

Patent Right	Date	March 11, 2020	Court	Intellectual Property High Court, Second Division
	Case number	2019 (Gyo-Ke) 10109		
- A case in which it was judged that the invention titled "INFORMATION MANAGEMENT METHOD, INFORMATION MANAGING DEVICE, AND INFORMATION MANAGEMENT PROGRAM" was identical to the cited invention, and novelty was not found.				

Case type: Rescission of Trial Decision of Invalidation

Result: Dismissed

References: Article 29, paragraph (1) of the Patent Act

Related rights, etc.: Patent No. 5075201

Decision of JPO: Invalidation Trial No. 2017-800143

### Summary of the Judgment

1. Defendant made a request for a trial for invalidation by alleging that, with regard to the inventions according to Claims 1, 4, and 7 of the invention titled "INFORMATION MANAGEMENT METHOD, INFORMATION MANAGING DEVICE, AND INFORMATION MANAGEMENT PROGRAM" (hereinafter, referred to as "Present Invention 1", "Present Invention 2", and "Present Invention 3" in order), Present Inventions 1 to 3 are identical to the Exhibit Ko 1 invention described in Exhibit Ko 1 (Description of U.S. Patent Application Publication No. 2005/0251445). The Japan Patent Office admitted correction of Claims 1 and 4 after the correction, and rendered the decision invalidating the patent for Present Inventions 1 and 3, and dismissing the request for the trial on Present Invention 2 and thus, Plaintiff instituted this lawsuit seeking rescission of the JPO decision related to Present Invention 3.
2. Present Invention 3 is an invention related to an advertising method using a webpage on the Internet, that is, a Pay per Call method in which a telephone number associated with each advertiser together with advertisement information is published on the webpage of an advertising provision site, and when a user who sees the information makes a telephone call to the advertiser, an advertising fee is charged on the basis of establishment of a call. In order to solve the problem that telephone number resources are exhausted if telephone numbers different for each of a large number of advertising provision sites and merchandizes are published in order to grasp which of the advertising provision sites the user saw and made a telephone call, it is found that Present Invention 3 is for enabling re-use of

identification information and for promoting effective utilization and prevention of exhaustion of the resources of the identification information by dynamically allocating the identification information indicating the telephone number and by finishing the provision upon elapse of a certain time or a certain number of accesses as a standard.

3. The Exhibit Ko 1 invention is also an invention related to the Pay per Call method similar to Present Invention 3, and the following processing is executed in response to a search request from an end user to a search engine of a request partner.
  - (a) The search engine of the request partner which received the search request transmits the search request to a system;
  - (b) The system allocates a telephone number which is an "inherent telephone number" from the telephone numbers among a pool of unallocated telephone numbers in a "just-in-time method" to an advertisement of a specific advertiser associated with a keyword in the search request and automatically inserts it into the advertisement and transmits the advertisement in which the allocated "inherent telephone number" is inserted to the search engine of the request partner;
  - (c) The search engine of the request partner displays the "advertisement in which the inherent telephone number is inserted" transmitted from the system in a search result in response to the search request;
  - (d) The system records that the advertisement of a specific advertiser is displayed with the specific inherent telephone number in a specific website (a website of a search engine) at a certain time;
  - (e) In the system, when "a certain period of time" has elapsed "since the display" of the "inherent telephone number", it is returned to the "pool of the telephone numbers" for "re-use", while "when there is no call leading to an inquiry", the "dynamically allocated telephone number" is "associated with the advertisement" for a "predetermined period of time" until "a certain period of time" has elapsed "since display" of this "inherent telephone number".
4. With regard to the start timing of the "certain period of time", it is a point of time when "the identification information was sent out to the webserver" in Present Invention 3, while it is a "point of time when the telephone number was displayed on a computer of a user or the like" in the Exhibit Ko 1 invention.

However, the Description in the Exhibit Ko 1 invention has statement which makes it possible to understand that the "display" is not limited to a meaning of projecting information only on a screen of a user terminal or the like but also includes presentation of information of the advertisement to which the system

(advertising company) allocated the telephone number to the website of the request partner. Moreover, the search engine of the request partner in the Exhibit Ko 1 invention is for "displaying 'advertisement in which an inherent telephone number was inserted' transmitted from the system in the search result in response to the search request", and as in the constituent features (b) and (c), presentation of the information on the website of the search engine of the request partner and the like is realized by transmission of the "advertisement in which the inherent telephone number was inserted" by the system to the request partner and thus, when the "display" is referred to in the Exhibit Ko 1 invention, it can be understood that it also includes the meaning that the system sends out the "advertisement in which the inherent telephone number was inserted" so that it is presented on the website of the request partner.

According to the above, since it is reasonable to find that "since the display" in the Exhibit Ko 1 invention includes the time when the telephone number is "sent out" to the search engine of the request partner, there is no difference in this point between Present Invention 3 and the Exhibit Ko 1 invention.

5. Present Invention 3 is such that "the information management server is in a 'state capable of sending out' the identification information to the advertisement provision server during progress of the 'certain period of time'", but the Exhibit Ko 1 invention does not have explicit statement on that point.

However, it is understood that the Exhibit Ko 1 invention has a natural premise that the number of managed telephone numbers is to be reduced by allocating and displaying the same telephone number as the telephone number allocated by a search by a first customer again in response to a search by a second customer of the website of the same search engine and thus, when the telephone number in the pool is to be allocated to the advertisement by the "just-in-time method" to the search request to the search engine of the request partner from an end user, it is understood to indicate that, for the same request partner or in the same context, the telephone number within a predetermined period of time since the advertisement was displayed is allocated to the aforementioned "advertisement" as the "inherent telephone number" again, and the advertisement in which the "telephone number within the predetermined period of time" is inserted is transmitted to the search engine of the request partner.

Then, the point that the "state capable of sending out" remains after the "certain period of time" in Present Invention 3 is finished and until the "state incapable of sending out" is brought about is a common feature with the Exhibit Ko 1 invention.

6. According to the above, Present Invention 3 and the Exhibit Ko 1 invention are identical inventions.