Date	December 6, 2010	Court	Tokyo District Court, 29th Civil Division
Case number	2009 (Wa) 35184		
– A case in which, regarding a lawsuit concerning the alleged infringement of patent rights for the patented invention titled "on-vehicle navigation apparatus," the court dismissed the plaintiff's claim by holding that the defendant's navigation apparatus comprising a cell-phone, server, etc. may not be regarded as an "on-vehicle navigation apparatus."			

In this case, the plaintiff, who owns two patent rights for the patented inventions titled "on-vehicle navigation apparatus" (the "Patented Inventions") (a patent right for the invention related to the recording of the designation of destinations and a patent right for the invention related to the registration of the location of the user), alleged that the defendant allowed users to use a navigation apparatus (the "defendant's apparatus") for the navigation service "EZ 助手席ナビ" (easy assistant driver navigation) and that the act of producing the defendant's apparatus constitutes infringement of the plaintiff's patent rights and that the act of assignment, etc. of the cell-phone program for said service constitutes indirect infringement of said patent rights. The plaintiff sought [i] an injunction against the use of the server included in the defendant's apparatus and disposal of the program for said server on the grounds that the use of the defendant's apparatus constitutes infringement of the patent rights, [ii] an injunction against the assignment, etc. of the cell-phone program on the grounds of the infringement of the patent rights in the course of the production of the defendant's apparatus and also on the grounds of said indirect infringement, and [iii] the payment of damages. The defendant's apparatus comprises the server controlled and managed by the defendant and the cell-phone owned by each user. The defendant's apparatus indicates a route to the destination on the screen of the cell-phone by conducting data communication between the server and the cell-phone. The major issue in this case is whether the defendant's apparatus as described above may be regarded as an "on-vehicle navigation apparatus," which is the constituent feature of the Patented Inventions.

In this judgment, the court found that "on-vehicle navigation apparatus" of the Patented Inventions means an integrated navigation apparatus loaded onto a vehicle and therefore that any apparatus that is not loaded onto a vehicle may not be regarded as an "on-vehicle navigation apparatus." Also, the court found that, since the defendant's apparatus is comprised of a server and a cell-phone, which fulfill different functions respectively in order to perform a navigation function by conducting data communication between them, the defendant's apparatus may not be regarded as an

integrated "navigation apparatus," and that, in view of the facts that the server included in the defendant's apparatus is not loaded onto a vehicle and that, without said server, the defendant's apparatus could not function as a navigation system, the defendant's apparatus may not be considered to be an integrated navigation apparatus loaded onto a vehicle, and therefore that the defendant's apparatus may not be regarded as an "on-vehicle navigation apparatus." On these grounds, the court concluded that the defendant's apparatus may not be considered to fall within the technical scope of the Patented Inventions and dismissed the plaintiff's claim.

Judgment rendered on December 6, 2010, original copy received on the same day, Court Clerk
2009 (Wa) 35184, Case of seeking injunction against patent infringement and the like
Date of conclusion of oral argument: September 6, 2010

Judgment

Meguro-ku, Tokyo <omitted>
Plaintiff: Pioneer Corporation

Minato-ku, Tokyo <omitted>
Defendant: Navitime Japan Co., Ltd.

Main text

1. All the claims by the plaintiff shall be dismissed.
2. The plaintiff shall bear the court costs.

Facts and reasons

No. 1 Claims

1. The defendant shall not use a server included in the navigation device described in 1 of the attached list of articles.
2. The defendant shall not transfer (i.e., transfer, lending, or offer through an electric telecommunication line) or offer for transfer of the program described in 2 of the attached list of articles.
3. The defendant shall delete the program described in 3 of the attached list of articles.
4. The defendant shall pay 1 billion yen to the plaintiff and interest at a rate of 5% per annum from October 16, 2009 until completion of the payment.
5. Declaration for provisional execution

No. 2 Outline of the case

This case is a case in which the plaintiff having two patent rights relating to the patent invention titled "Onboard navigation device" asserted that the navigation service provided by the defendant fulfills the constituent features of each of the patent inventions, the defendant worked each of the patent inventions of the plaintiff and infringed each of the patent rights by allowing users to use the service or by producing the device providing the service, and the act of transfer or the like of the program for a portable terminal offered for the service was applicable to indirect infringement of each of the patent rights and requested: [i] Injunction (Article 100, paragraph (1) of the Patent Act)

of use of the server included in the navigation device described in 1 of the attached list of articles for the reason of working of the patent invention (infringement of patent right) by the use and disposal (the same Article, paragraph (2)) of the program described in 3 of the attached list of articles; and [ii] Injunction of transfer and the like and offer for transfer and the like (the same Article, paragraph (1)) of the program for a portable terminal described in 2 of the attached list of articles for the reason of the working of the patent invention (infringement of patent right) or indirect infringement by the production, respectively; and [iii] Payment of 200 million yen in the damages of 432 million yen (Article 709 of the Civil Code, Article 102, paragraph (3) of the Patent Act) corresponding to the amount of royalty based on the infringement by the use of the navigation service and 800 million yen in the damages of 1.65 billion yen (Article 709 of the Civil Code, Article 102, paragraph (3) of the Patent Act) corresponding to the amount of royalty based on the indirect infringement by transfer and the like of the program for the portable terminal; that is, 1 billion yen in total, and delay damages from October 16, 2009 which is the day immediately following the date of service of the complaint until completion of the payment at a rate of 5% per annum prescribed by the Civil Code.

1. Facts without dispute (evidence and the like other than the facts without dispute are described at the end.)

(1) Parties

A. The plaintiff is a company which manufactures and sells home-electronics products and car-electronics products such as car-navigation systems and the like (the entire import of the oral argument).

B. The defendant is a company which provides navigation contents services, and develops and licenses a navigation engine, and the like.

(2) Plaintiff's patent right

A. The plaintiff has the following patent rights (hereinafter, the patent right of (A) is referred to as the "present patent right 1", the patent right of (B) as the "present patent right 2", and they are collectively referred to as "each of the present patent rights", and the respective patents according to the present patent rights are referred to as the "present patent 1" and the "present patent 2", respectively, and they are collectively referred to as "each of the present patents") (Exhibits Ko 1-1 and 2 and Exhibits Ko 2-1 and 2).

(A) The present patent right 1 (hereinafter, the invention according to claim 1 of the present patent right 1 is referred to as the "present patent invention 1" and the description according to the present patent 1 is referred to as the "present description 1".)

Patent No.: 2891794

Title of the invention: Onboard navigation device

Date of application: April 12, 1991

Date of registration: February 26, 1999

Claims

[Claim 1] An onboard navigation device which sets a destination and displays navigation information from a current location to a destination on the basis of destination coordinate data indicating the set destination and current location coordinate data indicating the current location of a vehicle, comprising a memory having a plurality of storage positions for storing the destination coordinate data, means for writing the destination coordinate data indicating the destination each time the destination is set at a storage position different at least from the storage position of the previous destination coordinate data of the memory, means for reading out the destination coordinate data stored in the memory when the destination was set, and means for selecting one set of destination coordinate data from the read-out destination coordinate data in accordance with an operation and by setting the destination by selection of the one set of destination coordinate data.

(B) The present patent right 2 (hereinafter, the invention according to claim 1 of the present patent right 2 is referred to as the "present patent invention 2" and referred to as "each of the present patent inventions" together with the present patent invention 1, and the description according to the present patent 2 is referred to as the "present description 2".)

Patent No.: 2891795

Title of the invention: Onboard navigation device

Date of application: April 12, 1991

Date of registration: February 26, 1999

Claims

[Claim 1] An onboard navigation device which displays a map on a display, comprising: first storage means storing display data indicating a plurality of service facilities and spot coordinate data indicating the spot where each of the service facilities is present, means for reading out the display data from the first storage means and displaying the plurality of service facilities on the display in accordance with the display data, means for designating one service facility among the plurality of service facilities displayed on the display in accordance with the operation, means for reading out the spot coordinate data corresponding to the designated one service facility from the first storage means, second storage means for storing the read-out spot coordinate data, and means for reading out the spot coordinate data from the second storage means when the map is displayed on the display and displaying the spot on the map indicated by the spot

coordinate data superimposed on the map by a predetermined pattern on the display.

B. Constituent features of each of the present patent inventions

(A) Constituent features of the present patent invention 1

The constituent features of the present patent invention 1 will be described separately as follows (hereinafter, they are referred to as the "constituent feature 1-A" and the like.).

1-F The onboard navigation device

1-A which sets a destination and displays navigation information from a current location to a destination on the basis of destination coordinate data indicating the set destination and current location coordinate data indicating the current location of the vehicle, comprising:

1-B a memory having a plurality of storage positions for storing the destination coordinate data;

1-C means for writing the destination coordinate data indicating the destination each time the destination is set at a storage position different at least from the storage position of the previous destination coordinate data of the memory;

1-D means for reading out the destination coordinate data stored in the memory when the destination was set; and

1-E means for selecting one set of destination coordinate data from the read-out destination coordinate data in accordance with an operation and by setting the destination by selection of the one set of destination coordinate data.

(B) Constituent features of the present patent invention 2

The constituent features of the present patent invention 2 will be described separately as follows (hereinafter, they are referred to as the "constituent feature 2-A" and the like.).

2-H An onboard navigation device

2-A which displays a map on a display, comprising:

2-B first storage means storing display data indicating a plurality of service facilities and spot coordinate data indicating the spot where each of the service facilities is present in advance;

2-C means for reading out the display data from the first storage means and displaying the plurality of service facilities on the display in accordance with the display data;

2-D means for designating one service facility among the plurality of service facilities displayed on the display in accordance with the operation;

2-E means for reading out the spot coordinate data corresponding to the designated one service facility from the first storage means;

2-F second storage means for storing the read-out spot coordinate data; and

2-G means for reading out the spot coordinate data from the second storage means when the map is displayed on the display and displaying the spot on the map indicated by the spot coordinate data superimposed on the map by a predetermined pattern on the display.

(3) Act of the defendant

The defendant has provided the navigation service with the name of "EZ passenger seat navi" (hereinafter, referred to as the "defendant's service") to users of the portable terminals described in No. 2 of the attached explanation of the defendant's device (hereinafter, referred to as the "present portable terminal") on a regular basis since September 8, 2005 (hereinafter, referred to as the "start date of the defendant's service".). In providing the defendant's service, the defendant operates and manages the server described in No. 2 of the attached explanation of the defendant's device (hereinafter, referred to as the "defendant's server"), and the server conducts data communication with the present portable terminal held by the user (hereinafter, the navigation device described in 1 of the attached list of articles including the defendant's server and the present portable terminal are collectively referred to as the "defendant's device").

In the present portable terminals sold in June of 2007 and thereafter, the program described in 2 of the attached list of articles which is an application program for the present portable terminal for using the defendant's service (hereinafter, referred to as the "program for the present portable terminal") is installed in advance (preinstalled) (with regard to the timing to start sales of the present portable terminal in which the program for the present portable terminal is preinstalled, the plaintiff asserts that it is September of 2006 as in the "damage on the plaintiff" in postscript 21 and it is found to be as above by the entire import of the oral argument.). For those of the present portable terminals sold in and before June of 2007, the user of the present portable terminal can download the program for the present portable terminal through a communication network.

In order for the user to use the defendant's service, the user needs to pay a usage fee of 315 yen (including tax) per month or 157 yen (including tax) for 24 hours to KDDI. The defendant receives payment for a part of these usage fees from KDDI.

2. Dispute

(1) Whether the defendant's device belongs to the technical scope of the present patent invention 1.

A. Whether or not the constituent features 1-A and 1-F are satisfied (whether or not the defendant's device is an "onboard navigation device".)

B. Whether or not the constituent features 1-B and 1-C are satisfied (whether or not the defendant's device stores the "destination coordinate data" "each time the destination

is set".)

C. Whether or not the constituent feature 1-D is satisfied (whether or not the defendant's device reads out the "destination coordinate data".)

D. Whether or not the constituent feature 1-E is satisfied (whether or not the "destination coordinate data" is "selected" in the defendant's device.)

E. Differences in methods of solving the problems and function and effects between the present patent invention 1 and the defendant's device

(2) Whether the defendant's device belongs to the technical scope of the present patent invention 2

A. Whether or not the constituent features 2-A and 2-H are satisfied (whether or not the defendant's device is an "onboard navigation device".)

B. Whether or not the constituent features 2-B and 2-C are satisfied (whether or not the defendant's device has the "first storage means storing in advance" "display data indicating a plurality of service facilities".)

C. Whether or not the constituent feature 2-D and 2-E are satisfied (whether or not the defendant's device "designates ... one service facility" from "the plurality of displayed service facilities".)

D. Whether or not the constituent features 2-F and 2-G are satisfied (whether or not the defendant's device has means for displaying the "predetermined pattern".)

E. Differences in the function and effects between the present patent invention 2 and the defendant's device

(3) Presence of working of each of the present patent inventions by use of the defendant's device

(4) Presence of joint direct infringement of each of the present patent rights by production of the defendant's device

(5) Presence of indirect infringement by transfer and the like of the program for the present portable terminal

(6) Whether or not the present patent 1 should be invalidated by the trial for patent invalidation

A. Presence of lack of inventive step based on Unexamined Patent Application Publication No. 1985-230685 (hereinafter, referred to as the "Exhibit Otsu-1 document")

B. Presence of lack of inventive step based on Unexamined Patent Application Publication No. 1990-187898 (hereinafter, referred to as the "Exhibit Otsu-4 document") and Unexamined Patent Application Publication No. 1989-223865 (hereinafter, referred to as the "Exhibit Otsu-5 document")

(7) Whether or not the present patent 2 should be invalidated by the trial for patent

invalidation

A. Presence of lack of novelty or inventive step based on Unexamined Patent Application Publication No. 1987- 51000 (hereinafter, referred to as the "Exhibit Otsu-6 document")

B. Presence of lack of novelty based on Unexamined Patent Application Publication No. 1989-284889 (hereinafter, referred to as the "Exhibit Otsu-8 document") or presence of lack of inventive step based on Exhibit Otsu-8 document and Unexamined Patent Application Publication No. 1989-162111 (hereinafter, referred to as the "Exhibit Otsu-9 document")

C. Presence of lack of novelty or inventive step based on Unexamined Patent Application Publication No. 1990-217886 (hereinafter, referred to as the "Exhibit Otsu-10 document")

(8) Necessity of injunction and target thereof

(9) Damage on the plaintiff

(omitted)

No. 4 Judgment of this court

1. Whether or not the constituent features 1-A and 1-F, and the constituent features 2-A and 2-H of the defendant's device are satisfied (whether or not the defendant's device is an "onboard navigation device") (Dispute (1)A and (2)A)

(1) Where the problem is (relationship between the structure of the defendant's device and the technical scope of each of the present patent inventions)

A. It is understood that, in any of the present patent inventions, the state of each of them being the "onboard navigation device having the structures of the constituent features 1-A to 1-E and 2-A to 2-G" is the technical scope of the patent invention in view of the description in the claims thereof.

B. Structure of the defendant's device

On the other hand, according to the Exhibits (Exhibits Ko 3-1, 5, 6, and 9) and the entire import of the oral argument, the structure of the defendant's device is found to be as follows:

(A) The defendant's device is managed/operated by the defendant and is constituted by the defendant's server not mounted on a vehicle and the present portable terminal and the like held by the user (undisputable fact).

(B) The defendant's server is constituted by including a CPU, storage means, and a data transmission/reception portion. The storage means stores a search engine

conducting a route search, road network data, and map drawing data, and the defendant's server can create the map drawing data on the basis of a route search result. Moreover, storage means for storing specific information of each of the present portable terminals is provided (undisputable fact).

(C) The present portable terminal is constituted by including a CPU, storage means, a data transmission/reception portion, a GPS reception portion, a display, and a key for input. The storage means has an application including a map rendering engine for displaying the map drawing data created by the defendant's server mounted (undisputable fact).

(D) According to the structures of the defendant's server and the present portable terminal as above, in the defendant's device, it is found that the defendant's server and the present portable terminal share the following functions in order to input/set the current location and the destination, to conduct a route search, and to transmit the result to the user by displaying it on the display, respectively:

a. Current location information which is the location of the present portable terminal is obtained by receiving a GPS signal by the GPS reception portion of the present portable terminal, and the destination is input on the basis of a key operation on the present portable terminal (at what stage in the operation the destination is set is as described later).

b. The current location information and the information relating to the destination are transferred to the defendant's server and in the defendant's server, a route from the current location to the destination is searched on the basis of the information, and the map drawing data is created on the basis of the search result.

c. The map drawing data is transferred to the present portable terminal, and the search result of the route is displayed on a screen of the display of the present portable terminal.

C. As described above, since the defendant's device is constituted by the defendant's server and the present portable terminal, and both share the functions and play the role of navigation function, respectively, whether or not the defendant's device as above can be considered to be the "onboard navigation device"; that is, whether or not, in the onboard navigation device" in each of the present patent inventions, the function is shared by a plurality of devices and a part of the devices includes those not mounted on a vehicle, constitutes the problem.

(2) Meaning of the "onboard navigation device" in each of the present patent inventions

A. Description of claims

The description in the claims of each of the present patents is as described in the

aforementioned undisputable facts and the like in (2)A, and it has no description suggesting that a part of the devices constituting the "onboard navigation device" can be provided outside the vehicle. On the other hand, there is no description, either, suggesting that a part of the devices should not be provided outside the vehicle.

B. Description of each of the present descriptions

Each of the present descriptions has the following description in relation to the meaning/structure of the "onboard navigation device" (Exhibits Ko 2-1 and 2).

(A) Description of the present description 1

"[0002]

[Background Art] An onboard navigation device in which the map data including the road data obtained by digitalizing each point on the road in the map is stored in a storage medium such as a CD-ROM and the like, a map data group of a region in a certain range including the current location is read out of the storage medium and displayed on the display as a map around the current location of the vehicle while the current location of the vehicle is recognized, and the position of the vehicle indicating the current location of the vehicle is automatically displayed on the map was disclosed in Unexamined Patent Application Publication No. 1988-12096, for example, and has already been well-known."

"[0003] In such onboard navigation device, a direction and a distance as navigation information from the current location to the destination are calculated in accordance with outputs of sensors such as a direction sensor and a distance sensor and are displayed on the display. The destination is data-input by the key operation by the user such as a driver and stored in the memory as destination coordinate data."

"[0005]

[Constitution of the Invention] The onboard navigation device of the present invention is an onboard navigation device which sets a destination and displays navigation information from the current location to the destination on the basis of the destination coordinate data indicating the set destination and the current location coordinate data indicating the current location of the vehicle, characterized by including a memory having a plurality of storage positions for storing the destination coordinate data, means for writing the destination coordinate data indicating the destination each time the destination is set, at a storage position different at least from the previous storage position of the destination coordinate data of the memory, means for reading out the destination coordinate data stored in the memory when the destination was set, and means for selecting one set of destination coordinate data from the read-out destination coordinate data in accordance with an operation and for setting the destination by

selection of the one set of destination coordinate data."
"[0007]
[Embodiment] Fig. 1 is a block diagram illustrating an embodiment of the onboard navigation device according to the present invention. In this navigation device, a direction sensor 1 detects a running direction of the vehicle, an angular speed sensor 2 detects an angular speed of the vehicle, and a distance sensor 3 detects a running distance of the vehicle, and a GPS (Global Positioning System) device 4 detects an absolute position of the vehicle from longitude and latitude information and the like, and detection outputs of these sensors (devices) are supplied to a system controller 5. As the direction sensor 1, a geomagnetic sensor which detects the running direction of the vehicle by geomagnetism (earth magnetism) is used, for example. Moreover, the distance sensor 3 comprises a pulse generator which generates a pulse per rotation by a predetermined angle of a drive shaft (not shown) of the vehicle."
"[0008] The system controller 5 is constituted by an interface 6 which executes processing such as A/D (analog/digital) conversion or the like with detection outputs of each of the sensors (devices) 1 to 4 as inputs, a CPU (central processing unit) 7 which executes various types of image data processing and calculation of a running distance, a running direction, and a current location coordinate (longitude, latitude) of a vehicle on the basis of the output data of each of the sensors (devices) 1 to 4 sequentially sent from the interface 6, a ROM (read only memory) 8 in which various processing programs of this CPU 7 and other required information are written in advance, and a RAM (random access memory) 9 in which writing and reading of information required for execution of the program are executed. The RAM 9 is backed up by supply of a voltage obtained by stabilizing an output voltage of a battery (not shown) even when power of this navigation device is disconnected so that data such as destination coordinate data, destination storage flags, and the like which will be described later do not disappear."
"[0009] As an external storage medium a CD-ROM, for example, as a non-volatile storage medium exclusively for reading-out is used. (omitted) In the CD-ROM, map data obtained by digitalizing (making numerical) each point on the road of the map is stored in advance. With regard to this CD-ROM, stored information is read out by a CD-ROM driver 10. A reading-out output of this CD-ROM driver 10 is decoded by a CD-ROM decoder 11 and is sent out to a bus line L."
"[0010] A vehicle power voltage from the battery via a so-called accessory switch 12 of the vehicle is stabilized by a regulator 13 and is supplied as power to each part of the device. The aforementioned supply power to the RAM 9 is stabilized by another regulator, not shown, separately from the regulator 13 and without passing through the

accessory switch 12. The CPU 7 calculates the running direction of the vehicle on the basis of the output data of the direction sensor 1 in a predetermined cycle by timer interruption during running of the vehicle, acquires the longitude and latitude data which is the coordinate data of the current location of the vehicle from the running distance and the running direction by interruption at each predetermined distance running on the basis of the output data of the distance sensor 3, collects the map data of the region in a certain range including the current spot coordinate from the CD-ROM, and temporarily stores the collected data in the RAM 9 and also supplies it to the display device 16."

"[0011] The display device 16 is constituted by a display 17 such as a CRT, a graphic memory 18 constituted by a V(Video)-RAM and the like, a graphic controller 19 which draws the map data sent from the system controller 5 as image data in the graphic memory 18 and outputs this image data, and a display controller 20 which executes control so as to display the map on the display 17 on the basis of the image data output from this graphic controller 19. An input device 21 is constituted by a keyboard and the like and issues various instructions and the like by a key operation by a user to the system controller 5. As those keys, there are provided keys such as a setting key for setting the destination and numerical keys for selecting items indicated on the display 17 as well as a destination return key for calling the destination set in the past (neither of them is shown) and the like.

(B) Description in the present description 2

"[0002]

[Background Art] The onboard navigation device in which the map data including the road data obtained by digitalizing each point on the road in the map is stored in a storage medium such as a CD-ROM and the like, a map data group of a region in a certain range including the current location is read out of the storage medium and displayed on the display as a map around the current location of the vehicle while the current location of the vehicle is recognized, and the position of the vehicle indicating the current location of the vehicle is automatically displayed on the map was disclosed in Unexamined Patent Application Publication No. 1988-12096, for example, and has already been well-known."

"[0006]

[Constitution of the Invention] The onboard navigation device of the present invention is an onboard navigation device which displays a map on a display, comprising: first storage means storing display data indicating a plurality of service facilities and spot coordinate data indicating the spot where each of the service facilities is present in advance, means for reading out the display data from the first storage means and

displaying the plurality of service facilities on the display in accordance with the display data, means for designating one service facility among the plurality of service facilities displayed on the display in accordance with the operation, means for reading out the spot coordinate data corresponding to the designated one service facility from the first storage means, second storage means for storing the read-out spot coordinate data, and means for reading out the spot coordinate data from the second storage means when the map is displayed on the display and displaying the spot on the map indicated by the spot coordinate data superimposed on the map by a predetermined pattern on the display."

"[0008]

[Embodiment] Fig. 1 is a block diagram illustrating an embodiment of the onboard navigation device according to the present invention. In this navigation device, a direction sensor 1 detects a running direction of the vehicle, an angular speed sensor 2 detects an angular speed of the vehicle, and a distance sensor 3 detects a running distance of the vehicle, and a GPS (Global Positioning System) device 4 detects an absolute position of the vehicle from longitude and latitude information and the like, and detection outputs of these sensors (devices) are supplied to a system controller 5. As the direction sensor 1, a geomagnetic sensor which detects the running direction of the vehicle by geomagnetism (earth magnetism) is used, for example. Moreover, the distance sensor 3 comprises a pulse generator which generates a pulse per rotation by a predetermined angle of a drive shaft (not shown) of the vehicle."

"[0009] The system controller 5 is constituted by an interface 6 which executes processing such as A/D (analog/digital) conversion or the like with detection outputs of each of the sensors (devices) 1 to 4 as inputs, a CPU (central processing unit) 7 which executes various types of image data processing and calculation of a running distance, a running direction, and a current location coordinate (longitude, latitude) of a vehicle on the basis of the output data of each of the sensors (devices) 1 to 4 sequentially sent from the interface 6, a ROM (read only memory) 8 in which various processing programs of this CPU 7 and other required information are written in advance, and a RAM (random access memory) 9 in which writing and reading of information required for execution of the program are executed. The RAM 9 is backed up by supply of a voltage obtained by stabilizing an output voltage of a battery (not shown) even when power of this navigation device is disconnected so that data such as longitude and latitude data, spot display pattern data, spot registration flags, and the like which will be described later do not disappear."

"[0010] As an external storage medium a CD-ROM, for example, as a non-volatile storage medium exclusively for reading-out is used. (omitted) In the CD-ROM,

service-list display data, detailed display data, longitude and latitude data as the spot coordinate data, as well as spot display pattern data which will be described later in addition to map data obtained by digitalizing (making numerical) each point on the road of the map are stored in advance. With regard to the CD-ROM, stored information is read out by a CD-ROM driver 10. A reading-out output of this CD-ROM driver 10 is decoded by a CD-ROM decoder 11 and is sent out to a bus line L."

"[0011] A vehicle power voltage from the battery via a so-called accessory switch 12 of the vehicle is stabilized by a regulator 13 and is supplied as power to each part of the device. The aforementioned supply power to the RAM 9 is stabilized by another regulator (not shown), separately from the regulator 13 without passing through the accessory switch 12. The CPU 7 calculates the running direction of the vehicle on the basis of the output data of the direction sensor 1 in a predetermined cycle by timer interruption during running of the vehicle, acquires the longitude and latitude data which is the coordinate data of the current location of the vehicle from the running distance and the running direction by interruption at each predetermined distance running on the basis of the output data of the distance sensor 3, collects the map data of the region in a certain range including the current spot coordinate from the CD-ROM, and temporarily stores the collected data in the RAM 9 and also supplies the same to the display device 16."

"[0012] The display device 16 is constituted by a display 17 such as a CRT, a graphic memory 18 constituted by a V(Video)-RAM and the like, a graphic controller 19 which draws the map data sent from the system controller 5 as image data in the graphic memory 18 and outputs this image data, and a display controller 20 which executes control so as to display the map on the display 17 on the basis of the image data output from this graphic controller 19. An input device 21 is constituted by a keyboard and the like and issues various instructions and the like by a key operation by a user to the system controller 5. As those keys, there are provided a selection key for selecting an item indicated on the display 17 and a cancellation key for switching a display content of the display 17 as well as a spot registration key for storing the data in the RAM 9 (neither of them is shown) and the like."

(C) The "onboard navigation device" disclosed by each of the present descriptions

As described above, in the embodiments of each of the present descriptions, the "onboard navigation device" as an integral device is constituted by each of constituent features; that is, [i] Each sensor such as the direction sensor, the angular speed sensor, the distance sensor, the GPS device, and the like; [ii] the system controller constituted by the interface, the CPU, the ROM, and the RAM; [iii] the reading means for reading map data from the external storage medium (CD-ROM, for example); [iv] the display device

constituted by the display, the graphic memory, the graphic controller, and the display controller; and [v] the input device.

On the other hand, the structure of the one "onboard navigation device" by installing a part of the devices which are these constituent features outside the vehicle and by exchanging information between the devices mounted in the vehicle and the device outside the vehicle by transmission or any other means is not disclosed.

C. General meanings of "onboard" and "device"

According to the Exhibit (Exhibits Ko 22 to 25), the general meaning of the term "onboard" is found to be "placed on a vehicle".

Moreover, according to the entire import of the oral argument, the general meaning of the term "device" is found to be "to mount a machine, a tool, and the like for some purpose. Its mechanism" and to refer to a set of equipment having a certain function.

D. Discussion

(A) In view of the general meaning of the terms "onboard" and "device" in the aforementioned C, it is natural to interpret that the "onboard navigation device" refers to a device for navigation placed on the vehicle (a set of devices) and means that the navigation device as a set of devices is placed on the vehicle. As described in claims of each of the present patents, when the "onboard navigation device characterized by including means" of A, B, C, and D is referred to, it is natural to interpret in view of wording that "a navigation device " comprises means of A, B, C, and D and the navigation device including such means needs to be "onboard"; that is, to be placed on a car.

Moreover, the structure of the "onboard navigation device" disclosed in each of the present descriptions is the "onboard navigation device" as an integral device constituted by each of the constituent features as described in the aforementioned B; it is not disclosed that, as the defendant's server in the defendant's device and the present portable terminal, the device in the vehicle and the device outside the vehicle are made to share the functions of the navigation device, information is exchanged by transmission and any other means between the two, and the function identical to that in the "navigation device" in the entirety is given. Therefore, none of the present descriptions discloses any of how each of the devices is constituted or how the devices share the functions and by what means the information between the devices is exchanged.

Moreover, since each of the present patent inventions is the patent invention related to the navigation "device", whether or not the structure of the "device" is identical to the structure described in claims constitutes a problem, and it is natural to say that having the identical functions and function and effects but being different in structure cannot be

considered to belong to the technical scope of each of the present patent inventions.

In view of the above, the "onboard navigation device" referred to in each of the present patent inventions needs to be such that the device for navigation as an integral device is onboard the vehicle, and the device not onboard the vehicle is interpreted not to constitute the "onboard navigation device".

(B) Assertion by plaintiff

The plaintiff asserts that, in view of the ordinary meaning of the "onboard", the description in the paragraph [0002] in the present description 1, and the function and effects of the present patent invention 1 and the like, although a part of the structure needs to be in a state onboard the vehicle, it should be interpreted that placing all the structures onboard the vehicle is not required.

However, though the plaintiff argues that the "navigation device for vehicle" is identical to the "onboard navigation device", the navigation device "for vehicle" does not necessarily have the same meaning as the navigation device "onboard" (for example, even the navigation devices for vehicle include those not onboard such that the navigation device is installed outside the vehicle and its route search results and paths and the like are communicated to the driver and the like").

Moreover, in view of the description in the claims and the description in each of the present descriptions, all the structures need to be in the state onboard the vehicle and it cannot be considered as described in the aforementioned (A) that not all the devices have to be "onboard" as long as the function and effect or the functions are identical.

Accordingly the plaintiff's assertion is not applicable.

(3) Application to the defendant's device

As described in the aforementioned (1), the defendant's device is constituted by the defendant's server and the present portable terminal, and each of them shares the functions and conducts communication between them so as to play the navigation function and they are not integral equipment of "navigation device" or rather should be considered to be a "navigation system" which includes the "navigation device" and is a concept wider than the "navigation device". And the defendant's server constituting the defendant's device is not placed onboard the vehicle, and the defendant's device does not fulfill the function as the navigation system without the defendant's server. From the above, the defendant's device constituted by the defendant's server and the present portable terminal cannot be considered such that the device for navigation as integral equipment is onboard the vehicle.

Thus, the defendant's device cannot be found to be the "onboard navigation device" and does not satisfy any of the constituent features 1-A as well as 1-F and 2-A and 2-H

and thus, it cannot be found to belong to the technical scope of each of the present patent inventions even without the need to determine the remaining points.

As described above, the claim by the plaintiff is not grounded, but in view of the case, satisfaction of the features portions other than the "onboard navigation device" in the constituent features 1-A and 2-A and satisfaction of each of the constituent features of the constituent features 1-B to 1-E and the constituent features 2-B to 2-G assuming that the defendant's device satisfies the features of the "onboard navigation device" will be determined in the following.

2. Satisfaction of the feature of "destination coordinate data" in the constituent features 1-A to 1-E of the defendant's device

In the constituent features 1-A to 1-E of the present patent invention 1, the "destination coordinate data" is made a part of the feature in any of them, and they are all understood to have the identical technical meaning and thus, this point will be examined below.

(1) Meaning of "destination coordinate data"

A. The present description 1 has the following description in relation with the meaning of the "destination coordinate data" (Exhibit Ko 2-1)

"[0003] In such onboard navigation device, a direction and a distance as navigation information from the current location to the destination are calculated in accordance with outputs of sensors such as a direction sensor and a distance sensor and are displayed on the display. The destination is data-input by the key operation by the user such as a driver and stored in the memory as destination coordinate data. As long as the destination coordinate data is stored in the memory, the direction and the distance from the current location to the destination are calculated on the basis of the destination coordinate data and displayed on the display, but when the distance from the current location to the destination becomes a predetermined value or less during running of the vehicle, it is assumed that the vehicle has reached the destination, the destination coordinate data is automatically erased from the memory, and the direction and the distance are no longer displayed. Therefore, in the conventional devices, even if the destination identical to the previous time is set as a new destination, it needed to be set by a complicated key operation."

"[0004]

[Object of the Invention] An object of the present invention is to provide an onboard navigation device which can set a destination with a simple operation when the destination identical to the destination set in the past is to be set."

"[0006]

[Action of the Invention] In the onboard navigation device of the present invention, the destination coordinate data indicating the destination is written at the storage position different at least from the storage position of the previous destination coordinate data each time the destination is set so as to store the destination coordinate data set in the past, the destination coordinate data stored in the memory when the destination is set is read out, one set of destination coordinate data is selected from the read-out destination coordinate data in accordance with the operation, and the destination is set by the selection of the one set of destination coordinate data."

"[0012] Subsequently, writing of the destination coordinate data in the RAM 9 executed by the CPU 7 will be described in accordance with a destination setting routine illustrated as flowcharts in Figs. 3 and 4. This setting routine is assumed to be called and executed when the setting menu is selected by the key operation by the user in the input device 21 in execution of a main routine including processing (not shown) showing (omitted) as a map of the periphery of the current location of the vehicle on the display 17 and displaying the vehicle position indicating the current location of the vehicle on the map and the like."

"[0013] In the destination setting routine, the CPU 7 first makes a selection request of a destination setting method (Step S1). This is made by displaying '1. Registered selection setting, 2. New setting', for example, on the display 17 so as to allow selection of either of them by the key operation by the input device 21. Then, it is determined whether the key was operated or not for selection (Step S2), and if the key was operated, it is determined whether or not the selection result is a new setting of the destination (Step S3). If the new setting was selected by operating the setting key or the numeral '2' key of the input device 21, for example, a designation request of the destination is made (Step S4). This is made by displaying the map on the display 17 and displaying a message for designation on the map with a cursor by the key operation of the input device 21 together with the map. It is determined whether the designation was input or not (Step S5), and if the designation was input, the longitude and latitude data (x, y) of the spot of the designation input is obtained from the map data and stored as destination coordinate data DEST in the RAM 9 (Step S6)."

"[0014] Subsequently, 1 is set to a destination storage flag F (Step S7), and the setting of the destination coordinate data and writing of it in the RAM 9 are stored. Then, 1 is added to a pointer P (Step S8), and it is determined whether or not the pointer P is larger than a maximum address Amax of the registration data table of the RAM 9 (Step S9). The pointer P indicates the address of the storage position of the destination coordinate data written at the last in the registration data table of the RAM 9 at the current stage, and

its initial value immediately after power-on of the RAM 9 is set to the maximum address Amax, for example; in the case of P ≤ Amax, the destination coordinate data DEST is written at the address position designated by the pointer P of the registration data table (Step S10). In the case of P > Amax, the pointer P is made equal to a minimum address A1 of the registration data table (Step S11), and then, the routine is moved to Step S10, and the destination coordinate data DEST is written in the registration data table."

"[0015] When a destination return key or a numeral '1' key, for example, of the input device 21 is operated and it is determined to be registration selection setting at Step S3, an address Aw is made equal to the pointer P (Step S12), and it is determined whether or not the address Aw is smaller than the minimum address A1 of the registration data table (Step S13). In the case of Aw ≥ A1, the data is read out of the storage position of the registration data table designated by the address Aw (Step S14). In the case of Aw < A1, the address Aw is made equal to the maximum address Amax of the registration data table (Step S15), and then, the routine is moved to Step S14. After execution of Step S14, it is determined whether or not the read-out data is the destination coordinate data (Step S16). (omitted) If the read-out data is the destination coordinate data, the destination coordinate data is supplied to the graphic controller 19 so that the destination indicated by the read-out destination coordinate data is to be displayed on the display 17 (Step S17). As a result, the longitude and latitude of the destination are displayed on the display 17 such as 'Destination: 139°30'00"E, 36°00'00"N', for example. Subsequently, it is determined whether or not the setting key of the input device 21 has been operated or not (Step S18). (omitted) When the setting key is operated, the read-out destination coordinate data is stored as the destination coordinate data DEST in the RAM 9 (Step S21), and the routine moves to Step S7."

"[0016] Therefore, the destination coordinate data indicating the destination is stored in the registration data table of the RAM 9 each time the destination is set. The storing is repeatedly performed in the order of the address from the addresses A1 to Amax, and the address of the recording position of the latest destination coordinate data is indicated by the pointer P. Moreover, the address A1 is designated after the address Amax, and so-called endless destination coordinate data is stored. That is, the destination coordinate data with new settings can be stored in the registration data table in the number of addresses in the order from the address indicated by the pointer P. When the registration selection setting is selected, the previous destination coordinate data stored at the address Aw indicated by the pointer P is read out first, and the longitude and latitude indicated by the destination coordinate data are displayed on the display 17. Subsequently, when the destination return key of the input device 21 is operated, the

destination coordinate data before the previous time is read out with the address Aw decremented only by 1, and the longitude and latitude indicated by the destination coordinate data before the previous time is displayed on the display 17. Thus, each time the destination return key is operated, the longitude and latitude of the destination set before the currently displayed destination only by 1 is displayed on the display 17. When the setting key is operated in a state where the longitude and latitude of the destination is displayed on the display 17, the longitude and latitude data of the displayed destination is stored as the destination coordinate data DEST in the RAM 9, the pointer P is incremented only by 1, and the destination coordinate data DEST is written at the address position designated by the pointer P of the registration data table."

"[0018] Subsequently, an operation of calculating a distance and a direction from the current location to the destination executed by the CPU 7 will be described in accordance with a distance-and-direction calculation routine illustrated as a flowchart in Fig. 5. (omitted) In the distance-and-direction calculation routine, the CPU 7 first determines whether or not the destination storage flag F is 1 (Step S31). (omitted) If F = 1, since the destination coordinate data DEST has been written in the RAM 9 and thus, the destination coordinate data DEST is read out of the RAM 9 (Step S32), and the current location coordinate data made of the longitude and latitude data indicating the current location of the vehicle are acquired on the basis of each of the output data of the sensors 1 and 3 (Step S33). (omitted) After execution of Step S33, the distance D and the direction θ from the current location to the destination are calculated on the basis of the destination coordinate data and the current location coordinate data (Step S34), and the data indicating the distance D and the direction θ is supplied to the graphic controller 19 so as to display the calculated distance D and direction θ on the display 17 for a predetermined period of time (Step S35). (omitted)"

"[0019] It is to be noted that in the aforementioned embodiment, only the destination coordinate data is written as the data indicating the destination in the registration data table, but it may be so configured that data including not only the destination coordinate but also the destination name is written so that the destination name is displayed on the display 17. Moreover, it may be so configured that a plurality of destination names and longitudes and latitudes of the destinations are displayed at once on the display 17 and one destination is selected by the key operation from the displayed plurality of destinations."

"[0020]

[Advantageous Effect of the Invention] In the onboard navigation device of the present invention, the destination coordinate data indicating the destination is written at the

storage position different at least from the storage position of the previous destination coordinate data of the memory each time the destination is set so as to store the coordinate data of the destination set in the past, the destination coordinate data stored in the memory in setting of the destination is read out, one set of destination coordinate data is selected in accordance with the operation from the read-out destination coordinate data, and the destination is set by the selection of the one set of destination coordinate data. Thus, since only a simple selection operation is needed when the same destination as the destination set in the past is to be set, the destination can be set easily."

B. Discussion

(A) According to the description in the present description 1 as above, with regard to the "destination coordinate data" in the present patent invention 1, the data is not automatically erased from the memory when the destination is reached as in the prior art, but it is found that, by storing that in the storage means, the object of the present patent invention 1 that the destination can be set with a simple operation when the same destination as the destination set in the past is to be set is achieved.

As described above, the object of the present patent invention 1 is present in a point that, the stored coordinate data of the destination can be read out when the coordinate data of the destination set in the past is stored and the same destination as the destination set in the past is to be set, and it is interpreted that, in order to achieve such object of the invention, setting of the destination and the stored destination coordinate data need to be associated with each other.

That is, the "destination coordinate data" refers to the longitude and latitude data (x, y) of the spot set by the user as the destination (claims, the paragraph [0013]), and the "destination coordinate data" and the direction θ and the distance D from the current location to the destination are calculated on the basis of that, and since the calculated direction and distance are displayed on the display (paragraphs [0003], [0018]), it is understood that it refers to the coordinate data of not the spot simply searched but of the spot set as the destination. And since the present patent invention 1 achieves the object of the present patent invention 1 that the same destination as the destination set in the past can be set with a simple operation by reading out the "destination coordinate data" of the destination set in the past (see the constituent feature 1-D) and by setting the destination by selecting one set of them (constituent feature 1-E), it is understood that the read-out "destination coordinate data" itself needs to be given an attribute to be the coordinate data of the spot set as the destination.

Moreover, in order to give the attribute to the "destination coordinate data" to be the coordinate data of the spot set as the destination, it is understood that the data is stored as

the data set as the destination in the past when the destination coordinate data is to be stored, too, and more specifically, it is stored such that the data which has been set as the destination can be discriminated from the other data which is not by such means that the data is written in the registration data table of the RAM 9 in a format that can discriminate the data from the other data as the data set as the destination (see paragraph [0015]) or the like, for example.

(B) As described above, the "destination coordinate data" is understood to be the coordinate data associated with the setting of the destination and given the attribute to be the coordinate data of the spot which has been set as the destination in the past.

(2) Structure of the defendant's device

A. According to the Exhibits (Exhibits Ko 6 and 7) and the entire import of the oral argument, in the description of the defendant's service, such description is found to be made that the destination can be set from the "recently searched spot (search history)", that when the past history is displayed on the screen of the present portable terminal, it is displayed as the "search history" (screens 2-[xi] to [xiii]), that the searched spot is displayed in the list of the "search histories" regardless of whether they are set as the destinations or not, that at a stage where the searched spot is displayed (screen 1-[iv]), not only is the route search selected with the current location as a start point but also a map of the searched spot is checked or modified, the transit points are set, that the various types of processing can be selected other than the route search such that the searched spot is registered in My spot or the like, that a GPS signal is received by selecting "Start immediately" in the screen (screen 1-[iv]) displaying the searched spot, and the screen indicating that the route from the current location to the destination has been searched is displayed (screen 1-[viii]).

From the above, in the defendant's device, it is not possible to find that the spot has been set as the destination at the stage where the searched spot is displayed (screen 1-[iv]), and regardless of whether or not it was set as the destination, it is found that the searched spot is stored in the storage means at the stage where the spot searched by the user is displayed, and it is not found that the coordinate data of the spot set with the attribute to be the spot set as the destination is stored at the stage where it is set as the destination.

Then, the coordinate data stored in the defendant's device is not the coordinate data of the spot set as the destination, and the read-out coordinate data is not the coordinate data read out as the coordinate data of the spot set as the destination and thus, the defendant's device cannot be found to store the "destination coordinate data" referred to in the present patent invention 1 and to read it out. Therefore, the defendant's device is found

to satisfy neither of the constituent features 1-A and 1-E.

B. Assertion by defendant

(A) The plaintiff asserts that the destination is set at the stage where the searched spot is selected because the term "destination" is displayed on the screen 1-[iv] and "G" meaning a "goal" is displayed for the selected spot.

However, in view of the mention in the aforementioned A, it cannot be found that the setting as the destination is made at this stage only by the display on the screen 1-[iv] and there is no other evidence sufficient to find that the setting as the destination is made at this stage.

Therefore, the aforementioned assertion by the plaintiff is not grounded.

(B) Moreover, the plaintiff asserts that, in relation to the constituent feature 1-C, since all the set destinations are stored in the defendant's device, the constituent feature 1-C is satisfied.

However, as in the aforementioned A, the "destination coordinate data" in the present patent invention 1 is understood to be associated with the setting as the destination and that the attribute to be the coordinate data set as the destination was given and thus, even if the coordinate data is stored without relation to the setting as the destination, it cannot be led to the "destination coordinate data" is stored. And in the defendant's device, since the searched spot is stored at each search regardless of the setting as the destination, even if all the spots set as the destination are included in the spot stored in the memory, they do not have the attribute as the destination, and it cannot be found to satisfy the constituent feature 1-C.

Therefore, the aforementioned assertion by the plaintiff is not grounded.

(3) Summary

As described above, it is found that the defendant's device does not satisfy any of the constituent features 1-A to 1-E.

3. Satisfaction of the feature that "each time the destination is set" in the constituent feature 1-C of the defendant's device (dispute (1)B)

As in the aforementioned 2, since the defendant device does not store the "destination coordinate data", it is not found to satisfy the constituent feature 1-C, but the feature of "each time the destination is set" is also determined for sure.

In view of the meaning of the "destination coordinate data" in the aforementioned 2(1) and the description in the present description 1 (claims, the paragraphs [0003], [0013] to [0016]), to store the destination coordinate data in the memory "each time the destination is set" is interpreted to refer to that at the point of time when the user sets the destination and at each setting, the longitude and latitude data of the set destination spot

(x, y) obtained from the map data or the destination coordinate data which has been already registered and the like is stored as the destination coordinate data DEST in the memory. On the other hand, as in the aforementioned 2(2), it cannot be found that the spot was set as the destination at the stage where the spot searched by the user is displayed (screen 1-[iv]) in the defendant's device, and it is found that the searched spot is stored in the storage means at the stage where the spot searched by the user is displayed regardless of whether or not the spot was set as the destination, and it cannot be found that the coordinate data of the set spot is stored with the attribute given as the destination at the stage of the setting as the destination.

Therefore, the defendant's device is not found to satisfy the feature of "each time the destination is set" in the constituent feature 1-C, either.

4. Satisfaction of the feature that "the map is displayed on the display" in the constituent feature 2-A of the defendant's device

In the defendant's device, since the map is displayed on the screen of the present portable terminal (screens 1-[iv], 1-[xii], 3-[xviii], and the like; undisputable fact), the defendant's device satisfies the feature that "the map is displayed on the display" in the constituent feature 2-A.

5. Satisfaction of the constituent features 2-B and 2-C of the defendant's device (whether or not the defendant's device has "first storage means storing in advance" the "display data indicating a plurality of service facilities") (dispute (2)B)

(1) Meaning of the "display data indicating a plurality of service facilities"

A. Description of the present description 2

With regard to the meaning of the "display data indicating a plurality of service facilities", the present description 2 has the following description (Exhibit Ko 2-2).

"[0003] In such onboard navigation device, a user-spot registration function of displaying not only the map in the periphery of the current location of the vehicle but also presence spots of those required for each of the users in the service facilities such as restaurants, hotels, and the like present in an area displayed on the map by a pattern on the map is provided. This user-spot registration function is to allow a desired spot to be designated on the map by a user by a key operation so as to obtain the longitude and latitude data of the designated spot from the map data and to allow the user to select the display pattern of the spot, to store the longitude and latitude data and the display pattern data in the memory, to read out the longitude and latitude data and the display pattern data present in a range of the map when the map is displayed on the display from the memory and to display the display pattern indicating a restaurant and the like at the position indicated by the longitude and latitude data."

"[0004] However, in the conventional onboard navigation device, in order to use the user-spot registration function, the user had to start a service mode, to select a required one from the service facilities displayed on the display in the service mode, to remember the position on the map and to finish the service mode and then, to search and designate the position on the map of the navigation for registration, which required an extremely cumbersome operation."
"[0005]
[Object of the Invention] An object of the present invention is to provide an onboard navigation device which can register a user spot without a cumbersome operation."
"[0007]
[Action of the Invention] In the onboard navigation device of the present invention, display data indicating a plurality of service facilities and spot coordinate data indicating a presence spot of each of the service facilities are stored in the first storage means in advance, and by designating one service facility from the plurality of service facilities displayed on the display by the operation, the spot coordinate data corresponding to the one service facility is read out of the first storage means and user spot registration is made in the second storage means and thus, when the map is displayed on the display, the spot coordinate data which was subjected to user spot registration can be read out and the spot on the map indicated by the spot coordinate data can be displayed on the display by being superimposed on the map by the predetermined pattern."
[0008]
[Embodiment] Fig. 1 is a block diagram illustrating an embodiment of the onboard navigation device according to the present invention. (omitted)"
"[0010] A CD-ROM is used, for example, as a non-volatile storage medium for read-only as an external storage medium. As the external storage medium, not only the CD-ROM but also non-volatile storage mediums such as DAT and IC card and the like can also be used. The CD-ROM stores service-list display data which will be described later, detailed display data, longitude and latitude data as the spot coordinate data, and spot-display pattern data in advance in addition to the map data obtained by digitizing (making numerical) each spot on the road of the map. From this CD-ROM, stored information is read out by a CD-ROM driver 10. A reading-out output of the CD-ROM driver 10 is decoded by a CD-ROM decoder 11 and sent out to the bus line L."
"[0013] Subsequently, a user-spot registration operation executed by the CPU 7 will be described in accordance with a service display routine illustrated as a flowchart in Fig. 3. This service display routine is assumed to be executed by being invoked when the service display menu is selected by the key operation of the user in the input device 21 in

execution of a main routine (not shown) configured by processing and the like of reading out a map data group of a certain range including a current location from the CD-ROM while the current location of the vehicle is recognized on the basis of each of output data of the sensors 1 and 3 so as to display it on the display 17 as a map in the periphery of the current location of the vehicle and of allowing a vehicle's position indicating the current location of the vehicle on the map."

"[0014] In the service display routine, the CPU 7 first causes the service list to be displayed on the display 17 (Step S1). The service list is a list of restaurants and hotels of each area, and the CPU 7 reads out a service-list display data recorded in the CD-ROM and supplies it to the graphic controller 19 so that the contents of the graphic memory 18 are rewritten. As a result, the service list is displayed on the display 17. In the case of the restaurant, for example, restaurant names of Japanese, Western, Chinese and other restaurants are displayed by the unit of the town or the city. Therefore, when the user wants to further obtain detailed information (in the case of the restaurant, location, telephone number, menu, prices and the like), the user moves the cursor by the key operation on the input device 21 and operates the selection key. The CPU 7 determines whether or not the selection key was operated after the execution of the Step S1 (Step S2), and if there was an operation of the selection key, it gives an instruction to the CD-ROM driver 10 so as to read out the detailed display data from the CD-ROM in accordance with the cursor position in the operation (Step S3). For example, the detailed display data on the restaurant selected from the service list is read out of the CD-ROM. The CPU 7 supplies the read-out detailed display data to the graphic controller 19 (Step S4), whereby the detailed information of the selected restaurant or the hotel is displayed on the display 17. (omitted)"

B. Discussion

(A) As described above, the present description 2 does not have description which directly clarifies the meaning of the "display data indicating a plurality of service facilities" in the constituent feature 2-B

In view of the description on the object of the present patent invention 2 in the present description 2, the object of the present patent invention 2 is "to provide an onboard navigation device which can register a user spot without a cumbersome operation" in the prior art (the paragraph [0005]). Here, a problem of the prior art considered to require the "cumbersome operation" is that "in the conventional onboard navigation device, in order to use the user-spot registration function, the user had to start a service mode, to select a required one from the service facilities displayed on the display in the service mode, to remember the position on the map and to finish the

service mode and then, to search and designate the position on the map of the navigation for registration, which required an extremely cumbersome operation" (the paragraph [0004]).

As described above, in the prior art, the operation that the user selects a required one from the plurality of service facilities displayed on the display in the service mode, remembers the position on the map and finished the service mode and then, searches and designates the position on the map of the navigation was required, but in the present patent invention 2, when the user designates one facility from the plurality of facilities, the spot coordinate data of the spot is read out of the first storage means and is stored in the second storage means and thus, the user-spot registration can be made without performing the cumbersome operation of remembering the position of the selected service facility on the map and of designating the position on the map of the navigation (constituent features 2-B to 2-F), and this point is found to have the technical meaning of the present patent invention 2.

In view of the technical meaning of the present patent invention 2 as above, the "display data indicating a plurality of service facilities" in the present patent invention 2 refers to the concept that the information (facility names and the like) on the plurality of service facilities is displayed, and the spot coordinate data of the service facility is read out by selecting/designating one set of them, and for that purpose, it is necessary that the "display data indicating a plurality of service facilities" is connected to the spot coordinate data indicating the present spot of the service facility, but more than that, it is found that there is no reason to interpret with some limitation added to the contents of the "display data indicating a plurality of service facilities", and this can be considered to be understood easily by a person ordinarily skilled in the art who had contact with the present description 2.

(B) Assertion by defendant

The defendant asserts from the descriptions in paragraphs [0010] and [0014] of the present description 2 that the "plurality of service facilities" refers to the list of shop names and facility names of the restaurants and hotels of each area displayed on the display, and the "display data indicating a plurality of service facilities" is the service-list display data which is the data of the list of the shop names and facility names of the restaurants and hotels of each area and is present as one piece of display data of the plurality of service facilities.

It is sure as asserted by the defendant that paragraph [0014] of the present description 2 has the description that "the service list to be displayed on the display 17 (Step S1)" and "the service list is a list of restaurants and hotels of each area", and the present

description 2 does not illustrate aspects of other embodiments.

However, the present description 2 does not have the description that the technical scope of the present patent invention 2 is limited to the embodiment (it is to be noted that in paragraph [0016] of the present description 2, another embodiment is described that "In the aforementioned user-spot registration operation, it may be so configured that, when the spot registration key is operated at a stage where the detailed display is made on the display 17, the user spot registration is made but when the spot registration key is operated at a stage where the service list is displayed on the display 17, the user spot registration for the service facility such as the restaurant or the like at the cursor position is made", although in relation to the timing of the user spot registration), and in view of the technical meaning of the "display data indicating a plurality of service facilities" in the present patent invention 2 of the aforementioned (A), it is not reasonable to understand this to be limited to the embodiment described in the present description 2. Moreover, in the view of the technical meaning of the present patent invention 2 of the aforementioned (A), there is no reason, either, to limit to presence of one piece of display data for a plurality of service facilities.

Therefore, the "plurality of service facilities" does not have to be the list of shop names or facility names such as the restaurant or hotel of each area, and the contents of the "display data indicating a plurality of service facilities" stored in the first storage means are not limited to the data of the list of the shop names or facility names of the restaurant or hotel of each area, but it should be understood that data relating to the plurality of service facilities such as names only needs to be stored in the first storage means.

(2) Satisfaction of the constituent feature 2-B of the defendant's device

A. In the defendant's device, it is admitted by the defendant that the defendant's server transmits the list of service facilities by category to the present portable terminal, and this is displayed by the present portable terminal.

And in the defendant's device, it is found that if a family restaurant is to be searched, for example, by performing the operations: [i] The destination is searched (screen 3-[i]), → [ii] A family restaurant is selected from the category (screens 3-[ii] to 3-[iv]) → [iii] A location area is selected (screens 3-[vi] to 3-[ix]), a plurality of family restaurants present in the selected area are displayed on the display of the present portable terminal (screen 3-[x]), and if one family restaurant is selected and "map (check/modify)" is selected, the position of the selected family restaurant is displayed on the map (screens 3-[x] to 3-[xii]) (indisputable fact).

According to the above, in the defendant's device, it is found that a plurality of

service facilities are stored in the storage means of the defendant's server, and the spot coordinate data indicating the present spot of each of the service facilities is also stored so that the position of each service spot can be displayed on the map.

B. According to the structure of the defendant's device as above, the defendant's device has the first storage means storing the display data indicating the plurality of service facilities and the spot coordinate data indicating the presence spot of each of the service facilities in advance, and it is found to satisfy the constituent feature 2-B.

(3) Satisfaction of the constituent feature 2-C of the defendant's device

According to the finding in the aforementioned (2), the defendant's device is configured such that the data indicating the plurality of service facilities stored in the defendant's server is read out by the present portable terminal by operating the present portable terminal and is displayed on the screen of the present portable terminal, and since it has the means for reading out the display data of the plurality of service facilities from the first storage means and displaying the plurality of service facilities in accordance with the display data on the display, it is found to satisfy the constituent feature 2-C.

6. Satisfaction of the constituent features 2-D and 2-E of the defendant's device (whether or not the defendant's device "designates ... one service facility" from "the plurality of displayed service facilities.") (dispute (2)C)

(1) Structure of the defendant's device

As described in the aforementioned 5(2), in the defendant's device, when one facility is selected from the screen (screen 3-[x]) on which the plurality of service facilities is displayed of the present portable terminal, the screen (screen 3-[xi]) on which the selected one service facility name is displayed appears, and when the "map (check/modify)" is selected on the screen, the location position of the selected service facility is displayed on the map (screen 3-[xii]).

(2) Satisfaction of the constituent feature 2-D of the defendant's device

A. As described in the aforementioned 5(3), since it is found that the defendant's device has the means for reading out the display data indicating the plurality of service facilities from the first storage means and for displaying the plurality of service facilities on the display (constituent feature 2-C), the displaying of the plurality of service facilities on the screen of the present portable terminal in the aforementioned (1) (screen 3-[x]) corresponds to the "plurality of service facilities displayed on the display" of the constituent feature 2-D. Moreover, as in the aforementioned (1), since the one service facility can be selected from the plurality of service facilities displayed on the screen of the present portable terminal by operating the present portable terminal, it is found that

the present portable terminal has the "means for designating the one service facility in the displayed plurality of service facilities in accordance with the operation".

Therefore, since the defendant's device has the means for designating the one service facility from the plurality of service facilities displayed on the screen of the present portable terminal which is a display in accordance with the operation, it is found to satisfy the constituent feature 2-D.

B. Assertion by defendant

The defendant asserts that since the defendant's service does not have the "display data indicating the plurality of service facilities", the "one service facility" cannot be designated from the "the plurality of service facilities" displayed correspondingly to that, but the defendant's device has the "display data indicating the plurality of service facilities" as described in the aforementioned (5), and the assertion by the defendant is not grounded.

Moreover, the defendant asserts that the defendant's server does not have the "means for designating the one service facility in accordance with the operation". However, as described in the aforementioned A, since it is found that the present portable terminal has the "means for designating the one service facility in accordance with the operation", if the defendant's device satisfies the feature as the "onboard navigation device", it is not considered that the defendant's device does not satisfy the constituent feature 2-D since the defendant's server does not have the "means for designation".

(3) Satisfaction of the constituent feature 2-E by the defendant's device

A. As described in the aforementioned (1), since the location position of the designated service facility is displayed on the map, it is found that in the defendant's device, the spot coordinate data of the designated service facility is read out of the first storage means (see the aforementioned 5) storing the spot coordinate data indicating the presence spots of the plurality of service facilities in advance.

Therefore, the defendant's device has the means for reading out the spot coordinate data corresponding to the designated one service facility from the first storage means and is found to satisfy the constituent feature 2-E.

B. Assertion by defendant

The defendant also asserts on this point, too, that since the defendant's server does not have the "first storage means storing in advance" the "display data indicating a plurality of service facilities" (constituent feature 2-B), it does not have the "first storage means" in the constituent feature 2-E, either, but this point is not grounded as described in the aforementioned 5.

Moreover, the defendant asserts that, the defendant's device does not have the

designating means which satisfies the constituent feature 2-D and thus, the "spot coordinate data corresponding to the designated one service facility" cannot be read out, but since the defendant's device has the designating means as described in the aforementioned (2), the defendant's assertion is not grounded.

7. Satisfaction of the constituent feature 2-F by the defendant's device

In the defendant's device, "store spot information" is selected on the screen (screens 3-[xi], 3-[xiii]) on which the selected one service facility name is displayed, "store in My spot" is selected on the subsequent screen (screen 3-[xiv]) ("register in My spot" is selected on the screen 3-[xv] (the screen at the same stage as the screen 3-[xi]) depending on the model), and moreover, the "registration" is selected on the subsequent screen (screen 3-[xvi]) and then, the selected one service facility is registered as the "My spot", and when the map is displayed on the screen of the present portable terminal, the location of the facility registered as the "My spot" is displayed on the map (screen 3-[xviii]) (indisputable fact).

From those described above, it is found that the spot coordinate data of the spot registered as the "My spot" is invoked when the map is displayed, and the fact that the invoked spot coordinate data is the one stored in storage means separate from the storage means of the defendant's server (the "first storage means" of the constituent feature 2-B) in which the spot coordinate data indicating the presence spots of a plurality of service facilities is stored is not disputed by the defendant, and it is found that the defendant's device includes such structure.

Therefore, it is found that the defendant's device satisfies the constituent feature 2-F.

8. Satisfaction of the constituent feature 2-G by the defendant's device (whether or not the defendant's device has means for displaying a "predetermined pattern") (dispute (2)D)

(1) Interpretation of constituent feature 2-G

A. With regard to the meaning of the "predetermined pattern" of the constituent feature 2-G, the present description 2 has the following description (Exhibit Ko 2-2).

"[0015] (omitted) When the spot registration key is operated, an instruction is given to the CD-ROM driver 10 so that the longitude and latitude data forming a set with the read-out detailed display data and the spot display pattern data are read out of the CD-ROM (Step S8). And 1 is added to the pointer P indicating the lastly written address (Step S9), the read-out longitude and latitude data and the spot display pattern data are written as a pair of data at a storage position designated by the pointer P of the spot registration data table of the RAM 9 (Step S10), and 1 is set to the spot registration flag F (Step S11). The pointer P indicates the address of the storage position where the

longitude and latitude data and the spot display pattern data are lastly written in the spot registration data table of the RAM 9 at the current stage, and the initial value immediately after power-on in the RAM 9 is set to A1, for example."

"[0017] (omitted) In the case of the longitude and latitude data (xn, yn) within the range of the currently displayed map, spot display pattern data Dn is read out of a storage position of an address An of the spot registration data table (Step S25), and the longitude and latitude data (xn, yn) and the spot display pattern data Dn are supplied to the graphic controller 19 (Step S26). As a result, the display pattern indicated by the spot display pattern data Dn is displayed at the position on the map indicated by the longitude and latitude data (xn, yn) on the display 7. In the case of a restaurant, for example, a display pattern "R" or in the case of a hotel, the display pattern "H" is displayed at the position on the map where it is present."

"[0019]

[Effect of the Invention] In the onboard navigation device of the present invention, the display data indicating a plurality of service facilities and the spot coordinate data indicating a presence spot of each of the service facilities are stored in the first storage means in advance, and by designating one service facility of the plurality of service facilities displayed on the display by an operation, the spot coordinate data corresponding to the one service facility is read out of the first storage means and the user spot registration is made in the second storage means and thus, when the map is displayed on the display, the spot coordinate data subjected to the user spot registration can be read out and the spot on the map indicated by the spot coordinate data can be displayed on the display by being superimposed on the map by the predetermined pattern. Thus, the user spot registration can be made with a simple operation, whereby the spot of the service facility required by each of the users such as a restaurant, a hotel and the like can be easily checked on the displayed map."

B. From the description in the present description 2 in the aforementioned A, the meaning of the "predetermined pattern" of the constituent feature 2-G is not necessarily clear, but since the description of the advantageous effect of the invention describes that, by displaying the spot on the map indicated by the spot coordinate data by being superimposed on the map by the predetermined pattern, the spot of the service facility such as a restaurant, a hotel and the like can be easily checked on the map, it is considered that the mode is not limited as long as the predetermined pattern is displayed on the map and the user can easily check the spot of the service facility with the pattern.

The defendant asserts that the "predetermined pattern" refers to types of characters or symbols determined in a one-to-one manner for each facility in accordance with an

attribute of the facility in advance from the description that "In the case of a restaurant, a display pattern 'R' or in the case of a hotel, the display pattern 'H' is displayed at the position on the map where it is present." in the embodiment and the like. It is certain that by using the types of characters or symbols corresponding to the attribute of the facility in the one-to-one manner, the user can check not only the spot of the service facility but also the attribute (type) easily, but when a specific pattern is displayed on the screen, even though it does not correspond in the one-to-one manner as above, the spot of the service facility can be checked easily, and since the present description 2 does not have description that the meaning of the "predetermined pattern" should be limited in interpretation other than the description in the aforementioned embodiment and there is no other evidence, either, that suggests this should be interpreted in a limited manner, to understand the meaning of the "predetermined pattern" in the constituent feature 2-G in the limited manner as asserted by the defendant is not reasonable.

Therefore, the "predetermined pattern" is interpreted to be some indication determined in advance which only needs to make checking of the spot of the service facility easy.

(2) Satisfaction of the constituent feature 2-G of the defendant's device

A. In the defendant's device, in resignation in the "My spot", the user can select one icon (an icon with marks of a knife and a fork, for example) from a plurality of icons determined in advance for the registration spot, and if it is not selected, a pink star-shaped icon is automatically set (screen 3-[xvi]). Then, the set icon is displayed on the map, and the name of the facility can be also displayed (screen 3-[xviii]) (undisputable fact).

Then, in the defendant's device, when the spot coordinate data of the spot of the service facility registered in the "My spot" is read out of the storage means storing it and the spot is to be displayed on the map, the spot is found to be displayed with the icon selected by the user (pink star-shaped icon, if not selected).

According to the above, the defendant's device is to read out the spot coordinate data from the second storage means when the map is displayed on the display and to display the spot on the map indicated by the spot coordinate data on the display by being superimposed on the map with the predetermined pattern and is found to satisfy the constituent feature 2-G.

B. Assertion by defendant

The defendant asserts that, in the defendant's device, since the displayed icon is arbitrarily selected by the user, the icon in the defendant's device is not applicable to the "predetermined pattern".

However, the user's selection of the icon to be displayed is to select one display from the plurality of displays determined in advance, and this is also found to be applicable to the display determined in advance. Even if it is interpreted that the icon selected by the user is not applicable to the display determined in advance as asserted by the defendant, if the user did not make a selection in the defendant's device, the pink star-shaped icon is automatically set in the defendant's device as in the aforementioned A and thus, this pink start-shaped icon corresponds to the display determined in advance, and the structure which enables changes of that is only added to the defendant's device. Therefore, in any case, the fact that the user can select the icon to be displayed cannot be considered to mean that the defendant's device does not display the "predetermined pattern" and thus, the aforementioned assertion by the defendant is not grounded.

9. Presence of working of each of the present patent inventions by use of the defendant's device (dispute (3)), presence of joint direct infringement of each of the present patent rights by production of the defendant's device (dispute (4)), and presence of indirect infringement by transfer and the like of the program for the present portable terminal (dispute (5))

The plaintiff asserts that [i] the defendant works each of the present patent inventions by using the defendant's device by causing the present portable terminal to be operated by the user, and the act of the defendant makes control/management type patent right infringement; [ii] the joint direct infringement of each of the present patent rights is constituted by the production of the defendant's device by the defendant jointly with KDDI and a manufacturer of the present portable terminal; and [iii] the act that the defendant transfers the program for the present portable terminal and the like is applicable to indirect infringement with use or production of the defendant's device as direct infringement of each of the present patent rights.

However, for working of the patent invention by "use" of an "article" or working of the patent invention by "production" or an "article", the defendant's device which is an article used or produced needs to satisfy the constituent feature of each of the present patent inventions and to be found as an "article" belonging to the technical scope of each of the present patent inventions, but the defendant's device does not satisfy the constituent feature of each of the present patent inventions and is not found to belong to the technical scope as described in the aforementioned 1 to 3 and thus, neither of the plaintiff's assertions [i] nor [ii] is grounded.

Moreover, in order for the indirect infringement on the invention of an "article" to be found, the article (defendant's device) produced by using the article (program for the present portable terminal) transferred and the like by the defendant needs to satisfy the

constituent feature of each of the present patent inventions and to be found as the "article" belonging to the technical scope of each of the present patent inventions, but the defendant's device does not satisfy the constituent feature of each of the present patent inventions and is not found to belong to the technical scope as described in the aforementioned 1 to 3 and thus, the act of transfer and the like by the defendant of the program for the present portable terminal cannot be found to be applicable to indirect infringement, and the aforementioned assertion [iii] by the plaintiff is not grounded, either.

10. Conclusion

As described above, since none of the plaintiff's claims is grounded, they are dismissed and judged as in the main text.

Tokyo District Court, 29th Civil Division

Presiding Judge OSUGA Shigeru

Judge SAKAMOTO Saburo

Judge IWASAKI Shin

(Attachment)

List of Articles

1. Navigation device related to a navigation service named "EZ Passenger Seat Navi"

2. Program for portable terminal related to the navigation service named "EZ Passenger Seat Navi"

3. Program for server related to the navigation service named "EZ Passenger Seat Navi"