c] is 2,509 that were extracted by a search using IPC categories; however, many patents that are not related to music CDs are included by this method (see Exhibit Ko 236) and it is difficult to adopt the allegation. In this instance, the First-instance Defendant also alleged by listing patents that possibly fall under [c] as stated in Attachment 1 of this judgment by limiting them to US patents. Therefore, there is no way to identify the number of patents throughout the world.

Meanwhile, since Patent 1-5 is a US patent, it is true that the royalty allocation amount must be limited for the portion in the U.S.A. If it is possible to ascertain the number of patents including CD-related patents in the U.S.A. as patents subject to the licensing of CD-ROMs and the royalties for the portion in the U.S.A. according to the purport of the Provisions, it should be said that the adoption of the theory to consider US patents as a standard is not against the purport of the Provisions. In particular, in consideration of the aforementioned circumstances in this case, it is found to be the most appropriate calculation method in this case to adopt the theory to consider US patents as a standard, identify patents subject to licensing in the U.S.A., and estimate the royalty allocation amount for Patent 1-5 based on the percentage that Patent 1-5 contributed to said subject patents. The first-instance Defendant also does not argue about dividing the royalties (worldwide) allocated to the First-instance Defendant by Philips into the portion for manufacturing and the portion for selling, and 15% of the former portion and 25% of the latter portion are to be presumed to be the portion in the U.S.A.

b. Next, Philips paid royalties to the First-instance Defendant after deducting the court-related costs concerning persons who manufactured and sold products conforming to the CD-ROM standards without obtaining a license from the royalty allocation amount, as a part of the administration under the Joint License Program (1. (2) D. (B) above). Therefore, the court-related costs must be deducted from the royalties. However, since they were matters a long time ago and all data was not prepared, when calculating the

specific amount, it is reasonable to estimate the percentage of court-related costs in each fiscal year by referring to the percentage of court-related costs in fiscal years for which data was submitted.

Based on the above, as stated in 1. (2) D. (B) above, [i] the court-related costs for fiscal year 2002 were ●●●●●●●●●●●●●●●● and total royalties of the First-instance Defendant for the period from October through December 2002 were ●●●●●●●●●●●●●●●●, and therefore, the percentage of court-related costs converted on an annual basis is ●●●●●; [ii] the court-related costs for fiscal year 2003 were ●●●●●●●●●●●●●●●● and total royalties of the First-instance Defendant for the period from October through December 2003 were ●●●●●●●●●●●●●●●●, and therefore, the percentage of court-related costs converted on an annual basis is approximately ●●●●●; and [iii] the court-related costs for fiscal year 2005 were ●●●●●●●●●●●●●●●● and total royalties of the First-instance Defendant for the period from October through December 2005 were ●●●●●●●●●●●●●●●●, and therefore, the percentage of court-related costs converted on an annual basis is approximately ●●●●●.

In light of these circumstances, it is reasonable to estimate that the court-related costs accounted for the royalties from fiscal year 1993 through fiscal year 2002 are ●● and that in fiscal year 2003 and after are ●● and to deduct them from the total royalty for the First-instance Defendant in each fiscal year.

c. Based on the above, royalties that the First-instance Defendant received for each product category are as shown in the column for "Outstanding amount after deduction of court-related costs" in Attachment 4-1.

(B) Contribution percentage of Patent 1-5

a. From fiscal year 1993 through fiscal year 2002

Agreements that were used from fiscal year 1993 through fiscal year 2002 concerning the Joint License Program had provisions concerning CD-ROM players that standard essential patents that are stated in the list of Attachment 2 (omitted the attachment) ([a]) and patents related to CD audio players listed in Attachment 1 (omitted the attachment) ([b]) are included; however, they are not limited to patents listed in Attachment 1 ([c]), and there are the same provisions for other standards, such as those for discs, etc. (1. (2) D. (C) above).

There are no disputes between the parties concerning the number of US patents ([a]) from among standard essential patents for CD-ROM discs, CD-ROM players, CD-R discs, CD-R drives, CD-RW discs, CD-RW drives, Video CD discs, and Video CD players that are included in the list of Attachment 2 of each agreement, and the number

of US patents ([b]) from among patents related to CD audios (players, etc., discs) for each standard listed in Attachment 1 (the lists of CD audio-related patents for each product standard: Exhibits Otsu 153 through 159); however, there are disputes between the parties as stated in Attachment 1 of this judgment concerning patents that are not included in the list in Attachment 1 ([c]). According to the tenor of the license agreement, the patents related to [c] need to be related to CD audios. As stated in the column for "Judgment of this court" in said Attachment 1, concerning No. 5 "Releasable cover locking device" (US4412320A) and No. 8 "Optical reproducing apparatus" (US4592038A) from among patents that the First-instance Defendant alleged to fall under [c], they are expected to be worked or are able to be worked for CD audio players and therefore, they are determined to fall under [c]. However, other patents are not related to CD audios.

Based on the above, the contribution percentage of Patent 1-5 by product category is examined below. As it is found in 1. (2) A. above, CD-ROM discs and their derivatives, i.e., CD-R discs, etc., are based on the standards for music CDs and standards for patents related to discs have been established. Accordingly, it is presumed that most patents related to [b] which are related to CD audio (discs) are patents related to formats that have no other choice. Therefore, it is reasonable to consider that patents related to [a], which are the standard essential patents for CD-ROM discs, etc., and the patents related to [b], which are related to CD audio (discs), have the same value.

On the other hand, concerning CD-ROM players and their derivatives, i.e., each drive-related product, the EFM patents related to the modulation system (US patent 4501000) and CIRC patents related to error-correction (US patent 4413340), from among patents related to [b] for CD audio (players, etc.), are also essential patents for the drives and have major value. However, patents related to other drives are different from discs and most of them are presumed to include selectable patents at each company. The patents related to [a] for CD-ROM drives, etc. and the EFM patents and CIRC patents, from among patents related to CD audios (players, etc.) ([b]), have the same value as patents under the license; however, it is reasonable to calculate the contribution percentage by considering that other patents in [b] have 0.5 of the value of standard essential patents for CD-ROM drives, etc. and that patents related to [c] have 0.1 of the value of patents of [a], etc. since all the patents related to [c] are patents that are worked or have possibility to be worked only.

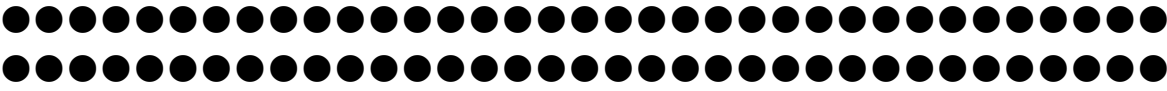
The First-instance Plaintiff alleged that Patent 1-5 has high technical value to the extent that it achieved high error-correction that was not achieved with CIRC and made it possible to use CD-ROMs as computer storage and, therefore, the patent subject to

licensing has a value of three times more than the contribution percentage that was obtained through correction as stated above. However, all standard essential patents are related to the technology that has no choice due to the product standards and there is no evidence to find that Patent 1-5 alone has higher technical value than other standard essential patents.

Based on the above, the contribution percentage of Patent 1-5 for each product category is shown in the table below.

Product category	Patent		Contribution percentage
CD-ROM Disc	[a]	3 cases	1/9
	[b]	6 cases	
	[c]	0 cases	
CD-ROM Drive	[a]	4 cases	1/42.7
	[b]	75 cases	
	[c]	2 cases	
CD-R Disc	[a]	6 cases	1/12
	[b]	6 cases	
	[c]	0 cases	
CD-R Drive	[a]	5 cases	1/38.2
	[b]	64 cases	
	[c]	2 cases	
CD-RW Disc	[a]	8 cases	1/12
	[b]	4 cases	
	[c]	0 cases	
CD-RW Drive	[a]	5 cases	1/38.2
	[b]	64 cases	
	[c]	2 cases	
Video CD Disc	[a]	6 cases	1/13
	[b]	7 cases	
	[c]	0 cases	
Video CD Player	[a]	9 cases	1/46.2
	[b]	72 cases	
	[c]	2 cases	

b. From fiscal year 2003 through fiscal year 2005

Concerning the Joint Program, in the agreement used with licensees in fiscal year 2003 and after,  the number of subject patents in each product category in fiscal year 2003 and after include patents in [a] alone in the table above, and patents in [a] are standard essential patents in each product category, and therefore, as explained in a. above, they should be considered to have the same value as Patent 1-5.

(C) Summary

Based on the above, the results of multiplying the outstanding amount after the deduction of court-related costs by the contribution percentage of Patent 1-5 are as stated in the column for "Exclusive profit from Patent 1-5" in Attachment 4-1.

B. SCE License Agreement

(A) As stated in 1. (2) F. (B) above, PS1 gaming console main body is equipped with a CD-ROM player and its game disc is a CD-ROM disc. Therefore, PS1 gaming console main body and game discs for PS1 games are products subject to licensing under the Joint License Program. In addition, as stated in 1. (3) F. (B) above, PS2 gaming console main body can also read CD-ROM game discs. Therefore, PS2 gaming console main body is a product subject to licensing under said license program.

Article 35, paragraph (4) of the Former Patent Act stipulates that the amount of reasonable compensation for employee inventions shall be determined in consideration of the "amount of profits that the employer, etc. should receive" from the invention and the contribution degree of the employer, etc. for achievement of the invention. The expression, "amount of profits that the employer, etc. should receive" provided for by said paragraph refers to the amount of profits that are objectively expected for the employer, etc. when succeeding to the rights and it is understood that this is not limited to the profits actually received by working the invention, but includes cases of self-working, etc. and refers to exclusive profits that the employer, etc. could have received originally.

Based on the above, it is examined as follows. SCE is a company that the First-instance Defendant and SME jointly invested and established (1. (2) F. (A) above). If the First-instance Defendant concluded a cross-license agreement with Philips for patents held by each party concerning the manufacturing and selling of the PlayStation series, SCE would have become an affiliated company of the First-instance Defendant that does not have to pay royalties again under the Joint License Program, and the profits that the First-instance Defendant received under the cross-license agreement

would have been "the amount of profits that the employer, etc. should receive." However, even examining all articles of evidence in this case, it is insufficient to find that the First-instance Defendant concluded a cross-license agreement with Philips concerning the manufacturing and selling of the PlayStation Series. It is rather found that the First-instance Defendant concluded a license agreement (SCE License Agreement) with SCE for licensing patent rights, etc. (including Patent 1-5 and Patent 2-1) held by the First-instance Defendant that are helpful for manufacturing, selling, developing, or otherwise handling the PlayStation Series, gave favorable treatment to SCE over other licensee companies, and received compensation from SCE.

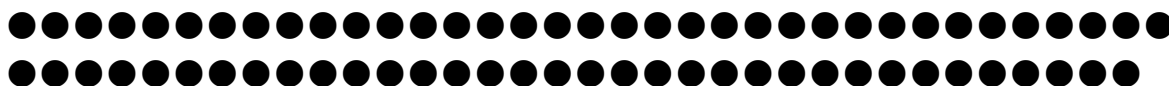
In this way, since the First-instance Defendant treats SCE not as an affiliated company under the Joint License Program, but as a licensee concerning the manufacturing and selling of the PlayStation Series that are products subject to licensing under said program, which is operated jointly with Philips, according to the fact that the program adopts a so-called open policy to grant licenses under open and non-discriminatory conditions (1. (2) D. (A) above), the exclusive profits that the First-instance Defendant could have received for the manufacturing and selling of PS1 gaming console main body and game discs and PS2 gaming console main body should be the amount calculated based on the royalty amount that is obtained by multiplying the amount calculated by the royalties determined under said license program by the allocation rate for the First-instance Defendant (hereinafter referred to as the "Virtual Accumulation Method") based on the assumption that SCE received a license for the manufacturing and selling of the PlayStation Series from Philips. Therefore, said exclusive profits do not have to be limited to the profits that the First-instance Defendant actually received under the SCE License Agreement.

In addition, the First-instance Defendant alleged that even if the Virtual Accumulation Method is adopted, in cases where patents are licensed to group companies that have a capital relationship, in comparison with the relationship with a third party (including competitors) that has no capital relationship, it is natural that group companies are treated favorably to an extent, in terms of royalties and other conditions, and the royalties under the Joint License Program are not applied to the SCE License Agreement without making any changes. In response to this allegation, the First-instance Plaintiff alleged not to dispute to the extent of multiplying royalties by 80%. In consideration of the fact that SCE has a capital relationship with the First-instance Defendant, this court also considers that the degree of favorable treatment on the conditions to this extent is not unreasonable and calculates the profits as follows.

a. The prices of PS1 gaming consoles for each subject period from the release date of

stated in the column for "[ii] Profits that the First-instance Defendant should receive for Patent 1-5" in Attachment 4-2 "PS1 gaming console (related to Invention 1-5)."

On the other hand, the First-instance Defendant alleged that PS1, including PS2 as stated below, has multiple functions as a gaming console and the function to read CD-ROM discs or DVD-ROM discs is very limited among overall gaming consoles, and therefore, it is not appropriate to calculate royalties of the gaming console by setting the net sale price as 2%; however,



Even though functions other than reading CD-ROMs or DVD-ROMs are added to PS1 gaming consoles or PS2 gaming consoles, it cannot be said that the aforementioned calculation method has a problem (the point that PS1 gaming consoles and PS2 gaming consoles have multiple functions other than reading CD-ROM discs or DVD-ROM discs is to be considered based on the contribution degree of the First-instance Defendant in the exclusive profits of the First-instance Defendant).

In addition, the First-instance Defendant alleged that when calculating the royalties for PS1 gaming console main bodies and game discs by using the royalty rate under the Joint License Program, the licensing standards of Philips around 1992, including those for PS2 gaming consoles as stated below, were not always maintained in relationships with individual licensees, and there were circumstances where the pressure to reduce the price was always added, and therefore, calculations based on the aforementioned standards have a problem. However, under the Joint License Program, licenses were granted under non-discriminatory conditions, and as long as there is no specific evidence that the aforementioned standards were revised, it is appropriate to make calculations based on the aforementioned standards.

b. The prices of PS2 gaming consoles for each subject period from the release date of PS2 until the expiration date of Patent 1-5 are as stated in the left column of Attachment 3, Table 1-2 "PS gaming console main body prices" (Exhibit Ko 295). Said prices are stated in US dollars. The prices of said console in yen based on the average foreign exchange rate during said period (Exhibit Ko 296) are as stated in the right column of said table "PS2 gaming console main body prices." There are no disputes between the parties that the percentage of the number of PS2 gaming console main bodies sold in the U.S.A. during the subject period (Exhibit Ko 298) from which the portions in Canada and Mexico are excluded is estimated to be 89%. Accordingly, the number of PS2 gaming console main bodies sold during the subject period is as stated in the column for "The number of PS2 gaming console main bodies sold in North America

(10,000 units) × 89% (sales amount in the U.S.A.)" in said table. In the same way as PS1 gaming consoles, under the Joint License Program, concerning CD-ROM players, the royalties for products other than products subject to each license that can read CDV discs with outside diameter of 130mm or more (PS2 gaming console falls under this category) is ●● of the "Net sale prices of products subject to licensing" (1. (2) D. (C) above) and the royalty allocation rate for the First-instance Defendant is ●●●●● (1. (2) D. (B) above). Therefore, the royalty amount that the First-instance Defendant should receive is as stated in the column for "Royalties to be paid to the First-instance Defendant" in said table. As stated in (A) above, the amount equivalent to 80% of the royalty amount is the royalty amount that the First-instance Defendant should receive during each subject period (see the column for "[i] Profits that the First-instance Defendant should receive" in Attachment 4-2 "PS2 gaming console (related to Invention 1-5)").

The contribution percentage of Patent 1-5 under the Joint License Agreement from among subject patents for CD-ROM players is, as stated in the column for "CD-ROM Drive" in A. (B) above, 1/42.7 until fiscal year 2002, and 1/4 in fiscal year 2003 and after (technically, for the period corresponding to fiscal year 2003 (from April 1 2003 through March 31, 2004) (meaning from April 1, 2003 through July 31, 2003) from among the column for "2002.5 to 2003.7" in Attachment 4-2 "PS2 gaming console (related to Invention 1-5)," 1/4 should be used for calculation; however, the First-instance Plaintiff calculated by setting the contribution percentage concerning royalties for the period of "2002.5 to 2003.7" to be 3/13.4 collectively in the same way as that for the period until fiscal year 2002 (see the Appeal of the First-instance Plaintiff, 12th brief, page 61); however, it is difficult to identify the sales volume in this period by dividing as of April 1, 2003 and it is not a disadvantageous calculation to the First-instance Defendant; therefore, the First-instance Plaintiff's calculation method is adopted for the calculation.). When multiplying said percentage, the exclusive profits that the First-instance Defendant should receive are as stated in the column for "[ii] Profits that the First-instance Defendant should receive for Patent 1-5" in Attachment 4-2 "PS2 gaming console (related to Invention 1-5)."

On the contrary, the First-instance Defendant alleged that most PS2 software is a disc based on DVD-ROM standards and CD-ROM standard discs are very limited and therefore, contribution of CD-ROM standards to PS2 gaming consoles is nil or the percentage is very limited if any. However, the PS2 gaming console is compatible not only with DVD-ROM standards, but also CD-ROM standards (1. (3) F. (B) above) and therefore, it cannot be exempted from royalties of ●●● for the "net sale prices" of

Defendant (see the column for "[i] Profits that the First-instance Defendant should receive" in Appendix 4-2 "PS1 game disc (CD-ROM disc) (related to Invention 1-5)").

The contribution percentage of Patent 1-5 under the Joint License Agreement from among subject patents for CD-ROM players is, as stated in the column for "CD-ROM Disc" in A. (B) above, 1/9 until fiscal year 2002 and 1/3 in fiscal year 2003 and after (technically, for the period corresponding to fiscal year 2003 and fiscal year 2004 (from April 1, 2003 through December 31, 2004) from among the column for "1995.9.9 to 2004.12.31" in Attachment 4-2 "PS1 game disc (CD-ROM disc) (related to Invention 1-5)," 1/3 should be used for calculation; however, the First-instance Plaintiff calculated by setting the contribution percentage concerning royalties for the period of "1995.9.9 to 2004.12.31" to be 3/6.6 collectively in the same way as that for the period until fiscal year 2002 (see the Appeal of the First-instance Plaintiff, 12th brief, page 61); however, it is difficult to identify the sales volume during this period by dividing as of April 1, 2003 and it is not a disadvantageous calculation to the First-instance Defendant; therefore, the First-instance Plaintiff's calculation method is adopted for the calculation.). When multiplying said percentage, the exclusive profits that the First-instance Defendant should receive are as stated in the column for "[ii] Profits that the First-instance Defendant should receive for Patent 1-5" in Attachment 4-2 "PS1 game disc (CD-ROM disc) (related to Invention 1-5)."

(B) To make sure, the decision of this court on the First-instance Plaintiff's Alternative Allegations 1 and 2 is indicated below.

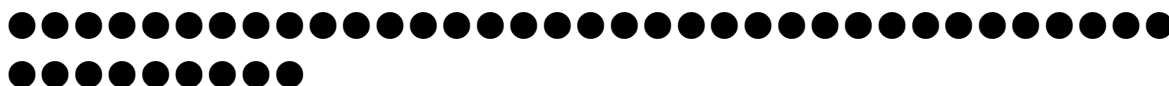
a. Alternative Allegation 1 is as stated in No. 3, 1. (1) (Allegation of the First-instance Plaintiff) B. (B) above, and the First-instance Defendant demands to receive its exclusive profits by seeking the contribution percentage of Patent 1-5 in the royalties that the First-instance Defendant received based on the SCE License Agreement.

It is true that, in the calculation process, since SCE is a company specialized in games related to the PlayStation Series and US patents held by SCE are strongly presumed to be related to game-related business, it is reasonable to narrow down the IPC categories of patents held by SCE in the U.S.A. from among the US patents held by the First-instance Defendant and to estimate the number of patents related to games. SCE holds 6,206 patents; however, in consideration of the fact that SCE is a company established in 1993, it cannot be said to be unreasonable to estimate the average number of patents held by SCE for the period from 1995 through 2013 to be 3,103 patents.

However, concerning SCE's "working rate" that the First-instance Plaintiff uses, no objective evidence supporting that the rate is correct has been submitted and it is not possible to presume the rate easily. In addition,

patents held by the First-instance Defendant; when calculating the exclusive profits that the First-instance Defendant received from Patent 1-5 in relation to the SCE License Agreement by the calculation method in Alternative Allegation 2, as shown in the following formula, it is 9,327,905 yen; however, it does not exceed the amount calculated based on the principal allegation as stated above).

[Calculation formula]



(C) Based on the above, concerning the SCE License Agreement, it is reasonable to calculate the amount of exclusive profits that the First-instance Defendant received from Patent 1-5 as stated in column of "[ii] Profits that the First-instance Defendant should receive for Patent 1-5" in each of Attachment 4-2 "PS1 gaming console (related to Patent 1-5)," "PS2 gaming console (related to Patent 1-5)," and "PS1 game disc (CD-ROM disc) (related to Patent 1-5)."

(2) Degree of the First-instance Defendant's contribution related to Invention 1-5 (Issue 1-2)

A. Joint License Program

(A) Invention 1-5 is an error-correction technology making it possible to apply music CDs to the computer field. While the existing error-correction rate of music CDs was 10^{-9} to 10^{-10} after correction, Invention 1-5 improved the rate to 10^{-12} , and thus increased the data reliability and enabled music CDs to be used as data storage for a computer (1.

(2) C. (A) above). Patent 1-5 is deemed to have high technical value, such as being used as the standard essential patent for CD-ROMs, etc. (1. (2) C. (B) above).

On the other hand, Invention 1-5 includes particulars for identifying the invention that make it possible to perform error-correction by the third Reed-Solomon Codes, in addition to the error-correction by the first and second Cross Interleave/Reed-Solomon Codes (CIRC) (1. (2) C. (A) above). CIRC was invented in the process of research and development of music CDs jointly by the First-instance Defendant and Philips (1. (1) above). It cannot be denied that part of these prior arts accumulated by the First-instance Defendant is used for Invention 1-5. In addition, during the procedures to establish the right for Invention 1-5, including the procedures related to Patent 1-1 and Patent 1-2 that are the basis for priority right, there was no contribution of the First-instance Plaintiff. The procedures were commissioned to the office in the U.S.A. The Intellectual Property Department of the First-instance Defendant made considerable contributions, including having taken appropriate actions for the grounds for refusal received from the US Patent and Trademark Office (1. (2) B. above).

In addition, the First-instance Defendant and Philips adopted an open license policy that is non-discriminatory and open, and provided licensing opportunities broadly (1. (2) D. (A) above). The First-instance Defendant and Philips also took the initiative and created not only the physical format of CD-ROMs, but also unified the logical format of CD-ROMs and provided compatibility (1. (2) E. (A) above). In addition, they achieved unified transmission data standards to connect peripheral devices of personal computers (1. (2) E. (B) above), thereby making CD-ROMs broadly used as personal computers or gaming software.

Furthermore, the First-instance Defendant established manufacturing factories for contract production of CD-ROM discs, prepared to increase production capacity of CD-ROM drive units, engaged in the planning and development of various goods using CD-ROMs, and established alliances, etc. with companies in other business categories (1. (2) E. (B) above). As a marketing promotion, the First-instance Defendant organized licensee meetings, proactively approached the content industry, developed the technology of devices to disseminate the standards, and provided technical support to licensees (1. (2) E. (C) above). Therefore, it is found that the First-instance Defendant engaged in research and development and promotion for improvement of not only CD-ROM standards, but also CD-Family standards, such as CD-Rs, etc.

In consideration of the aforementioned circumstances, concerning the exclusive profits that the First-instance Defendant received under the Joint License Program, it is reasonable to consider that the contribution degree of the First-instance Defendant is 95%.

(B) On the other hand, the First-instance Plaintiff alleged that he/she examined from conceiving of the idea until completion of specific formats by him/herself concerning Invention 1-5, conducted simulations, and completed the invention during non-working hours without using company facilities of the First-instance Defendant, and he/she stated and alleged to that effect (Exhibit Ko 165). However, concerning the details until completion of the invention as stated by the First-instance Plaintiff in person, it has little objective evidence to support it and, at the same time, there are relevant articles of evidence, such as the written statement, etc. of denying the First-instance Plaintiff's statement (Exhibit Otsu 132). Therefore, it is not reasonable to make determinations based only on the statement, etc. of the First-instance Plaintiff in person beyond the degree of involvement of the First-instance Plaintiff, which was found in 1. (2) A. above.

In addition, the First-instance Plaintiff alleged that Invention 1-5 and CIRC were different technologies and Invention 1-5 was not completed by using prior art. However,

in Invention 1-5, the third Reed-Solomon coder is placed in addition to the first and second Reed-Solomon coders (CIRC). Even if there are technical differences from CIRC, it cannot be denied that Invention 1-5 is completed using prior art.

(C) On the other hand, the First-instance Defendant alleged that Invention 1-5 is a patent for which a terminal disclaimer to waive part of the patent term of Patent 1-3 was submitted in order to avoid a double patent. Patents with a terminal disclaimer cannot be transferred by separating them and Patent 1-3 is deemed to be waived by registration of Patent 1-4, which is the reissue patent of Patent 1-3. Therefore, Patent 1-4 and Patent 1-5 substantially protect the same invention and Patent 1-5 has no technical value and has no unique contribution to license, etc.

The terminal disclaimer is a system where a patentee waives part of the duration of the patent term in order to avoid refusal on the grounds of a double patent and to match the end of the patent term of a patent with the expiration date of another patent. Patents for which a terminal disclaimer is submitted cannot be transferred by separating them and the right can only be exercised when they are held by the same, identical person (Exhibit Ko 222, and Exhibits Otsu 257 and 258). Although there are specified restrictions on the patent duration term and exercise of rights, it cannot be said that Invention 1-5 has no technical value. Therefore, the allegation of the First-instance Defendant has no grounds.

B. SCE License Agreement

The exclusive profits that the First-instance Defendant received from the working of Patent 1-5 under the SCE License Agreement are related to the gaming console main body of PS1 and PS2 and CD-ROM discs of PS1. PS1 and PS2 are proud of their high operational performance and graphic performance (1. (2) F. (B) and (3) F. (B) above) and system G technology that the First-instance Defendant developed for broadcasting stations is used for the graphics technology adopted by PS1 (1. (2) F. (B) above), and PS2 is equipped with a processor that was jointly developed with Toshiba (1. (3) F. (A), (B) above), etc. Cutting-edge technologies are incorporated in them in addition to CD-ROMs and DVD-ROMs.

The First-instance Defendant, jointly with affiliated companies, established SCE, which engages in the development of gaming consoles, such as PS1, etc., and in licensing business with software manufacturers (1. (2) F. (A) above), and made a significant investment to develop gaming consoles of PS1 and PS2 in which cutting-edge technologies of the time are incorporated. In addition, SCE proactively encouraged new software manufacturers to enter the market, made it possible for various kinds of game software to be played on PS1 and PS2 and adopted direct marketing for software

to enable appropriate inventory management (1. (2) F. (C) above). In addition, SCE released low-end versions of the gaming console main body (same as above) and developed PS2 compatible with the next generation network (1. (3) F. (B) above). These SCE acts led PS1 and PS2 to acquire dominant position in the game market and resulted in increases in exclusive profits that the First-instance Defendant received under the SCE License Agreement. These marketing efforts and investment activities, etc. by SCE should be included in the contribution degree of the side of the First-instance Defendant that is a joint investment company.

In addition to the contribution degree of the First-instance Defendant that is explained related to the Joint License Program as stated in A. above, when adding the contribution degree of the First-instance Defendant and SCE concerning the PlayStation Series, it is reasonable to determine the contribution degree of the First-instance Defendant to be 97% concerning exclusive profits that the First-instance Defendant received under the SCE License Agreement.

C. Summary

As mentioned above, it is reasonable to determine that the contribution degree of the First-instance Defendant concerning the exclusive profits that the First-instance Defendant received under the Joint License Program is 95%, and the contribution degree of the First-instance Defendant concerning the exclusive profits that the First-instance Defendant received under the SCE License Agreement is 97%. Therefore, the amounts based on the above are as stated in the columns for "Contribution degree of the First-instance Defendant" in Attachments 4-1 and 4-2 respectively.

(3) Degree of the First-instance Plaintiff's contribution among co-inventors of Invention 1-5 (Issue 1-3)

The inventors of Invention 1-5 are, in light of details leading to the invention related to Patent 1-5 and details leading to the registration thereof as mentioned in 1. (2) A. and B. above, five persons, namely the First-instance Plaintiff, , <D>, <E>, and <C>, and the 4 persons excluding <C> are employees of the First-instance Defendant.

The contribution degree in the joint invention between inventors is found to be equal unless there are special circumstances; however, according to what was found in 1. (2) A. and B. above, the First-instance Plaintiff made multiple options at the request of and held exhaustive deliberations and consultations with , and as a result, Invention 1-5 was completed along with invention reports naming <E>, etc. as the inventors. The First-instance Plaintiff is found to have fulfilled a certain role for Invention 1-5; however, there is not enough evidence to find that the First-instance Plaintiff took initiatives or had an important role. In this regard, the First-instance Plaintiff alleged

that he contributed from conceiving of the idea until completion of the invention by himself; however, as stated in (2) A. (B) above, there is little objective evidence to support these allegations. Therefore, the allegations of the First-instance Plaintiff related to the contribution degree among co-inventors based on the above is groundless.

Rights were established for Invention 1-5 based on the patent application form (Exhibit Otsu 55) naming <E>, <D>, and <J> as the inventors (however, a notice naming <E>, <D>, , the First-instance Plaintiff, and <C> as the inventors was submitted subsequently) and the patent application form (Exhibit Otsu 57) naming , the First-instance Plaintiff, and <D> as the inventors (1. (2), B. (A) above). In the "Annex A (Standards) Coding for error-correction by RSPC" for the CD-ROM standards, examples of embodiment of Patent 1-5 (Figure 6 and Figure 7) are stated. These examples of embodiment are the same figures, etc. attached to the patent application form (Exhibit Otsu 57) naming , the First-instance Plaintiff, and <D> as the inventors (1. (2) C. (B) above), and it is presumed that they are based on multiple drafts that the First-instance Plaintiff created at the request of (1. (2) A. (B) above). Therefore, it is found that the contribution of the First-instance Plaintiff for standardization of the error-correcting system of CD-ROMs is greater than that of <E>, etc.

Consequently, it is considered that there are special circumstances where the contribution degree of the First-instance Plaintiff among co-inventors of Patent 1-5 exceeds the equal percentage, and it is reasonable to consider the First-instance Plaintiff's contribution degree to be one-third.

(4) The amount of reasonable compensation for Invention 1-5 (Issue 1-4)

The amount of reasonable compensation for Invention 1-5 under the Joint License Program is calculated based on (1) through (3) above and, as stated in the column for "Amount of reasonable compensation" in Attachment 4-1, total amount is ●●●●●●●● yen. The amount of reasonable compensation for Patent 1-5 under SCE License Agreement is 4,514,677 yen in total, as stated in column for "Amount of reasonable compensation" in each of Attachment 4-2 "PS1 gaming console (related to Invention 1-5)," "PS2 gaming console (related to Invention 1-5)," and "PS1 game disc (CD-ROM disc) (related to Invention 1-5)."

Since the First-instance Defendant paid 200,000 yen as incentive remuneration for Invention 1-5, the outstanding amount is 22,672,260 yen.

3. Patent 2-1

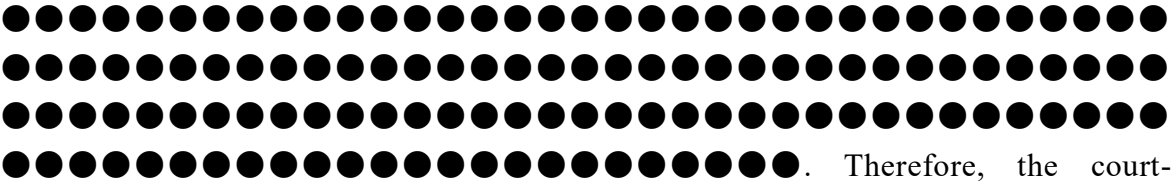
(1) The amount of profits that the First-instance Defendant should receive from Invention 2-1

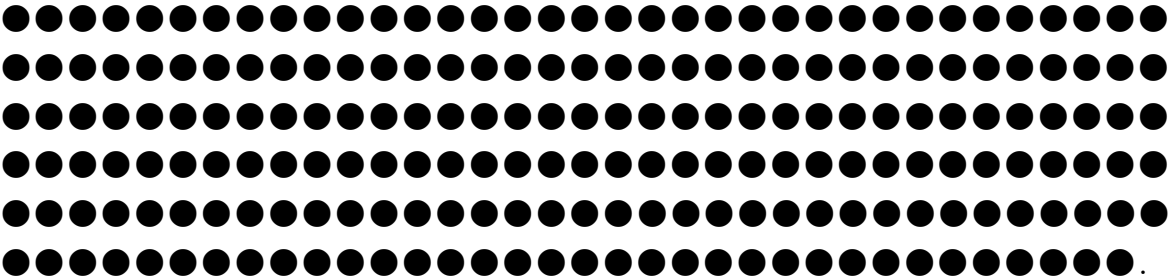
A. License programs

(A) 3C License Program

a. Royalty allocation amount

Under the 3C License Program, the royalties that the First-instance Defendant received are as stated in No. 2, 2. (6) A. (A) (after correction) of the judgment in prior instance related to the citation. Patent 2-1 is a US patent and when calculating the exclusive profits, the portion in the U.S.A. should be calculated from among the royalties. There is no dispute between the parties on determining the royalty allocation amount for the portion in the U.S.A. to be 25%. Royalties for each product category based on this are as stated in the column for "Royalties (U.S.A.)" in Attachment 4-3 "3C License Program (related to Invention 2-1)."

Next, under the 3C License Program, . Therefore, the court-related costs need to be deducted from the royalties. However, since they were matters a long time ago and all data was not prepared, it is reasonable when calculating the specific amount to refer to the percentage of court-related costs in fiscal years for which data was submitted and to estimate the percentage of court-related costs in each fiscal year. Based on the above,

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Based on the above, royalties that the First-instance Defendant received for each product category are as stated in the column for "Outstanding amount after deduction of court-related costs" in Attachment 4-3 "3C License Program (related to Invention 2-1)."

b. Contribution percentage of Patent 2-1

Under the 3C License Program, there is no dispute between the parties that the numbers of US patents for each product category are 8 patents for the DVD-ROM discs, 23 patents for the DVD video discs, 19 patents for the DVD recordable discs, and 25 patents for the DVD recordable drives. They are standard essential patents and it is

reasonable to consider them as having equal value when calculating the contribution percentage of Patent 2-1 in royalties.

Based on the above, the exclusive profits that the First-instance Defendant received from Patent 2-1 are as stated in the column for "Exclusive profits from Patent 2-1" in Attachment 4-3 "3C License Program (related to Invention 2-1)" for each product category.

(B) One-Red License Program

a. Royalty allocation amount

Under the One-Red License Program, the royalties that the First-instance Defendant received are as stated in No. 2, 2. (6) A. (B) (after correction) of the judgment in prior instance related to the citation. Patent 2-1 is a US patent and when calculating the exclusive profits, the portion in the U.S.A. should be calculated from among the royalties. There is no dispute between the parties on determining the royalty allocation amount for the portion in the U.S.A. to be 25%. Based on this, royalties for each product category are as stated in the column for "Royalties (U.S.A.)" in Attachment 4-3 "One-Red License Program (related to Invention 2-1)."

b. Contribution percentage of Patent 2-1

Under the One-Red License Program, there is no dispute between the parties that the numbers of US patents for each product category are 3 patents for the DVD-ROM discs and 15 patents for the DVD video discs. They are standard essential patents and it is reasonable to consider them as having equal value when calculating the contribution percentage of Patent 2-1 in royalties.

Based on this, the exclusive profits that the First-instance Defendant received from Patent 2-1 are as stated in the column for "Exclusive profits from Patent 2-1" in Attachment 4-3 "One-Red License Program (related to Invention 2-1)" for each product category.

(C) One-Blue License Program

a. Royalty allocation amount

Under the One-Blue License Program, the royalties that the First-instance Defendant received are as stated in No. 2, 2. (6) A. (C) (after correction) of the judgment in prior instance related to the citation. Patent 2-1 is a US patent and when calculating the exclusive profits, the portion in the U.S.A. should be calculated from among the royalties. There is no dispute between the parties on determining the royalty allocation amount for the portion in the U.S.A. to be 25%. Based on this, royalties for each product category are as stated in the column for "Royalties (U.S.A.)" in Attachment 4-3 "One-Blue License Program (related to Invention 2-1)."

b. Contribution percentage of Patent 2-1

Under the One-Blue License Program, there is no dispute between the parties that the numbers of US patents for each product category are 255 patents for the BD recorders (including 5 patents for Patent 2-1) and 132 patents for the BD recorder drives (including 5 patents for Patent 2-1). They are standard essential patents and it is reasonable to consider them as having equal value when calculating the contribution percentage of Patent 2-1 in royalties.

Based on this, the exclusive profits that the First-instance Defendant received from Patent 2-1 are as stated in the column for "Exclusive profits from Patent 2-1" in Attachment 4-3 "One-Blue License Program (related to Invention 2-1)" for each product category.

B. SCE License Agreement

(A) As stated in 1. (3) F. (B) above, PS2 game discs are also compatible with DVD-ROM discs and the DVD-ROM disc is a product subject to licensing under the 3C License Program. In addition, PSP game disc is a UMD disc using the DVD-ROM standards. It is not defined in the program category under said license program; however, it is reasonable to treat PSP game discs as equivalent to products subject to licensing under said license program.

The "amount of profits that the employer, etc. should receive" as defined in Article 35, paragraph (4) of the Former Patent Act refers to the amount of profits that are objectively expected for an employer, etc. when succeeding to the rights and it is understood that this is not limited to the profits actually received by the working of the invention, but includes cases of self-working, etc. and refers to exclusive profits that the employer, etc. could have received originally, as stated in 2. (1) B. (A) above.

Under the 3C License Program, patents subject to licensing held by the First-instance Defendant are licensed to Philips with sub-license (1. (3) D. (A) a. above). Therefore, if SCE had received a license under the 3C License Program from Philips when manufacturing and selling PS2 and PSP, SCE would not have to pay royalties again to the First-instance Defendant. The royalties to be allocated to the First-instance Defendant by Philips can be the "amount of profits that the employer, etc. should receive." However, after examining all the articles of evidence in this case, there is no evidence to find that SCE received a license for the manufacturing and selling of PS2 or PSP. Rather, it is found that the First-instance Defendant concluded the SCE License Agreement on the assumption that SCE had not received a license, gave more favorable treatment to SCE, which is an affiliated company of the First-instance Defendant, than to other licensees, and obtained compensation from SCE.

In this way, since the First-instance Defendant treats SCE as a licensee that has not received a license from Philips concerning the manufacturing and selling of PS2 or PSP, based on the fact that the 3C License Program adopts a so-called open policy to grant licenses under open and non-discriminatory conditions (1. (3) D. (A) a. above), the exclusive profits that the First-instance Defendant could have received originally for the manufacturing and selling of PS2 or PSP game discs should be the amount calculated based on the royalties specified by said license program (the Virtual Accumulation Method) on the assumption that SCE had received a license under said license program, and it is not necessary for said exclusive profits to be limited to the profits that the First-instance Defendant actually received under the SCE License Agreement.

In addition, in light of the fact that SCE is in a capital relationship with the First-instance Defendant, it is reasonable to calculate royalties that the First-instance Defendant could have received by multiplying the royalty that was cumulated based on the Virtual Accumulation Method by 80%, in the same manner as 2. (1) B. (A) above. Calculation is implemented below based on this assumption.

a. Concerning PS2 game discs, the sales volumes of game discs in North America for each subject period during the period from the release date of PS2 (October 26, 2000) through the patent term expiration date of Patent 2-1 (May 29, 2016) are [i] for the period from October 26, 2000 through March 31, 2007, 565 million pieces (Exhibit Ko 301); [ii] for the period from April 1, 2007 through March 31, 2012, 135.55 million pieces, which is estimated by multiplying the worldwide sales volume of 297.5 million pieces (Exhibit Ko 302) by the percentage of sales volume in North America (565 million pieces) against cumulative worldwide sales volume (1,240 million pieces) as of March 31, 2007; and [iii] for the period from fiscal year 2012 and after, since there are no data, the sales volume of the game discs in North America in each fiscal year is estimated as follows based on the assumption that the decrease ratio of the worldwide sales volume in fiscal year 2010 and fiscal year 2011 (48%) continued in fiscal year 2012 and after, by multiplying the worldwide sales volume in fiscal year 2011 (7.9 million pieces) by said percentage and then by the percentage of sales volume in North America against the worldwide sale volume as stated in [ii] above: in fiscal year 2012 (from April 1, 2012 through March 31, 2013): 1.73 million pieces; in fiscal year 2013 (from April 1, 2013 through March 31, 2014): 0.83 million pieces; in fiscal year 2014 (from April 1, 2014 through March 31, 2015): 0.40 million pieces; and in fiscal year 2015 (from April 1, 2015 through March 31, 2016): 0.19 million pieces respectively. In addition, there is no dispute between the parties to estimate the percentage of the sales

volume for the portion in the U.S.A., excluding those in Mexico and Canada, to be 89%. Therefore, total sum of sales volume in the U.S.A. is as stated in the column for [A] (703,700,000 pieces \times 0.89) in Attachment 3, Table 3-1. Next, the royalty for DVD-ROM discs under the 3C License Program is 1.76 cents (1. (3) D. (A) a. above). When it is multiplied by the average foreign exchange rate during said period (Exhibit Ko 296), the result is as stated in the column for "Royalties that the First-instance Defendant should receive" in said table. As stated above, the amount equivalent to 80% of said amount is the royalty amount that the First-instance Defendant should receive during each subject period (see the column for "Profits that the First-instance Defendant should receive" in Attachment 4-2 "PS2 game disc (related to Invention 2-1)).

The contribution percentage of Patent 2-1 from among subject patents for DVD-ROMs under the 3C License Program is one-eighth, as stated in A. (A) b. above. When multiplying by this percentage, the exclusive profits that the First-instance Defendant should receive are as stated in the column for "Profits that the First-instance Defendant should receive for Patent 2-1" in Attachment 4-2 "PS2 game disc (related to Invention 2-1)."

b. Next, concerning UMD discs, the sales volumes of game discs in North America for each subject period during the period from the release date of PSP (March 24, 2005) through the patent term expiration date of Patent 2-1 (May 29, 2016) are as follows: [i] for the period from March 24, 2005 through March 31, 2007: 43.2 million pieces (Exhibit Ko 305); [ii] for the period from April 1, 2007 through March 31, 2012: 94.78 million pieces, which is estimated by multiplying the worldwide sales volume of 228.8 million pieces by the percentage of sales volume in North America (43.2 million pieces) against cumulative worldwide sales volume (101.4 million pieces) as of March 31, 2007 (Exhibit Ko 305); and [iii] for the period from fiscal year 2012 and after, since there are no data, the sales volume of game discs in North America in each fiscal year is estimated as follows based on the assumption that the decrease ratio of the worldwide sales volume in fiscal year 2010 and fiscal year 2011 (69%) continued in fiscal year 2012 and after, by multiplying the worldwide sales volume in fiscal year 2011 (32.2 million pieces) by said percentage and then by the percentage of sales volume in North America against the worldwide sale volume as stated in [ii] above: in fiscal year 2012 (from April 1, 2012 through March 31, 2013): 9.47 million pieces; in fiscal year 2013 (from April 1, 2013 through March 31, 2014): 6.53 million pieces; in fiscal year 2014 (from April 1, 2014 through March 31, 2015): 4.51 million pieces; and in fiscal year 2015 (from April 1, 2015 through March 31, 2016): 3.11 million pieces respectively. In addition, there is no dispute between the parties to estimate that the percentage of the

resistant to burst errors, etc.; it is a format optimized for both computer and video use, and can be achieved not only in recording media, but also in read-only media as well. Since it is an essential patent for DVD standards, including DVD-ROMs, etc., its technical value is considered to be high (1. (3) C. (A) and (B) above).

On the other hand, the statement in the patent claims related to Patent 2-1 enables data recording discs and their recording devices, etc. belonging broadly to the technical scope (1. (3) C. (B) above) and there is not enough evidence to find that the First-instance Plaintiff contributed to procedures to establish rights for Patent 2-1, including those for the Patent Filed in Japan. The Intellectual Property Department of the First-instance Defendant made considerable contributions, including establishing rights for said wide range of claims.

In addition, it can be said that the DVD standards spread more broadly as the DVD forum and the DVD+RW Alliance, in which the First-instance Defendant also participated, established various standards for physical formats (1. (3) A. (A), E. (A) and (B) above) after an agreement was reached between the SD side that was announced by Toshiba, etc. and the First-instance Defendant's MMCD side, and standards were uniformed/unified.

Looking at the licensing aspect, Patent 2-1 is a patent subject to license of products using DVD standards under the 3C License Program, One-Red License Program, and One-Blue License Program. Under the 3C License Program, the First-instance Defendant and Philips adopted a non-discriminatory and open license policy, provided broad licensing opportunities, and strove to disseminate DVD standards (1. (3) D. (A) above). The First-instance Defendant established One-Red, LLC. and One-Blue, LLC. jointly with other companies and started licensing programs in which ten or more companies participated (1. (3) D. (B) and (C) above). Through these joint licensing activities with other companies, it can be valued that the First-instance Defendant endeavored to disseminate DVD standards.

In addition, it is found that, in order to respond to the expansion of demand for DVDs, the First-instance Defendant established production bases not only in Japan, but also overseas and made a large investment, developed DVD-R with other companies, planned and sold various goods using DVD standards, and newly commenced the DVD recorder business, in addition to engaging in promotion activities through contract production business of DVD-ROMs that can be used for sales promotion of new products and for company guides, etc., jointly with its group company, SME (1. (3) E. (C) above).

In consideration of the aforementioned circumstances, concerning the exclusive

profits that the First-instance Defendant received under each license program, it is reasonable to determine the contribution degree of the First-instance Defendant to be 95%.

(B) On the other hand, the First-instance Plaintiff emphasized the contribution of the First-instance Plaintiff's side by stating that completion of Invention 2-1 by the First-instance Plaintiff and other members created a situation where the SD side had to accept Patent 2-1 as the license patent and the First-instance Defendant was able to establish a position as a licensor for DVD standards as well.

It is true that, according to the written statement of employee <P> of the First-instance Defendant (Exhibit Otsu 197), under the 3C License Program and One-Red License Program, patents subject to the DVD standards of the First-instance Defendant and Philips, which were adopted after competition over standards with the SD side, are found to be the patents related to the modulation system, called EFM modulation plus, and Patent 2-1. It is also stated that it is not that the details of Patent 2-1 were proposed as standards and were eventually adopted as standards. Therefore, it cannot be said that the First-instance Defendant was able to ensure the position of a licensor thanks to Patent 2-1.

(C) On the other hand, the First-instance Defendant alleged that, as was judged in the examiner's decision of refusal for the corresponding Patent Filed in Japan, the essential features of Patent 2-1 were disclosed in the invention stated in Unexamined Patent Application Publication No. 1986-182676 (Exhibit Otsu 66), its technical value is not significant, and it has poor monopoly power. However, Patent 2-1 was not invalidated in the U.S.A. The First-instance Defendant rather published externally that Patent 2-1 is an essential patent for DVD standards (1. (3) C. (B) above). Therefore, the fact that the examiner's decision of refusal for the Patent Filed in Japan became final and binding cannot be a circumstance to be taken into consideration when deciding the contribution degree of the First-instance Defendant.

B. SCE License Agreement

Under the SCE License Agreement, the exclusive profits that the First-instance Defendant received from the working of Patent 2-1 are related to PS2 game discs (DVD-ROM)s and PSP game discs (UMD discs). As stated in 2. (2) B. above, PS2 is proud of its high operational performance and graphic performance, and is equipped with the processor that was developed jointly with Toshiba. In this manner, cutting-edge technologies, in addition to DVD-ROMs, are incorporated in PS2. In addition, as it is also stated in 2 (2) B. above, SCE proactively facilitated the entry of new software manufacturers to make it possible to offer a variety of game software and enable

appropriate inventory management, and it developed PS2 to be compatible with next generation networks. These marketing efforts and investment activities, etc. by SCE should be included in the contribution degree of the side of the First-instance Defendant that is a joint investment company.

In addition, a portable gaming console that SCE developed, PSP, is a multimedia terminal that draws graphics with a quality close to PS2 and is also equipped with multimedia viewing, Wi-Fi, and web browser (1. (3) F. (C) above). These technology developments by SCE should be included in the contribution degree of the First-instance Defendant.

In addition to the contribution degree of the First-instance Defendant that is explained related to license programs explained in A. above, when adding the contribution degree of the First-instance Defendant and SCE related to the PlayStation Series, concerning exclusive profits that the First-instance Defendant received under the SCE License Agreement, it is reasonable to determine the contribution degree of the First-instance Defendant to be 97%.

(3) Degree of the First-instance Plaintiff's contribution among co-inventors of Invention 2-1 (Issue 2-3)

The inventors of Invention 2-1 are found to be three persons, including the First-instance Plaintiff, <F>, and <G>, in light of 1. (2) A. and B. above.

The contribution degree between inventors in a joint invention should be found to be equal unless there are special circumstances. As stated in 1. (2) A. and B. above, Invention 2-1 was found to be completed after discussions on the idea were held between <F> and <G> based on the format that the First-instance Plaintiff conceived of; however, concerning the degree of contribution to the invention, <G> had a lower contribution degree than the First-instance Plaintiff and <F>, for example <G> did not prepare the invention report for which <G> was in charge. In light of these circumstances, there are special circumstances to find that the First-instance Plaintiff made special contributions to the completion of the invention related to Patent 2-1. In addition, in light of processes, etc. for the completion of the invention, the contribution degree of the First-instance Plaintiff and <F> are considered to be at the same level and that of <G> is half of theirs. It is reasonable to determine that the contribution degree of the First-instance Plaintiff is two-fifths.

In this regard, the First-instance Defendant alleged on the grounds that it is <F> who was named as the inventor in Invention Reports 1 and 3, which are reports serving as the basis for Invention 2-1, from among invention reports related to Invention 2-1, that the First-instance Plaintiff's contribution degree among co-inventors does not

exceed 5%. However, the statement in the written statement of the First-instance Plaintiff concerning the processes from conceiving of the idea to registration of Invention 2-1 (Exhibits Ko 175 and 195) are concretely supported by the details of statements, etc. of the invention reports, and the First-instance Defendant did not submit written statements, etc. of <F> and <G> that are against these details. Therefore, it is reasonable to recognize the processes for the invention along with the statement of the First-instance Plaintiff, to the extent it is supported by invention reports, etc. As stated in 1. (2) B. (C) above, an application for Invention 2-1 was filed by integrating Invention Reports 2, 3, and 4 into Invention Report 1. Even though there is no statement of the First-instance Plaintiff's name in Invention Reports 1 and 3, it cannot be determined that the involvement of the First-instance Plaintiff in the completion of Invention 2-1 is low. Therefore, the aforementioned allegation of the First-instance Defendant is groundless.

(4) The amount of reasonable compensation for Invention 2-1 (Issue 2-4)

When the amount of reasonable compensation is calculated based on (1) through (3) above, the amount of reasonable compensation for Invention 2-1 under the 3C License Program is 6,320,824 yen as stated in the column for "Amount of reasonable compensation" in Attachment 4-3 "3C License Program (related to Invention 2-1)"; the amount of reasonable compensation for Invention 2-1 under the One-Red License Program is 1,838,159 yen as stated in the column for "Amount of reasonable compensation" in Attachment 4-3 "One-Red License Program (related to Invention 2-1)"; the amount of reasonable compensation for Invention 2-1 under the One-Blue License Program is 328 yen as stated in the column for "Amount of reasonable compensation" in Attachment 4-3 "One-Blue License Program (related to Invention 2-1)"; and the amount of reasonable compensation for Invention 2-1 under the SCE License Agreement is 1,717,102 yen in total as stated in the column for "Amount of reasonable compensation" in each of Attachment 4-2 "PS2 game disc (related to Invention 2-1)" and "UMD disc (related to Invention 2-1)."

Since the First-instance Defendant paid ●●● yen as incentive remuneration for Invention 2-1 (1. (3) G. (C) above), when said amount is deducted, the outstanding amount is 9,376,413 yen.

4. Whether the period of extinctive prescription for the right to demand payment of reasonable compensation for Invention 1-5 and Invention 2-1 has expired (Issue 3)

(1) Starting point of prescription

A. In cases where there are employment regulations, etc. stipulating that the employer,

etc. shall succeed to the rights, etc. to receive patents of employee inventions, employees, etc. acquire the right to receive payment of reasonable compensation pursuant to the employment regulations, etc. when the employer, etc. succeeds to the right, etc. to receive patents. However, if the payment time of the compensation is stipulated in the employment regulations, etc., there are legal impediments when exercising the right to receive payment of reasonable compensation until the payment time pursuant to the provisions of the employment regulations, etc. comes. The payment time should be construed to be the starting point of the extinctive prescription of the right to receive payment of reasonable compensation (see the judgment of the Third Petty Bench of the Supreme Court on April 22, 2003, Minshu Vol. 57, No. 4, at 477).

B. The right to receive a patent for the invention related to Patent 1-5 was transferred to the First-instance Defendant around March 23, 1984 (1. (2) B. (A) above). The First-instance Defendant's Invention and Device Rules at that time (Exhibit Otsu 4) had the following provisions: "If particularly prominent achievements were made by working or licensing an invention for which industrial property rights were registered, they are examined annually and the inventor in question may receive a special award." and "The special award as defined in the preceding paragraph is examined in a management meeting for an invention that has been registered for the industrial property right and that has been worked or licensed."

Then, the starting point of the extinctive prescription of the right to demand payment of reasonable compensation for Invention 1-5 is when the establishment of Patent 1-5 was registered or when the invention was worked or licensed, whichever comes later. Patent 1-5 was registered on March 5, 1991 (1. (2) B. (B) above), while the First-instance Defendant manufactured and sold CD-ROM drives that worked the invention stated in Claim 7 of Patent 1-5 by around 1990 at the latest and started manufacturing and selling CD-R drives that worked the invention stated in Claims 1 and 5 of Patent 1-5 (1. (2) G. (A) above). Therefore, the starting point of extinctive prescription of the right to demand payment of reasonable compensation for Invention 1-5 is the time of its registration, March 5, 1991.

C. Next, the right to receive the patent for Invention 2-1 was transferred to the First-instance Defendant around May 1995 (1. (3) B. (A) above). In the First-instance Defendant's Invention and Device Rules at that time (Exhibit Otsu 27), there were the same provisions as the Invention and Device Rules mentioned in B. above. Therefore, the starting point of extinctive prescription of the right to demand payment of reasonable compensation for Patent 2-1 is when the establishment of Patent 2-1 was registered or when the invention was worked or licensed, whichever comes later. Patent

2-1 was registered on September 8, 1998 (1. (3) B. (E) above), while the First-instance Defendant started manufacturing and selling DVD-RAM recorders for which the invention stated in Claims 1 through 7 of Patent 2-1 was worked by October 9, 2004 at the latest (1. (3) G. (A) above). Therefore, the starting point of extinctive prescription of the right to demand payment of reasonable compensation for Invention 2-1 is October 9, 2004, which is the working date of the invention.

(2) Existence of acknowledgment of debt or loss of the right of invocation

A. Concerning the provisions on extinctive prescription of the claim, based on the transitional measures pursuant to Article 10 of the Supplementary Provisions of the Civil Code amended by Act No. 44 of 2017, the Civil Code before amendment is applied to claims that arose before the enforcement date and therefore, determinations are made based on that fact hereinafter.

B. As stated in (1) above, the starting point of extinctive prescription of the right to demand payment of reasonable compensation for Invention 1-5 is March 5, 1991, and therefore, said right of claim extinguishes due to prescription by the passage of March 5, 2001 unless there are grounds for a renewal of the prescription. The starting point of extinctive prescription of the right to demand payment of reasonable compensation for Invention 2-1 is October 9, 2004 and therefore, the right of claim extinguished due to prescription by the passage of October 9, 2014 unless there are grounds for a renewal of the prescription.

In this regard, the First-instance Defendant paid to the First-instance Plaintiff [i] 200,000 yen as incentive remuneration related to Invention 1-5 on December 18, 2006 (hereinafter referred to as the "Payment in 2006"), [ii] 500,000 yen as incentive remuneration related to Invention 2-1 on December 17, 2004 (hereinafter referred to as the "Payment in 2004") respectively (1. (2) G. (C) and (3) G. (C) above). The First-instance Plaintiff alleged that, concerning [i], it was paid as partial performance of the right to demand payment of reasonable compensation for Invention 1-5 and it falls under acknowledgment of debt after completion of prescription, and therefore, the First-instance Defendant lost the right to invoke the extinctive prescription of the right to demand payment of reasonable compensation for Invention 1-5; concerning [ii], it was paid as partial performance of the right to demand payment of reasonable compensation for Invention 2-1 and therefore, the prescription was renewed due to acknowledgment of debt; as payment was demanded within ten years from the end of the grounds for renewal of the prescription, and a demand by litigation was made, extinctive prescription has not yet completed. Therefore, it is examined below.

Concerning an employee, etc. who transferred the right to receive patents to an

to the profits is paid. Therefore, it does not meet the purport and details of Article 35, paragraph (4) of the Former Patent Act.

As mentioned above, in particular, in cases where profits that employer, etc. should receive from employee inventions are a large amount, the First-instance Defendant's Invention and Device Rules are not deemed to meet the purport and details of Article 35, paragraph (4) of the Former Patent Act. Therefore, the compensation for employee inventions to be paid based on said rules is only part of the reasonable compensation specified in paragraph (3) and paragraph (4) of said Article.

In addition, the First-instance Defendant, which is a listed company and required to comply with laws and regulations, should have known the explanation of the aforementioned judgment of the Supreme Court. At the time of the Payment in 2006, Patent 1-5 was a standard essential patent for CD-ROMs. It brought to the First-instance Defendant an allocation of a large amount of royalties, ●●●●● yen (worldwide), as a patent subject to licensing under the Joint License Program, including other derivative standards, and also a large amount of royalties, approximately 17 billion yen, paid by SCE as compensation for working, including Patent 1-5, since CD-ROMs were adopted in PS1 and PS2 gaming consoles and game discs. Therefore, the First-instance Defendant has naturally acknowledged that said amounts are less than the amount of reasonable compensation specified in accordance with the provisions of Article 35, paragraph (4) of the Former Patent Act. In the same way, at the time of the Payment in 2004, Patent 2-1 was a standard essential patent for DVD-ROMs. It brought to the First-instance Defendant an allocation of a large amount of royalties, ●●●● yen (worldwide), as a patent subject to licensing under the 3C License Program, including their derivative standards, and also a large amount of royalties, approximately 7.7 billion yen, paid by SCE as compensation for working, including Patent 2-1, since DVD-ROMs were adopted in PS2 game discs. Therefore, the First-instance Defendant has naturally acknowledged that said amount is less than the amount of reasonable compensation specified in accordance with the provisions of Article 35, paragraph (4) of the Former Patent Act.

Based on the above, the Payment in 2004 and Payment in 2006 correspond to partial performance of the right to demand payment of reasonable compensation for Invention 1-5 and Invention 2-1 and fall under acknowledgment of debt.

C. The First-instance Defendant alleged that, according to the First-instance Defendant's Invention and Device Rules at that time, the Payment in 2006 and Payment in 2004 are incentive remunerations for the contributions related to the profits obtained until said fiscal years, but not the acknowledgment of debt of the right to demand

payment of reasonable compensation related to the profits obtained in the following fiscal year and after. However, the First-instance Defendant's Invention and Device Rules have no provisions to limit the subject of evaluation for incentive remuneration to the contribution by the time of the examination, including the provisions for re-examination, but they stipulated review of the evaluation when the contribution of the invention significantly increased over the original projection (those related to re-granting incentives in 2010, although it is different in time). Therefore, the aforementioned allegation of the First-instance Defendant is groundless.

D. Based on the above, the Payment in 2006 (Patent 1-5) falls under the acknowledgment of debt after completion of prescription. Therefore, the First-instance Defendant lost the right to invoke prescription concerning the right to demand payment of reasonable compensation related to Patent 1-5 under the principle of good faith.

In addition, the Payment in 2004 (Patent 2-1) falls under the acknowledgment of debt before completion of prescription and therefore, it falls under grounds for renewal of prescription and extinctive prescription started on December 18, 2004. However, the First-instance Plaintiff demanded payment by the First-instance Defendant based on the right to demand payment of reasonable compensation for Invention 2-1 (Exhibit Ko 176) and filed the principal action on April 28, 2015, within six months from the demand (salient fact to this court). Therefore, it should be said that extinctive prescription has not expired.

5. Conclusion

Based on the above, since the First-instance Plaintiff's claim has grounds to the extent of demanding payment of 32,048,673 yen and the amount of delay damages accrued thereon at the rate of 5% per annum as prescribed by the Civil Code for the period from May 13, 2015 until the completion of the payment, the claim is granted to this extent and the rest are groundless and should be dismissed.

Consequently, the judgment in prior instance, which differs from the above, is partially inappropriate and therefore, the judgment in prior instance is altered as stated above based on the appeal of the First-instance Plaintiff and the First-instance Defendant's appeal is groundless and dismissed. The judgment is rendered as stated in the main text.

Intellectual Property High Court, Fourth Division
Presiding judge: KANNO Masayuki
Judge: NAKAMURA Kyo
Judge: OKAYAMA Tadahiro

(Attachment 1)							
No. of Attachment 7 (see Exhibit Otsu 192) of First-instance Defendant's Brief (8)	No. of First-instance Defendant's Brief (14)	Title of the invention (Translation by the First-instance Plaintiff) U.S. Application/Patent No. (Corresponding Japanese Publication No.)	Outline of the scope of independent claims (U.S. patent)	Possibility to fall under CD audio disc-related patents (10th Brief for Appeal of the First-instance Plaintiff)	Possibility to fall under CD audio player-related patents (10th Brief for Appeal of the First-instance Plaintiff)	Allegation of the First-instance Defendant's Brief (14)	Judgment of this court
2404	1	Recording medium and process of manufacturing the same recording medium with a groove having a constant width US1976710098A/US4152726A (Unexamined Patent Application Publication No. 1976-104801) (Exhibit Otsu 395)	(Claim 1) A recording disc with an uninterrupted spiral groove wherein the groove is substantially in the shape of a Gaussian distribution curve. (Claim 2) A recording disc with an uninterrupted spiral groove wherein the depth shape of the groove is prescribed by dx. (Claim 3) A process of manufacturing a recording disc with a groove that is substantially in the shape of a Gaussian distribution curve. (Claim 6) A replayable recording disc with an uninterrupted spiral groove that is in the shape of a Gaussian distribution curve.	No possibility CD audio discs have neither uninterrupted spiral groove nor that the groove has the shape of a Gaussian distribution curve. In the first place, this invention was developed for analog video discs and has no relation to digital CD audio discs.	No possibility This invention is an invention of a recording disc or a process of manufacturing the same and has no relation to CD audio players.	This patent relates to a recording disc with a groove having a constant width and a process of manufacturing the same, and Claim 1 is as follows. "In a recording disc that has an uninterrupted spiral groove, which has a constant pitch opening on the surface of the disc to express recorded information wherein the depth of the groove changes along the latter; said groove has an inverted bell-shaped cross section that changes according to changes in said depth of the groove so as to ensure that the width of the groove at the opening of the groove is substantially uniform, irrespective of said depth of the groove. The groove is substantially in the shape of a Gaussian distribution curve." Regarding optical discs, including CD discs, a groove is also provided on the surface of a disc, and at least when the contract of Exhibit Otsu 152 was used (around 1990), it was impossible to look into standards that would be created as standards derived from CD-Audio standards and CD-ROM standards, and there was the possibility that this patent would be related to standards that might be created in the future.	This patent has the following matters required to identify the invention: "a recording disc with an uninterrupted spiral groove" (Claims 1 and 2), "a recording disc in the shape of a Gaussian distribution curve" (Claim 3), and "a recording disc with an uninterrupted spiral groove in the shape of a Gaussian distribution curve" (Claim 6). In response to the allegation of the First-instance Plaintiff that CD audio discs do not have such uninterrupted spiral groove and the groove has the shape of a Gaussian distribution curve, the First-instance Defendant only counter-argues that a "groove" is provided on a CD disc. It cannot be said that this patent falls under patents related to [c] in the Joint License Program on the grounds that CD audios are also standardized products and are abstractly operable. In addition, as this patent relates to a recording disc or a process of manufacturing the same, it has no relation to CD audio players, and it cannot be said that this patent falls under patents related to [c] in the Joint License Program.
2409	2	Optical video reproducer with tracking control and TBC US1977797140A/US4136362A (Unexamined Patent Application Publication No. 1977-141608) (Exhibit Otsu 396)	(Claim 1) A device for optically reproducing information which has a means, etc. of correcting the time axis by using a time axis correction mirror adjacent to an objective lens.	No possibility This invention is an invention of a device for optically reproducing information and has no relation to CD audio discs.	No possibility CD audio players do not use a time axis correction mirror. Time axis correction is not necessary for digital audio discs (it is necessary in the case of an analog process). Incidentally, this invention was developed for analog video discs and has no relation to CD audio players.	This patent is for an optical video reproducer with tracking control and TBC and is a patent that can be related to tracking technology (laser light control technology) for reproducers. As stated in Claim 1 ("in a device for optically reproducing information signals recorded on the recording track on the surface of a recording medium"), this patent is a patent related to optical discs, including CD-Audio discs and CD-ROM discs.	This patent has the following matter required to identify the invention: "a device for optically reproducing information which has a means, etc. of correcting the time axis by using a time axis correction mirror adjacent to an objective lens." It is thus an invention of a "device" for optical reproduction. Therefore, it is clear that this patent cannot be considered to be related to CD audio discs. Next, the First-instance Defendant alleges that this patent is a patent related to optical CD audio discs and other optical discs based on the fact that Claim 1 includes the following matter required to identify the invention: "a device for optically reproducing information signals recorded on the recording track on the surface of a recording medium." The First-instance Defendant also alleges that the time axis correction mirror (time base correction mirror) is not used for CD audio players and that correction of the time axis is necessary in the case of an analog process but is not necessary for digital audio. In response to this allegation, the First-instance Plaintiff has not submitted any rebuttal evidence regarding adoption of such technology in CD audio standards. Therefore, it cannot be said that this patent falls under patents related to [c] in the Joint License Program.
2441	3	Optical reproducing head US1980189577A/US4458980A (Unexamined Patent Application Publication No. 1981-047933) (Exhibit Otsu 398)	(Claim 1) An optical reproducing head characterized in that it has a semiconductor laser source, a first off-axis hologram lens that has parallel beam come out by the incoming of beam coming out from said semiconductor laser source, and a second off-axis hologram lens that has focused beam to be applied to an optical recording medium come out by the incoming of parallel beam coming out from said off-axis hologram lens 1.	No possibility This invention is an invention of a reproducing head and has no relation to CD audio discs.	No possibility CD audio players do not use an optical reproducing head that has a first off-axis hologram lens and a second off-axis hologram lens, and this invention has no relation to CD audio players.	This patent is for an "optical reproducing head," that is, technology relating to optical pickup, and the subject field is the field of optical discs. An optical pickup means an active optical part comprising a laser source, a light receiving component, and a precision mechanism component for reproducing information from optical discs and recording information thereon when an optical disc media, such as a CD (compact disc) and DVD (digital versatile disc), is loaded in an optical disc drive or player.	As this patent is for an invention related to an "optical reproducing head," it is clear that this patent cannot be considered to be related to CD audio discs. Next, although the "optical reproducing head" of this patent is one that has a first off-axis hologram lens and a second off-axis hologram lens, the First-instance Defendant only alleges that this patent is for technology relating to optical pickup and that the subject field is the field of optical discs and does not make a specific allegation in relation to CD audio-related technology. Therefore, it cannot be said that this patent falls under patents related to [c] in the Joint License Program.
2449	4	Process of manufacturing inline hologram lens US198126728A/US4393126A (Examined Patent Application Publication No. 1989-050910) (Exhibit Otsu 399)	(Claim 1) A process of manufacturing inline hologram lens, which comprises a step of producing coherent diffracted wave beam by a diffraction means, a step of producing coherent spherical wave beam by an objective lens means different from said diffraction means, a step of having said diffracted wave beam come in a light-sensitive layer as reference wave beam that is vertically provided, and a step of having said spherical wave beam vertically come in said light-sensitive layer through said diffraction means as subject wave beam, etc. at the same time as the immediately previous process, etc.	No possibility This invention is an invention of a process of manufacturing hologram lens and has no relation to CD audio discs.	No possibility This invention is an invention of a process of manufacturing hologram lens and has no relation to CD audio players.	This patent is for a "process of manufacturing inline hologram lens" and relates to a process of manufacturing inline hologram lens used in 3. above.	As this patent is for an invention related to a process of manufacturing inline hologram lens, it is clear that this patent cannot be considered to be related to CD audio discs. In addition, although the First-instance Defendant alleges that this patent relates to a process of manufacturing inline hologram lens used in 3. above, as stated in 3. above, there is no sufficient evidence to find that the patent pertaining to 3. is for CD audio-related technology. Therefore, this patent also cannot be considered to fall under patents related to [c] in the Joint License Program.
2451	5	Releasable cover locking device US1981296492A/US4412320A (Unexamined Utility Model Application Publication No. 1982-04970) (Exhibit Otsu 400)	(Claim 1) A releasable cover locking device of a recording and/or reproducing device suited for the movement of a recording medium with electricity being supplied to the device, which has a first release means that is released when electricity is supplied and the moving speed of a disc is below the prescribed value and a second release means that is released when supply of electricity is cut off. (Claims 8, 9, and 10) A releasable cover locking device of a recording and/or reproducing device for which Claim 1 is defined in detail from a mechanical perspective.	No possibility This invention is an invention of a cover locking device and has no relation to CD audio discs.	No possibility CD audio players do not use the cover locking device defined in this invention. In the first place, this invention was developed for a mechanism for releasing a locking mechanism of a lid that is provided on an analog video disc player in a way that it covers the top of a disc, and it has no relation to CD audio players.	This patent is for a "releasable cover locking device," and as understood from the statement of the claims, this patent relates to a cover locking device of a disc reproducing device as hardware, and it is naturally an invention that is also applicable to optical disc reproducing devices. (In fact, a lid opening and closing system had been adopted in a type of CD player manufactured by Nippon Marantz, "CD-63." In addition, a system in which a lid is opened and closed like the Patent had been adopted in a type of portable CD-ROM drive (player) that the First-instance Defendant had manufactured and sold.)	As this patent relates to a cover locking device of a reproducing device, it is clear that this patent cannot be considered to be related to CD audio discs. On the other hand, there is no statement suggesting the fact of working of this invention in a magazine covering "CD-63" manufactured by Marantz (Exhibit Otsu 433) and a catalog of "CD-ROM DISCMAN" manufactured by the First-instance Defendant (Exhibit Otsu 434), both of which were submitted by the First-instance Defendant as the working examples of this invention. Nevertheless, it is considered possible to mount a first release means that is released when the moving speed of a CD audio disc is below the prescribed value and a second release means that is released when supply of electricity is cut off on CD audio players. Therefore, it is reasonable to count this patent as one related to CD audio players.
2466	6	Optical recording and reproducing device with improved focus control US1982401016A/US4547872A (Unexamined Patent Application Publication No. 1983-019744) (Exhibit Otsu 401)	(Claim 1) An information recording and reproducing device which records optical information on a recording medium and reproduces it from said recording medium, wherein, at the time of recording, information is recorded on said recording medium by main beam and the focus of said recording medium by said main beam is controlled based on difference between outputs detected by the first and second accessory light detectors, and at the time of reproduction, reproduced signals are obtained from said main light detector by scanning the recording track of said recording medium with said main beam and the transverse tracking of said main beam on the recording track is controlled by the detected outputs of said first and second accessory light detectors.	No possibility This invention is an invention of a recording and reproducing device and has no relation to CD audio discs.	No possibility This invention is an invention of a recording and reproducing device for recording and reproduction which is characterized in its focus control, and it has no relation to CD audio players without recording function.	As it is clear from the title of the invention pertaining to this patent, "Optical recording and reproducing device with improved focus control," this patent relates to a process of reproducing an optical disc (recording and reproducing device for optical discs). Specifically, at the time of recording, focus is controlled by side beam, and at the time of reproduction, tracking is controlled by using side beam.	As this patent relates to an optical recording and reproducing device, it is clear that this patent cannot be considered to be related to CD audio discs. Next, as CD audio discs have no recording means, this patent also cannot be considered to fall under patents related to [c] in the Joint License Program in relation to CD audio players.
2469	7	Light modulating device US1982428070A/US4477821A (Unexamined Patent Application Publication No. 1983-062630) (Exhibit Otsu 402)	(Claim 1) A light modulating device for use with a recording means for recording information signals on a recording medium, which has an oscillator means for producing high-frequency carrier signals and an amplitude modulation means for controlling the amplitude of high-frequency carrier signals, etc.	No possibility This invention is an invention of a light modulating device and has no relation to CD audio discs.	No possibility This invention is an invention of a light modulating device for use in a recording means and has no relation to CD audio players without a recording means.	As it is clear from the title of the invention pertaining to this patent, "Light modulating device," this patent is a patent for an invention related to a light modulating device (meaning a device that changes the wavelength, intensity, phase, etc. of light mainly by electric signals) (see Claim 1). This patent is for an invention related to a light modulating device. In the process of manufacturing CDs and other discs, a light modulating device like this patent is used when modulating laser light to be delivered to the master based on data to be recorded.	As this patent relates to a light modulating device, it is clear that this patent cannot be considered to be related to CD audio discs. In this regard, the First-instance Defendant alleges that this patent uses a light modulating device like this patent in the process of manufacturing CDs and other discs. However, the First-instance Defendant has not submitted any evidence supporting such allegation. Therefore, the allegation of the First-instance Defendant is not acceptable. Next, as CD audio players have no recording means, this patent also cannot be considered to fall under patents related to [c] in the Joint License Program in relation to CD audio players.

2483	8	Optical reproducing device US1983553850A/ US4592038A (Unexamined Patent Application Publication No. 1984-058637) (Exhibit Otsu 404)	(Claim 1) An optical reproducing device wherein first, second, and third light detectors are arranged while leaving a space from a semiconductor laser source and an objective lens, a phase shape diffraction grating, which separates laser beam from the semiconductor laser source into 0, +1, and -1 diffracted beams, is arranged between said semiconductor laser and a beam splitter, and a tracking error signal is obtained based on difference between outputs detected by the second and third light detectors which receive reflected beams, which are said +1 and -1 diffracted beams from an optical recording medium that are reflected by said beam splitter.	No possibility This invention is an invention of an optical reproducing device and has no relation to CD audio discs.	There is the possibility. Tracking control methods are roughly divided into the three-beam method, the push-pull method, and DPD method, etc. This invention pertains to the three-beam method and is an invention of one approach of that method. It is impossible to deny the possibility that the means of detecting a tracking error signal of this invention has been worked in some of early CD audio players.	The title of this patent is "Optical reproducing device." This patent relates to an optical pickup device as it is clear from the following statement of the claims; with "a concave lens for making diffracted beams diverge." "the concave lens is attached between said light detector and said beam splitter and makes it easy to determine the position of said light detector so as to ensure that a tracking error signal can be obtained by calculating difference between outputs detected by said second and third light detectors."	As this patent relates to an optical reproducing device, it is clear that this patent cannot be considered to be related to CD audio discs. On the other hand, regarding CD audio players, the First-instance Plaintiff also alleges that it is impossible to deny the possibility that a tracking error signal pertaining to this patent is worked in some of early CD audio players. Therefore, it is reasonable to count this patent as one related to CD audio players.
2485	9	Information recording medium US1983549741A/ US4525412A (Unexamined Patent Application Publication No. 1984-090248) (Exhibit Otsu 405)	(Claim 1) An information recording medium, which has a light transmissive substrate, a recording layer that is formed on said substrate and has the property of changing optical property when incoming recording light is converted into heat therein, a protective layer that is coated on said recording layer and has optical absorption property as arranged as follows, and plane layers that absorb said recording light passing through said recording layer, are stacked on said protective layer, and can inhibit mechanical deformation of said recording layer.	No possibility This invention is an invention of an information recording medium that has a recording layer in accordance with heat changes and has no relation to CD audio discs without a recording layer.	No possibility This invention is an invention of a recording medium and has no relation to CD audio players.	The title of the invention pertaining to this patent is "Information recording medium," and as it is clear from the statement of the claims, the invention pertaining to this patent is an invention related to an "information recording medium" comprising a "light transmissive substrate," a "recording layer," a "protective layer," and "plane layers." Therefore, regarding recordable optical discs before the emergence of CD-R standards, companies had carried forward examination of various possibilities based on such structure.	This patent is for an invention related to an information recording medium. As CD audio discs have no recording layer, this patent cannot be considered to be related to CD audio discs. In addition, as this patent is for an invention related to a recording medium, it is clear that this patent cannot be considered to be related to CD audio players. Therefore, this patent cannot be considered to fall under patents related to [c] in the Joint License Program in relation to both CD audio discs and players.
2486	10	Optical recording medium US1983551083A/ US4606018A (Unexamined Patent Application Publication No. 1984-096546) (Exhibit Otsu 406)	(Claim 1) A reflective optical recording medium wherein recording materials, for which energy reflection coefficient of the recording part is increased by recording of information, are provided in layers on the surface where a track guide groove is formed, for which the depth, etc. of the track guide groove are given by the prescribed equations.	No possibility This invention is an invention of an optical recording medium wherein recording materials are provided in layers on a track guide groove, and it has no relation to CD audio discs that have neither a track guide groove nor a recording part.	No possibility This invention is an invention of a recording medium and has no relation to CD audio players.	The title of the invention pertaining to this patent is "Optical recording medium," and as the claims contain the term, "reflective optical recording medium" (Claim 1), the invention is an invention related to an optical disc. Then, this patent is for an invention intended to achieve "improved efficiency" by meeting parameters limited in the claims.	This patent is for an invention related to a reflective optical recording medium wherein recording materials are provided in layers on the surface where a track guide groove is formed. There is no sufficient evidence to find that such track guide groove is provided on CD audio discs. In addition, CD audio discs have no recording means. Therefore, at any rate, it cannot be said that this patent relates to CD audio discs. Moreover, as this patent is for an invention related to a recording medium, it is clear that this patent cannot be considered to be related to CD audio players. Therefore, this patent cannot be considered to fall under patents related to [c] in the Joint License Program in relation to both CD audio discs and players.

(Attachment 2)

From fiscal year 1993 through fiscal year 2002			
	Exclusive profits (including subject patents other than Patent 1-5) Royalty allocation amount under the Joint License Program	Contribution percentage of Patent 1-5	Subtotal
	Subject product		
	[i] CD-ROM Disc		
	[ii] CD-ROM Drive		
	[iii] CD-R Disc		
	[iv] CD-R Drive		
	[v] CD-RW Disc		
	[vi] CD-RW Drive		
	[vii] Video CD Disc		
	[viii] Video CD Player		
From fiscal year 2003 through fiscal year 2005			
	Exclusive profits (including subject patents other than Patent 1-5) Royalty allocation amount under the Joint License Program	Contribution percentage of Patent 1-5	Subtotal
	Subject product		
	[i] CD-ROM Disc		
	[ii] CD-ROM Drive		
	[iii] CD-R Disc		
	[iv] CD-R Drive		
	[v] CD-RW Disc		
	[vi] CD-RW Drive		
	[vii] Video CD Disc		
	[viii] Video CD Player		

(Attachment 3) Table 1-1: Royalties to be paid to the First-instance Defendant by SCE

– For PS1 gaming console main bodies (products compliant with CD-ROM player standards) sold in the U.S.A.

PS1 gaming console main body prices		Number of PS1 gaming console main bodies sold in North America (10,000 units) × ●●●● (sales amount in the U.S.A) (first line) Subject period (second line) [Exhibit Ko 297]	Royalties to be paid to the First-instance Defendant [A] × [B] ●●●●●●●● (yen)	
US dollars (first line) Period (second line) [Exhibit Ko 295] Subject period Sep. 9, 1995* ¹ to Mar. 22, 2005* ²	Yen (first line) Average foreign exchange rate during said period (second line) [Exhibit Ko 296]			
		[A]	[B]	[C]
299				
Sep. 9, 1995 to Apr. 1996				
199				
May 1996 to Mar. 2, 1997				
149				
Mar. 3, 1997 to Aug. 31, 1998				
129				
Sep. 1, 1998 to Aug. 22, 1999				
99				
Aug. 23, 1999 to Jun. 30, 2002* ³				
49				
* ³				
Jul. 1, 2002 to Dec. 31, 2004				
49				
Jan. 1, 2005 to Mar. 22, 2005				
Total sum				
*1: Date of start of sales of PS1 (Exhibit Ko 295)				
*2: Date of expiration of the right for Patent 1-5				
*3: In response to the revision of the price of "PS one" to "●●●●" in May 2002, the entire sales amount on and after July 1, 2002 was considered as that for "PS one" for convenience of calculation.				
*4: This foreign exchange rate is the average of the average foreign exchange rates during the subject period, 1995 and 1996 (the period of sales in ●●●●●) (Exhibit Ko 296). The same applies to others.				
*5: Although the period of sales in ●●●●●●●● is "Sep. 9, 1995 to Apr. 1996," the period of sales at the same price was set as "Sep. 9, 1995 to Mar. 31, 1996" when using the aggregated data of Exhibit Ko 297 (adjustment toward making royalties calculated become lower). The same applies to others.				
*6: The result "0" (10,000 units) was calculated by dividing the number of PS1 gaming console main bodies sold in North America (●●●●●●●●●●●●●●●●●●●●) during the period from "Jan. 1, 2005 to Mar. 31, 2005" (90 days) by 81 (the number of days during the period from "Jan. 1, 2005 to Mar. 22, 2005").				

Table 1-2: Royalties to be paid to the First-instance Defendant by SCE

– For PS2 gaming console main bodies (products compliant with CD-ROM player standards) sold in the U.S.A.

PS2 gaming console main body prices		Number of PS2 gaming console main bodies sold in North America (10,000 units) × ●●● (sales amount in the U.S.A) (first line) Subject period (second line) [Exhibit Ko 298]	Royalties to be paid to the First-instance Defendant [A] × [B] ●●●●● (yen) [C]
US dollars (first line) Period (second line) [Exhibit Ko 295] Subject period Oct. 26, 2000*1 to Mar. 22, 2005*2	Yen (first line) Average foreign exchange rate during said period (second line) [Exhibit Ko 296]		
[A]		[B]	[C]
299			
Oct 26, 2000 to Apr. 2002			
199			
May 2002 to Jul. 2003			
179			
Aug. 2003 to Apr. 2004			
149			
May 2004 to Dec. 31, 2004			
149			
Jan. 1, 2005 to Mar. 22, 2005			
Total sum			
<p>*1: Date of start of sales of PS2 (Exhibit Ko 295)</p> <p>*2: Date of expiration of the right for Patent 1-5</p> <p>*3: The result "●" (10,000 units) was calculated by dividing the number of PS2 gaming console main bodies sold in North America (●●●●●●●●●●●●●●●● (10,000 units)) during the period from "Jan. 1, 2005 to Mar. 31, 2005" (90 days) by 81 (the number of days during the period from "Jan. 1, 2005 to Mar. 22, 2005").</p>			

Table 2-1: Royalties to be paid to the First-instance Defendant by SCE

— For PS1 game discs (products compliant with CD-ROM disc standards) sold in the U.S.A.

Number of PS1 game discs sold in North America (10,000 units) × ●●● (sales amount in the U.S.A.) [Exhibit Ko 300] Subject period Sep. 9, 1995* ¹ to Mar. 22, 2005* ²	Average foreign exchange rate [Exhibit Ko 296]	Royalties to be paid to the First-instance Defendant [A] × [B] × ●●●●●●●● (yen)
[A]	[B]	[C]
[Sep. 9, 1995 to Dec. 31, 2004]		
[Jan. 1, 2005 to Mar. 22, 2005]		
*1: Date of start of sales of PS1 (Exhibit Ko 295) *2: Date of expiration of the right for Patent 1-5 *3: The result "●" (10,000 units) was calculated by dividing the number of PS1 game discs sold in North America (●●●●●●●●●●●●●●●●) (10,000 units) during the period from "Jan. 1, 2005 to Mar. 31, 2005" (90 days) by 81 (the number of days during the period from "Jan. 1, 2005 to Mar. 22, 2005").		

(Attachment 4-1)

Joint License Program (related to Invention 1-5)
 (From fiscal year 1993 to fiscal year 2002)

Product category	Royalties (worldwide)	Royalties (U.S.A.)	Outstanding amount after deduction of court-related costs	Exclusive profits from Patent 1-5	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable contribution
CD-ROM Disc							
CD-ROM Drive							
CD-R Disc							
CD-R Drive							
CD-RW Disc							
CD-RW Drive							
Video CD Disc							
Video CD Drive							
Total							

Joint License Program (related to Invention 1-5)
 (From fiscal year 2003 to fiscal year 2005)

Product category	Royalties (worldwide)	Royalties (U.S.A.)	Outstanding amount after deduction of court-related costs	Exclusive profits from Patent 1-5	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable contribution
CD-ROM Disc							
CD-ROM Drive							
CD-R Disc							
CD-R Drive							
CD-RW Disc							
CD-RW Drive							
Video CD Disc							
Video CD Drive							
Total							

(Attachment 4-2)

PS1 gaming console (related to Invention 1-5)

Subject period	[i] Profits that the First-instance Defendant should receive (Column [C] in Table1-1 × 0.8)	[ii] Profits that the First-instance Defendant should receive for Patent 1-5	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable compensation
1995.9.9 to 1996.4					
1996.5 to 1997.3.2					
1997.3.3 to 1998.8.31					
1998.9.1 to 1999.8.22					
1999.8.23 to 2002.6.30					
2002.7.1 to 2004.12.31					
2005.1.1 to 2005.3.22					
Total					

PS2 gaming console (related to Invention 1-5)

Subject period	[i] Profits that the First-instance Defendant should receive (Column [C] in Table 1-2 × 0.8)	[ii] Profits that the First-instance Defendant should receive for Patent 1-5	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable compensation
2000.10.26 to 2002.4					
2002.5 to 2003.7					
2003.8 to 2004.4					
2004.5 to 2004.12.31					
2005.1.1 to 2005.3.22					
Total					

* Regarding the periods colored yellow, the amount obtained by multiplying the figure stated in [i] corresponding to each period by ■■■■, which is the contribution percentage of CD-ROM drive, is the amount stated in [ii].

Regarding the periods colored blue, the amount obtained by multiplying the figure stated in [i] corresponding to each period by ■■■■, which is the contribution percentage of CD-ROM drive, is the amount stated in [ii].

* Regarding subject periods for which only year and month are indicated, the first day of the calculation is the 1st of the relevant month and the closing day is the last day of the same month.

PS1 game disc (CD-ROM disc) (related to Invention 1-5)

Subject period	[i] Profits that the First-instance Defendant should receive (Column [C] in Table 2-1 × 0.8)	[ii] Profits that the First-instance Defendant should receive for Patent 1-5	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable compensation
1995.9.9 to 2004.12.31					
2005.1.1 to 2005.3.22					
Total					

* Regarding the period colored green, the amount obtained by multiplying the figure stated in [i] corresponding to each period by ■■■■, which is the contribution percentage of CD-ROM disc, is the amount stated in [ii].

Regarding the period colored orange, the amount obtained by multiplying the figure stated in [i] corresponding to each period by ■■■■, which is the contribution percentage of CD-ROM disc, is the amount stated in [ii].

PS2 game disc (related to Invention 2-1)

Subject period	Profits that the First-instance Defendant should receive (Column [C] in Table 3-1 × 0.8)	Profits that the First-instance Defendant should receive for Patent 2-1	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable compensation
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2000.10.26 to 2016.3.31		
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UMD disc (related to Invention 2-1)

Subject period	Profits that the First-instance Defendant should receive (Column [C] in Table 3-2 × 0.8)	Profits that the First-instance Defendant should receive for Patent 2-1	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable compensation
2005.3.24 to 2016.3.12					

(Attachment 4-3)

3C License Program (related to Invention 2-1)

Product category	Royalties (worldwide)	Royalties (U.S.A.)	Outstanding amount after deduction of court-related costs	Exclusive profits from Patent 2-1	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable compensation
DVD-ROM Disc							
DVD Video Disc							
DVD RECORDABLE Disc							
DVD RECORDABLE Drive							
Total							

One-Red License Program (related to Invention 2-1)

Product category	Royalties (worldwide)	Royalties (U.S.A.)	Exclusive profits from Patent 2-1	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable compensation	
DVD-ROM Disc							
DVD-Video Disc							
Total							

One-Blue License Program (related to Invention 2-1)

Product category	Royalties (worldwide)	Royalties (U.S.A.)	Exclusive profits from Patent 2-1	Degree of the First-instance Defendant's contribution	Degree of the First-instance Plaintiff's contribution among co-inventors	Amount of reasonable compensation	
BD Recorder							
BD Recorder Drive							
Total							

(Attachment 4-4)

SCE License Agreement

Fiscal year	Royalties (U.S.A.)
1995	●●●●●
1996	●●●●●
1997	●●●●●
1998	●●●●●
1999	●●●●●
2000	●●●●●
2001	●●●●●
2002	●●●●●
2003	●●●●●
2004	●●●●●
2005	●●●●●
2006	●●●●●
2007	●●●●●
2008	●●●●●
2009	●●●●●
2010	●●●●●
2011	●●●●●
2012	●●●●●
2013	●●●●●
2014	●●●●●
2015	●●●●●
2016	●●●●●
Total	●●●●●

*Years refer to fiscal years (from April 1st until March 31st of the following year).

(See Exhibit Otsu 244)