

Patent Right	Date	May 18, 2023	Court	Intellectual Property High Court, Second Division
	Case number	2023 (Ne) 10009		
- A case in which the court dismissed an appeal filed by Appellant, a patentee who had lost a patent infringement suit between the same parties as in the appeal and who claimed, on the ground of the same patent right, that the manufacture and sale of smartphones by Appellees infringe on the patent right, the court holding that Appellant's demand for compensation falls under dragging up of a dispute and is unlawful.				

Case type: Compensation

Result: Overruling of prior instance judgment, Dismissed without prejudice

Related rights, etc.: Patent No. 4611388

Judgment of the prior instance: Tokyo District Court 2022 (Wa) 11889, judgment rendered on December 21, 2022

Summary of the Judgment

1. In the present case, Appellant, who is the patentee of a patent for an invention titled "Input Support Computer Program, Input Support Computer System", argued that the smartphones (three types; Defendant's Product) manufactured and sold by Appellees belong to the technical scope of the inventions pertaining to Claims 1 and 3 (Invention) of the scope of claims for the Patent, and that the manufacture of Defendant's Product by Appellee B and the sale of the same by Appellee A infringe on the Patent Right, thereby demanding against Appellees, pursuant to Article 709 of the Civil Code and Article 102, paragraph (3) of the Patent Act, for joint payment of damages in the amount of JPY 2,507,685 and the relevant late payment charge.

In the judgment in prior instance, the court dismissed Appellant's claims entirely by holding that Defendant's Product does not belong to the technical scope of the Invention, and Appellant filed an appeal (Appeal).

2. In the judgment of the present case, the court held that Appellant's claims are unlawful and overruled the judgment in prior instance, and dismissed the Appeal. Grounds for the ruling are as follows.

The Case of 2020 (Tokyo District Court 2020 (Wa) 15464, judgment rendered on July 14, 2021; Intellectual Property High Court 2021 (Ne) 10066, judgment rendered on February 8, 2022; both judgments made final and binding) and the present case involve the same parties, and the patent right which is allegedly infringed is the same, and the two cases also share the issue of whether the allegedly infringing product belongs to the technical scope of each of the inventions of Claims 1 and 3 in the scope of claims for the Patent.

Defendant's Product, which is the subject product of the present case, is of the same series as Defendant's Product in Previous Suit, which is the subject product of the Case of 2020. As such, it is assumed that Defendant's Product was released later than Defendant's Product in Previous Suit. However, it does not seem that any significant change was made to the specification of Defendant's Product in Previous Suit, particularly with regard to the app, which is the same and which was raised as an issue (both being AQUOS Home). Although the versions may be different, there does not seem to be any significant change in specifications, and the operation which was raised as an issue is the same or at least substantively the same in the two cases.

Furthermore, the point at issue in the Case of 2020 and the present case concerns the existence of the Operation Menu Information in the app called "AQUOS Home", which is installed in the subject products. As such, the dispute at issue is the same or at least substantively the same in the two cases, and furthermore, the claims made by Appellant concerning the point in dispute are substantively the same in both cases.

In that case, the claims made by Appellant in the present case are merely to drag up Appellant's claims in the Case of 2020, in which the court's determination, that Appellant's demand against Appellees for compensation on the ground of tort of infringement of the Patent Right is groundless, became final and binding. It is presumed that Appellant filed the Appeal while being fully aware that the structure of Defendant's Product in Previous Suit, which supports the judgment in the Case of 2020 as to the non-existence of Operation Menu Information, is substantively the same as the structure of Defendant's Product, and that for this reason, Defendant's Product does not infringe on the Patent Right for the same reason as that which applies to Defendant's Product in Previous Suit. As such, it must be said that examining Appellant's claims in the present case significantly damages the reasonable expectations of Appellees for a dispute which was resolved when the judgment in the Case of 2020 became final and binding, and goes against the justice of a legal action.

Accordingly, it must be said that Appellant's demand for compensation on the ground of tort of infringement of Patent Right in the present case and making relevant claims are merely to drag up a dispute from the Case of 2020, and examining Appellant's demand between Appellant and Appellees, who are parties to said case, goes against the principle of good faith in a legal action and shall not be permitted.

In view of the above, the court finds Appellant's claims to be entirely unlawful and dismisses them. Since the judgment in prior instance, which found such claims to be lawful and rendered a judgment on the merits, is unjustified, the court overrules the judgment in prior instance, dismisses Appellant's claims entirely, and renders a

judgment as per the main text.

Judgment rendered on May 18, 2023

2023 (Ne) 10009 Appeal Case of Seeking Damages

(Prior instance: Tokyo District Court 2022 (Wa) 11889)

Date of conclusion of oral argument: April 11, 2023

Judgment

Appellant: Core Appli Inc.

Appellee: KDDI Corporation

(hereinafter referred to as "Appellee KDDI")

Appellee: Sharp Corporation

(hereinafter referred to as "Appellee Sharp", and as "Appellees" together with Appellee KDDI)

Main text

1. Judgment in prior instance shall be overruled.
2. Appellant's claims shall be dismissed entirely.
3. Court costs throughout the first and second instances shall be borne by Appellant.

Facts and reasons

Abbreviations of the terms used herein and their meanings shall be as used in the judgment in prior instance other than the meanings provided herein. "Plaintiff" according to the judgment in prior instance shall be read as "Appellant", and "Defendants", "Defendant KDDI", and "Defendant Sharp" according to the judgment in prior instance shall be read as "Appellees", "Appellee KDDI", and "Appellee Sharp", respectively. "Attachment/attached" as used in the judgment in prior instance to refer to citations shall all be corrected to "Attachment to the judgment in prior instance" or "attached to the judgment in prior instance".

No. 1 Object of the appeal

1. Judgment in prior instance shall be reversed.
2. Appellees shall jointly pay to Appellant a sum of JPY 2,507,685 and the money accrued thereon at the rate of 3% per annum from June 7, 2022 until payment

completion.

3. Court costs throughout the first and second instances shall be borne by Appellees.

4. Declaration of provisional execution for paragraph 2 above

No. 2 Outline of the case

1. Summary of the case

In the present case, Appellant, who is the patentee of a patent (Patent) for an invention titled "Input Support Computer Program, Input Support Computer System" (Invention), argued that Defendant's Product (smartphones; Serial Nos. SHV44, SHV45, and SHV46) manufactured by Appellee Sharp and sold by Appellee KDDI belongs to the technical scope of the invention for the Patent, and that the manufacture and sale of Defendant's Product fall under infringement of the right in Patent (Patent Right), and demanded against Appellees, pursuant to Article 709 of the Civil Code and Article 102, paragraph (3) of the Patent Act, for joint payment of a sum of JPY 2,507,685 and the late payment charge accrued thereon at the rate of 3% per annum as prescribed by the Civil Code for the period from June 7, 2022 (the day following the date of delivery of a complaint), which is after the day of the tort, until payment completion.

In the judgment in prior instance, the court dismissed Appellant's claims by holding that Defendant's Product does not belong to the technical scope of the Invention, and Appellant filed an appeal (Appeal).

2. Basic facts, points of dispute, and parties' arguments on points of dispute

Other than the following corrections to be made as well as the addition of supplementary claims made by parties in the present instance as described below in 3, the content indicated in paragraphs 2 to 4 of "No. 2 Outline of the case, etc." under "Facts and reasons" of the judgment in prior instance shall apply and is cited herein.

(1) On line 13 on page 2 of the [Japanese text of the] judgment in prior instance, correct "communication equipment and apparatus" to "communication machines and apparatus".

(2) On line 16 on page 7 of the [Japanese text of the] judgment in prior instance, insert "Exhibit Ko 41" in front of "Exhibit Otsu 3", and on lines 24 and 25 on the same page, insert "apps and functions" after "a plurality of", and on line 2 on page 8, insert "etc." after "software", and on line 3 on the same page, insert "consists of a screen (which may contain a plurality of page screens inside) called 'workspace'" after

"Home App", and on line 15 on the same page, delete "the touch panel above".

(3) On line 5 on page 9 of the [Japanese text of the] judgment in prior instance, correct "center" to "upper part", and on line 16 on page 10, correct "3 (1) A below" to "3 (2) A below", and on the same line, correct "Defendant's claims (4 (1) below)" to "Appellees' claims (4 (2) A below)".

(4) At the end of line 21 on page 10 of the [Japanese text of the] judgment in prior instance, start a new line and add "(1) Legality of the Appeal (defense on merits of the case)", and on line 22 on the same page, correct "(1)" to "(2)", and on line 4 on page 11, correct "Constituent Feature [E]" to "Constituent Feature [B]", and on line 7 on the same page, correct "Constituent Feature [F]" to "Constituent Feature [E]", and on line 13 on the same page, correct "(2)" to "(3)", and at the end of line 20 on the same page, start a new line and add "(4) Damage suffered by Appellant, and the amount thereof (Issue 3)".

(5) At the end of line 21 on page 11 of the judgment in prior instance, start a new line and add the following.

"(1) Legality of the Appeal (defense on merits of the case)
(Appellees' claims)

A. In the present case, Appellant demanded against Appellees, who manufacture or sell Defendant's Product, for compensation on the ground of patent infringement concerning Patent (Patent No. 4611388). In the past, Appellant has filed several suits of the same or similar type concerning the Patent against each of Appellee Sharp and Appellee KDDI as described below.

(A) Intellectual Property High Court 2015 (Ne) 10047, judgment rendered on September 30, 2015 (Defendant/Appellee: Appellee KDDI)

(B) Intellectual Property High Court 2017 (Ne) 10037, judgment rendered on November 28, 2017 (Defendant/Appellee: Appellee KDDI and non-party to the suit, LG Electronics Japan Kabushiki Kaisha)

(C) Intellectual Property High Court 2017 (Ne) 10038, judgment rendered on November 28, 2017 (Defendant/Appellee: Appellee KDDI)

(D) Intellectual Property High Court 2019 (Ne) 10081, judgment rendered on November 25, 2020 (Defendant/Appellee: Appellee Sharp)

(E) Intellectual Property High Court 2021 (Ne) 10066, judgment rendered on February 8, 2022 (Defendant/Appellee: Appellee Sharp and Appellee KDDI) (Exhibit Otsu 1).

B. In each of the above suits, Appellant argued that there was, as in the case of the present suit, infringement of the Patent by the scrolling, which is performed upon

moving an icon or making a short-cut on a home app on a smartphone. In particular, AQUOS Home (Home App) carried by the smartphone models "SHV39" to "SHV43", which were the subject products of the most recent suit in 2020 (Tokyo District Court 2020 (Wa) 15464; judgment rendered by the court of second instance as described above in A (E); hereinafter referred to as "Case of 2020"), is nearly identical, except for minor parts, to the one carried by the smartphone models "SHV44" to "SHV46" (Defendant's Product), which are the subject products of the present suit. Furthermore, since Appellant's demand in the present case is not made about infringement on the ground of said "minor differences" and since the interpretation and application of "Operation Menu Information", which is the greatest point of dispute in the present suit, was also the greatest point of dispute in the Case of 2020, Appellant had made sufficient arguments and provided sufficient evidence during the examination of the Case of 2020 regarding the same point of dispute as the point of dispute of the present case.

Since a smartphone undergoes minor updates which are released several times each year, Appellant may have to file suits repeatedly in the future each time the product number changes, and in fact, such a situation is likely to occur.

It must be said that, in light of the purport and purpose of the court system, it is seriously inappropriate to repeatedly file a suit on patent infringement concerning smartphone home apps over the years simply for the reason that the subject products are not completely identical.

(Appellant's claims)

"As per the Attachment, 'Structure of Defendant's Product, etc. pertaining to Appellant's claims, etc.', Structure [a1] of the subject product in the Case of 2020 is different from Structures [a1], [a1'], and [a1"] in the present suit. As such, the two computer programs exist in computer systems with completely different physical structures, and in particular, the structure in the present suit has been changed significantly by the addition of pixel numbers in a screen. In the present suit, there is the addition, as per said Attachment, of Structures [a3], [a3'], [a3"], and [p1] to [p3], and new determinations must be made regarding Constituent Features [B], [E], [F], and [G].

"Appellees make arguments such as that Appellant has filed several suits pertaining to a smartphone. However, this only means that Appellees manufacture and sell a plurality of products, which are highly likely to infringe on the Patent, of different structures. As such, if products have different structures, it is necessary to make determinations differently for each product."

(6) On line 22 on page 11 of the [Japanese text of the] judgment in prior instance, correct "(1)" to "(2)", and on line 24 on the same page, correct "(2)" to "(3)", and in Attachment, "Parties' claims on technical scope", to the judgment in prior instance, and the Attachment, "Parties' claims on grounds for invalidation", to the judgment in prior instance, correct the respective "(Defendant's claims)" to "(Appellees' claims)", and on line 7 on page 44, correct "Official Gazette" to "Specifications", and on line 21 on page 56, line 20 on page 60, line 17 on page 61, line 12 on page 62, line 22 on page 73, and line 1 on page 76, correct the respective "Defendant" to "Appellees".

(7) At the end of line 25 on page 11 of the [Japanese text of the] judgment in prior instance, start a new line and add the following.

"(4) Damage suffered by Appellant, and the amount thereof (Issue 3)
(Appellant's claims)

The sales of Defendant's Product by Appellee KDDI exceeded a total of JPY 40,700,000,000. Given that the average royalty rate in the field of computer technology is 3.8%, and that Appellees, in spite of being aware of the Patent Right from more than 10 years ago, manufactured and sold products, on which Launcher 3 is installed, and have continued the act of infringing the Patent Right, it is reasonable to determine that the license fee rate for the Patent Right in the present case shall be at least 15%. In that case, the amount of damage suffered by Appellant pursuant to Article 102, paragraphs (3) and (4) of the Patent Act shall be at least JPY 6,105,000,000.

Appellant demands against Appellees, from the above amount of damages, a sum of JPY 2,507,685, corresponding to the license fee for 100 units of Defendant's Product, and the late payment charge accrued thereon.

(Appellees' claims)

Disagree."

(Omitted)

No. 3 Judgment of this court

1. Legality of the Appeal (defense on merits of the case)

(1) In the case where the demands made in a subsequently filed suit or the claims made in such suit are merely to drag up the same demands or claims from the previous suit, it is reasonable to interpret that the demands made in a subsequent suit or the claims made in such suit shall not be permissible in light of the principle of faith and

trust (refer to Supreme Court 1974 (O) 331, judgment rendered on September 30, 1976 by the First Petty Bench / Minshu Vol. 30, No. 8, page 799; Supreme Court 1974 (O) 163, 164, judgment rendered on March 24, 1977 by the First Petty Bench / Saibanshu, Minji No. 120, page 299).

(2) Case of 2020 (Exhibits Otsu 1 and 2)

A. In the Case of 2020, Appellant argued that the manufacture by Appellee Sharp of smartphones (Model Nos. SHV39, SHV40, SHV41, SHV42, and SHV43; hereinafter collectively referred to as "Defendant's Product in Previous Suit") and the sale by Appellee KDDI of the smartphones infringe on the Patent Right, and demanded against Appellees for compensation on the ground of tort of patent infringement.

In the Case of 2020, it became an issue whether the Defendant's Product in Previous Suit is covered by the technical scope of the inventions of Claims 1, 3, and 4 in the scope of claims for the Patent. Specifically, the point in dispute was whether or not the app called "AQUOS Home" (hereinafter referred to as "App in Previous Suit"), which was installed on the Defendant's Product in Previous Suit, has Operation Menu Information (Issue 1-3 in the Case of 2020).

Regarding this point in dispute, Appellant argued that the words, "to enable ...", indicate a purpose, objective, standard, or the like, so that there is no need for the Operation Menu Information to be something from which a user can understand all of the commands to be executed, and that it is sufficient if there are words suggesting that the purpose or objective is to enable the user to understand the content of the command to be executed, so that the Partially-Shown Page (corresponding to the "Partially-Shown Image" in the present case) on the App in Previous Suit in the Defendant's Product in Previous Suit falls under "Operation Menu Information".

B. Tokyo District Court, which is the court of first instance in the Case of 2020, found as follows concerning how the App in Previous Suit works in Defendant's Product in Previous Suit: "[1] When a user touches, with a finger, an icon displayed on a screen on the App in Previous Suit in a manner that takes a certain time (long-press), it causes the icon to make a transition to a movable state, and [2] the icon moves around by following the finger, and when the icon is travels a certain distance to the right or to the left by following the finger, the screen enters a minimized mode and is minimized to 90% of the size of the page being shown, and a part of the screen of an adjacent page (Partially-Shown Page) is displayed on the right edge or left edge of the screen, and [3] when the icon is moved further in such direction, the screen of an adjacent page is scrolled in such direction and displayed." A user who sees the

rectangular part, which is the Partially-Shown Page, will not be able to understand what kind of command the display is meant to execute, so that the court determined that the image of the Partially-Shown Page on the Defendant's Product in Previous Suit cannot be acknowledged as having the Operation Menu Information of Constituent Feature [B] in Inventions 1 and 3 (Exhibit Otsu 2; Tokyo District Court 2020 (Wa) 15464, judgment rendered on July 14, 2021). The above determination was upheld by the appeal court, Intellectual Property High Court, in the judgment rendered on February 8, 2022 (Exhibit Otsu 1), and the judgment became final and binding without an appeal being filed (the entire import of the oral argument).

(3) The present case

A. In the present case, Appellant argued that the manufacture by Appellee Sharp of smartphones (Model Nos. SHV44, SHV45, and SHV46; Defendant's Product) and the sale by Appellee KDDI of the smartphones infringe on the Patent Right, and demanded against Appellees for compensation on the ground of tort of patent infringement.

In the present case, the issue concerns whether or not Defendant's Product is covered by the technical scope of the inventions of Claims 1 and 3 (Invention) in the scope of claims for the Patent. Specifically, the point in dispute was whether or not the app called "AQUOS Home" (Home App), which is installed on Defendant's Product, has Operation Menu Information.

Appellant's claim concerning Issue 1 (whether or not Defendant's Product belongs to the technical scope of the Invention) in the present case is as indicated in Attachment, "Parties' claims on technical scope", to the judgment in prior instance, and in the above No. 2-3.

B. The operation of Home App in Defendant's Product is as outlined below (item (6) C of Basic facts).

"[1] When a user gives a long-press to a shortcut icon displayed on a screen on Home App, the shortcut icon becomes movable by following the movement of the finger, etc. on the touch panel, and [2] when the shortcut icon travels a certain distance, a minimized mode starts and the center page screen being shown is displayed in a minimal mode, and a part of the screen of an adjacent page (Partially-Shown Image) is displayed on the right edge or left edge of the screen, and [3] when the shortcut icon is moved further into the domain of the Partially-Shown Image, the adjacent page is displayed."

In the judgment in prior instance, the court held as follows: It cannot be said that a user who saw the Partially-Shown Image would be able to understand that it is

showing a part of a page on the right or left, and even if the user can understand the situation, it cannot be said that the structure is such that it enables the user to understand that a command is displayed, indicating that a short-cut icon should be dragged to the domain of the image so as to scroll to the corresponding page, As such, the Partially-Shown Image of Defendant's Product does not fall under Operation Menu Information, and it cannot be acknowledged that Defendant's Product has the Operation Menu Information of Constituent Features [B], [E], [F], and [G] of the Invention.

(4) Comparison between Case of 2020 and the present case

The Case of 2020 and the present case have the same parties involved, and the patent right which is deemed to be the subject of infringement is the same in the two cases, and the two cases also share the issue of whether or not the allegedly infringing product belongs to the technical scope of each of the inventions of Claims 1 and 3 of the relevant scope of claims.

Defendant's Product, which is the subject product of the present case, is of the same series as the Defendant's Product in Previous Suit, which is the subject product of the Case of 2020. As such, it is presumed that Defendant's Product was released after Defendant's Product in Previous Suit. However, it is not clear if a significant change was made to the specification of the Defendant's Product in Previous Suit. In particular, the app which is considered to be problematic is the same in the two cases (AQUOS Home in both cases), and while the versions may be different, there does not seem to have been any significant change in specification, and the operation at issue (the aforementioned (2) B and (3) B) is the same or at least substantively the same.

The point in dispute in the Case of 2020 and the present case is whether there is the Operation Menu Information in the app called "AQUOS Home" (App in Previous Suit or Home App), which is installed in the subject product (Defendant's Product in Previous Suit or Defendant's Product), so that the point in dispute is the same or at least substantively the same, and furthermore, Appellants' claims on the point in dispute are substantively the same as well.

In that case, it must be said that Appellant's claims in the present case are merely to drag up, based on the reason that the subject product does not have Operation Menu Information, the claims made by Appellant in the Case of 2020 in which the determination to the effect that the Appellant's demand made against Appellees for compensation on the ground of tort of infringement of Patent Right has no grounds, became final and binding. It is presumed that when Appellant filed the Appeal, Appellant was fully aware that the structure of Defendant's Product in

Previous Suit (the operation of App in Previous Suit), which provides a ground for the determination, in the Case of 2020, that Operation Menu Information does not exist, and the structure of Defendant's Product (Operation of Home App) is substantively the same, and thus Defendant's Product does not infringe on Patent Right for the same reason as the one applicable to Defendant's Product in Previous Suit. Accordingly, it must be said that examining Appellant's claims in the present case will significantly damage the reasonable expectations of Appellees for dispute resolution, which is brought about with the judgment for the Case of 2020 becoming final and binding, and that it goes against the justice of a legal action.

(5) Determination on Appellant's claims

In this respect, Appellant argues that new determinations are required in view that Defendant's Product in Previous Suit, which is the subject product of the Case of 2020, and Defendant's Product have the difference of the former having the Structure [a1] and the latter having the Structures [a1], [a1'], and [a1"], and that the Structures [a3], [a3'], and [a3"] as well as [p1] to [p3] have been added.

However, the Structures [a1], [a1'], and [a1"] as well as [p1] to [p3] of Defendant's Product as claimed by Appellant are not related to Partially-Shown Image, and the Structures [a3], [a3'], and [a3"] are merely the result of more specifically identifying the domain (coordinates) on the screen of Partially-Shown Image instead of something that changes the operation of the App in Previous Suit as described above in (2) B. As such, it must be said that none of the structures claimed by Appellant is one which, upon considering whether the Partially-Shown Image falls under the Operation Menu Information of Constituent Features [B], [E], [F], and [G], affects the determination on the matter.

In addition, there is no evidence to sufficiently acknowledge that the difference in structure, as claimed by the above Appellant, is substantively the difference between the App in Previous Suit in Defendant's Product in Previous Suit, and the Home App in Defendant's Product. Furthermore, even if it is acknowledged that the App in Previous Suit in Defendant's Product in Previous Suit and the Home App in Defendant's Product have difference with regard to said structure, it cannot be said that the difference is one which affects the determination as to the presence of Operation Menu Information in the Home App of Defendant's Product. Also, the structure which Appellant added in the court of second instance is not something that affects the aforementioned determination.

As such, the above claims by Appellant cannot be accepted.

(6) Summary

Accordingly, it must be said that Appellant's demand for compensation on the ground of tort of infringement of the Patent Right in the present case and Appellant's claims relating thereto are merely to drag up the dispute that was handled in the Case of 2020, and to examine Appellant's claims by involving the parties of Appellant and Appellees, who were parties to said case, violates the principle of good faith in a legal action, and shall not be permitted.

2. Conclusion

As described above, the court determines that Appellant's Appeal is entirely unlawful and shall be dismissed, whereas the judgment in prior instance, which determined Appellant's claims to be lawful and rendered the judgment on the merits, is unreasonable and shall be overruled. The court dismisses the claims made in the present case entirely and renders a judgment as per the main text.

Intellectual Property High Court, Second Division

Presiding Judge: HONDA Tomonari

Judge: ASAI Ken

Judge: KATSUMATA Kumiko

(Attachment)

Structure of Defendant's Product, etc. pertaining to Appellant's claims, etc.

(1) Structure [a1] of hardware of SHV39 (one of subject products in the Case of 2020)

A computer program in a smartphone, being equipped with memory means such as 4 GB RAM and 64 GB ROM, processing means called "SDM845", output means of a liquid crystal display, and touch panel input means, or being connected to a mouse or some other input means,

(2) [a1] in the structure of Launcher 3 in SHV44

A computer program for Launcher 3 and Android OS in a smartphone, being equipped with memory means such as 6 GB RAM and 128 GB RAM, a CPU called "Snapdragon855", an output device having a liquid crystal display in the size of 1440 horizontal pixels \times 3120 vertical pixels, and a touch panel input device, or being connected to a mouse or some other input means,

(3) [a1'] in the structure of Launcher 3 in SHV45

A computer program for Launcher 3 and Android OS in a smartphone, being equipped with memory means such as 4 GB RAM and 64 GB ROM, a CPU called "Snapdragon630", an output device having a liquid crystal display in the size of 1080 horizontal pixels \times 2160 vertical pixels, and a touch panel input device, or being connected to a mouse or some other input means,

(4) [a1''] in the structure of Launcher 3 in SHV46

A computer program for Launcher 3 and Android OS in a smartphone, being equipped with memory means such as 6 GB RAM and 64 GB ROM, a CPU called "Snapdragon636", an output device having a liquid crystal display in the size of 1080 horizontal pixels \times 2220 vertical pixels, and a touch panel input device, or being connected to a mouse or some other input means,

(5) [a3] in the structure of Launcher 3 in SHV44

In the Structures [e], [e'], and [f], with the vertex in the upper left part of the liquid crystal display as the starting point, and with the X-axis set in a horizontal direction (rightward being the appropriate direction) and the Y-axis set in a vertical direction (downward being the appropriate direction), to indicate coordinates of position on the liquid crystal display, display the image of the Partially-Shown Page of the left page in the rectangular domain whose upper left position is (X: 0, Y: 355) and shows the movement of 0 pixel in X-axis direction and the movement of 355 pixels in Y-axis direction, and whose lower right position is (X: 74, Y: 2324) in the same coordinate system. Likewise, display the image of the Partially-Shown Page of

the right page in the rectangular domain whose upper left position is (X: 1368, Y: 355) and whose lower right position is (X: 1439, Y: 2324).

(6) [a3'] in the structure of Launcher 3 in SHV45

In the Structures [e], [e'], and [f], with the vertex in the upper left part of the liquid crystal display as the starting point, and with the X-axis set in a horizontal direction (rightward being the appropriate direction) and the Y-axis set in a vertical direction (downward being the appropriate direction), to indicate coordinates of position on the liquid crystal display, display the image of the Partially-Shown Page of the left page in the rectangular domain whose upper left position is (X: 0, Y: 231), which shows the movement of 0 pixel in X-axis direction and the movement of 231 pixels in Y-axis direction, and whose lower right position is (X: 54, Y: 1587) in the same coordinate system. Likewise, display the image of the Partially-Shown Page of the right page in the rectangular domain whose upper left position is (X: 1025, Y: 231) and whose lower right position is (X: 1079, Y: 1587).

(7) [a3''] in the structure of Launcher 3 in SHV46

In the Structures [e], [e'], and [f], display the image of the Partially-Shown Page of the left page in the rectangular domain whose upper left position is (X: 0, Y: 231) (with the vertex in the upper left part of the liquid crystal display as the starting point (in the case of SHV46, the size of 1080 horizontal pixels × 2220 vertical pixels), and with the X-axis set in a horizontal direction (rightward being the appropriate direction) and the Y-axis set in a vertical direction (downward being the appropriate direction), to indicate coordinates of position on the liquid crystal display, to mean a position indicating the movement of 0 pixel in X-axis direction and the movement of 231 pixels in Y-axis direction) and whose lower right position is (X: 54, Y: 1639), and likewise, display the image of the Partially-Shown Page of the right page in the rectangular domain whose upper left position is (X: 1025, Y: 231) and whose lower right position is (X: 1079, Y: 1639).

(8) [p1] in the structures of "pointer's coordinates of position" and "cursor image" in Defendant's Product

Android OS is able to display, in the upper left part on the screen, numerals for coordinates of position of the pointer, which are input by the touch panel, mouse, etc. Android OS displays each image of the mouse cursor, white circular figure, and blue cross line to point to the pointer's coordinates of position.

(9) [p2] in the structure of "pointer's coordinates of position" and "cursor image" in Defendant's Product

Launcher 3 obtains the pointer's coordinates of position by the computer

programs, "getX" and "getY", in MotionEvent class, and the icon image being dragged is displayed in a manner that points to the pointer's coordinates of position.

(10) Structure [p3] in Android OS and Launcher 3

In Android OS, when a person touches, with a finger, etc., a touch panel which was not touched by a finger, etc., the "ABS_MT_POSITION_X x[0] data" and the "ABS_MT_POSITION_Y y[0] data" are received successively from the device driver, and based on these data, the MotionEvent class, which includes "ACTION_DOWN" data, are transferred to Launcher 3 "AQUOS Home". Later, when the person makes a sliding motion without lifting the finger, etc. to receive different "ABS_MT_POSITION_X x[0] data" and the "ABS_MT_POSITION_X x[0] data", the MotionEvent class, which includes "ACTION_MOVE" data, is transferred to Launcher 3 (AQUOS Home). The "ABS_MT_POSITION_Y y[0] data" and the "ABS_MT_POSITION_Y y[0] data" are coordinates of position obtained by the computer programs, "getX" and "getY", in MotionEvent class for the Structure [p2]. Furthermore, when data are received in the order of "SYN_REPORT", "SYN_MT_REPORT", and "SYN_REPORT" in the case of Protocol A in Exhibit Ko 9-1, and in the order of "ABS_MT_TRACKING_ID -1" and "SYN_REPORT" in the case of Protocol B, the MotionEvent class, which includes "ACTION_UP data", is transferred to Launcher 3 (AQUOS Home).

(11) [e] in the structure of Launcher 3 in Defendant's Product

When "ACTION_MOVE data" are received via the above input device, the "page number" of the page image shown at the center of the screen, which is stored in the above memory device from the time of such receipt, is identified, and the Home App Operation Information associated with the identified "page number" is identified, and the Partially-Shown Page in the identified Home App Operation Information is read out from the above memory device and displayed on the above output device.

(12) [e'] in the structure of Android OS and Launcher 3

When the "ABS_MT_POSITON_Y y[0] data" are received via the above input device, the "page number" of the page image displayed at the center of the screen, which is stored in the above memory device from the time of such receipt, is identified, and the Home App Operation Information associated with the identified "page number" is identified, and the Partially-Shown Page in the identified Home App Operation Information is read out from the above memory device and displayed on the above output device,

(13) [f] in the structure of Launcher 3 of Defendant's Product

When the "image of the Partially-Shown Page" displayed in the output device

is identified by a pointer via the above input device, the "scroll command", which is associated with the "image of the Partially-Shown Page" designated by the pointer, is read out from the above memory device and executed, and the execution is continued until the "image of Partially-Shown Page" displayed on the output device is no longer designated by the pointer,

The "page number" of the page image displayed at the center of the screen, which is stored in the above memory device that has changed due to the execution of the command, is identified, and the Home App Operation Information associated with the identified "page number" is identified, and the above "image of the Partially-Shown Page" in the identified Home App Operation Information is read out from the above memory device and displayed on the above output device.