The Judgment of the Mock Trial

（CHINA）

Through the trial, the court has found the facts as below:

The patent claim of the patented method which plaintiff request protection from the court includes the following technical features: A. A control method for car navigation system that displays a map on a display screen, the method comprising steps of: B. Reading, from the first memory means in which facility data comprising display data indicative of a plurality of service facilities and coordinate data indicative of existing positions of the service facilities have previously been stored, the display data to display the plurality of service facilities on the display screen; C. Designating one of the plurality of service facilities displayed on the display screen in accordance with an operation; D. Reading coordinate data corresponding to the designated one service facility from the first memory means; E. Storing the read coordinate data as user registered data in second memory means; F. Displaying a position indicated by the coordinate data read from the second memory means by superimposing a predetermined pattern on to the map when map is displayed on the display screen.

The method of the alleged infringement, D method, includes the corresponding technical features as follows: a. A control method for car navigation system that displays a map on a screen of D terminal，which includes: b. Holding D spot data including D name data indicative of a plurality of spots and D position data indicative

of existing positions of spots in memory area A of D server of the car navigation system in order to display the plurality of spots corresponding to the D name data on the screen; c. Receiving an instruction to register one of the plurality of spots displayed on the screen as a “memo position”; d. Obtaining D position data corresponding to the designated spot from memory area A of D server to be registered according to the instruction in order to store the D position data as D memo data; e. Storing the D position data as D memo data in the memory area B of D server; f. Superimposing an icon on the map indicated by the D position data of D memo data read from memory area B of D server when the map is displayed on the screen.

Both the plaintiff and the defendant have confirmed that the D spot data (including D name data, D position data) and D memo data in the alleged infringement method are respectively same as the service facility data (including display data and coordinate data) and user registered data in the patent claim. The “c” technical feature of the alleged infringement method is same as the “C” technical feature, which is the corresponding technical feature of the patent claim. The alleged infringement method and the patent claim involve two types of data, of which the operation steps are the same, and the data and processing method of the corresponding step are the same. However, the location in which the two types of data are read or stored of the alleged infringement method differs from that of the patent embodiment. When it comes to the following issues: Whether the technical features of the b, d, e, and f items in the alleged

infringement method and the corresponding technical features of the B, D, E, and F items in the patent claim in question are same or equivalent? And whether all technical features of the patent are installed in the vehicle? The plaintiff and the defendant’s opinions are different.

The court identify the key issue disputed in the case is, whether the alleged infringement method falls within the scope of protection of the patent.

Paragraph 1, Article 59 of the *Patent Law of the People's Republic of China* stipulates: “The scope of protection of the patent rights for an invention or a utility model shall be based on the contents of the claims. The descriptions and the drawings may be used to explain the contents of the claims.” Article 2 of *Interpretations of the Supreme People's Court Concerning Certain Issues on the Application of Laws for the Trial of Cases on Disputes over Infringement of Patent Rights* stipulates: “The people's court shall, according to the recordation of the claims in combination with the understanding of the claim by ordinary technicians in the field after reading the descriptions and drawings, determine the content of the claims.” Article 7 of the same judicial interpretation above stipulates: “When determining whether the alleged infringing technical solution falls into the scope of patent protection, the people's court shall examine all the technical features described in the claim asserted by a right holder. Where the alleged infringing technical solution contains technical features same as or equivalent to all the technical features described in a claim, the people's court

shall determine that it falls into the scope of patent protection; where compared with all the technical features described in a claim, the technical features of the alleged infringing technical solution are in lack of more than one technical feature as described in the claim or contain more than one technical feature which are neither same as nor equivalent to any technical feature as described in the claim, the people's court shall determine that it does not fall into the scope of patent protection." According to the facts ascertained by the court and the reasons of both parties, there are two sub-issues disputed in the course of determining whether the alleged infringement method falls into the scope of patent protection:

1. The issue, whether the b, d, e, and f technical features in the alleged infringement method and the corresponding B, D, E, and F technical features in the patent claim are same or equivalent, that can be simplified as: Whether the memory area A and B of the D server in the alleged infringement method satisfy "the first memory means" and "the second memory means" in the patent claim.

Article 17 of *Several Provisions of Supreme People's Court on Issues Relating to Laws Applicable for Trial of Patent Disputes Cases* stipulates: " 'The scope of protection of the patent right for an invention or a utility model shall be based on the content of the claims. The description and the drawings may be used to explain the content of the claims' referred to in the first paragraph of Article 59 of the patent law shall mean that the scope of the protection of patent right shall be based on the scope determined by all the technical features set out in the claims, and shall include the scope determined

by features equivalent to the said technical features. Equivalent features shall means features which use basically the same means to achieve the same function and attain basically the same effects as the technical features set out , and which can conceived ,at the time of occurrence of the infringement act, by ordinary technicians in the field without making creative efforts.”

In this case, according to the literal description of the patent claim, the patent relates to the processing of two different types of data, wherein “the first memory means” is used to pre-store a plurality of service facility data (including display data, coordinate data), which is used for reading when navigation is needed in the future; “The second memory means” is used to store user registered data, that is, coordinate data of a specific service facility designated by the user. The user registered data is only briefly used by the user in the process of navigating to the designated specific service facility. Considering the inventive objective and operation steps of the patented method, with the difference between the two data sources and functions, those ordinary technicians in the field should know, the purpose of distinguishing “ the first memory means” and “ the second memory means” in the patented method, is to correspond to the function of the patented method to process two types of data, and is not to limit the physical medium in which the two types of data are stored.

The patent overcomes the defects of the traditional car navigation system that requires complicated operations. The user can register the location of the designated service facility through simple

operation without knowing the exact location of the service facility. Comparing with the patent claim, the alleged infringement method and its corresponding operation steps involve the same nature of data, the same content of data processing, and the same simple operation to designate the location of the service facilities by the user, which is also the objective of the invention of the patent in this case. Although the alleged infringement method stores both types of data on the D server, according to the description of the alleged infringement method, the two types of data are respectively stored in different memory areas on the D server, namely memory area A and memory area B. That is to say, there are corresponding “the first memory means” and “the second memory means” on the D server. Therefore, the alleged infringement method is same as that content of the patent claim.

The defendant argued that , according to the patent specification in the case, “the first memory means” in the patent claim relates to a portable storage medium, a CD-ROM, and “the second memory means” uses a random access memory, a RAM. These determine that all components of the patent are installed in the car and it is a single navigation equipment. The devices storing the two types of data in the alleged infringement method are all on the D server, thereby also determining that the device implementing the alleged infringing method is a distributed equipment which include “ mobile terminal + server”. The two methods are different in means, the effects of the two methods are also significantly different. The former is cheap and convenient, while the latter is very expensive

despite its large storage capacity and high reliability. Moreover, when the defendant begins to use the alleged infringement method, it is not easy for ordinary technicians in the field to use the server to replace the CD-ROM and RAM storage device in the patent specification. In this regard, the court holds that:

In one aspect, the patent claim does not define " the first memory means" as a CD-ROM, nor " the second memory means" as a RAM, and the CD-ROM and RAM are the embodiment of the patent specification for the description of the two "memory means". The understanding of "the first memory means" and "the second memory means" by ordinary technicians in the field after reading the specification and drawings is not limited to the CD-ROM and the RAM, and the scope of protection of the patent claims can not be only limited by the embodiment.

On the other aspect, even if "the first memory means" in the patent claim is limited to the CD-ROM and "the second memory means" is limited to the RAM as the defendant argued according to the description of the patent embodiment, the D server in the alleged infringement method still has separate spaces ,which are the memory area A and the memory area B, for storing the service facility data and the user registered data respectively, then the technical features in processing the two types of data, the b, d, e, and f technical features in the alleged infringement method, are equivalent to the corresponding B, D, E, and F technical features in the patent claim. The reasons are as follows:

（1）Both methods use computer storage and communication

technology, to realize the storage and reading of data for plurality of service facilities, and to realize the designation, storage and use of data for specific service facility. The two types of data processed by the two methods have the same nature and the way they are processed are also the same, which overcomes the defects of the traditional car navigation system that requires complicated operations, so that the user can register the location of the designated service facility through simple operation without knowing the exact location of the service facility. These two methods use basically the same means.

（2）Both methods have achieved basically the same function, to which the plaintiff and defendant have no objection.

（3）Both methods have attained basically the same effect. Due to the use of different communication technologies and storage media, both methods have advantages and disadvantages in terms of use environment, storage media cost, storage capacity, reliability and stability. The embodiment disclosed in the patent description can be used in an environment without wireless communication signals, and has advantages over alleged infringement methods which can only be used in wireless communication environments. Compared with the embodiment disclosed in the patent description, the D method has certain advantages in updating the service facility data and user operation convenience, and the conventional server is usually equipped with an uninterruptible power supply, which can ensure the stability of the data. However, the technical effects of the two methods in achieving car navigation function are basically the same.

（4）When the defendant provides the alleged infringement method, ordinary technicians in the field can easily think of replacing the b, d, e, and f technical features in the alleged infringement method to the car navigation system control methods by using CD-ROM and RAM disclosed in the patent embodiment. The objective of the patented invention is to display the location of a specific service facility by a simple operation without the user knowing the exact location of the specific service facility designated by the user. The alleged infringement method uses the technical content closely related to the objective of the invention in the patented method. The difference, between the alleged infringement method and the embodiment of patent, is caused by the development of communication technology means used in car navigation control system. Back to the time the patent application submitted, the communication technology was not fully developed, and the data capacity that could be transmitted was limited. At that time, usually the service facility data was stored in a portable storage medium(CD-ROM) that could be installed in a car and hold a large amount of data for searching, positioning and navigation. The user registered data that needs to be temporarily stored was stored in a temporary data storage medium(RAM), which is convenient for reading/writing and can be quickly and frequently replaced. With the development of network communication technology, in 2013, when the defendant provided the alleged infringement method, the reading and transmission of data through the remote server and the mobile terminal by means of the wireless communication network have

been widely used, and it is easy for the ordinary technicians in the field to think of replacing the corresponding technical means in the patent embodiment by using remote wireless communication technology.

2. According to the written opinion of the plaintiff in the prosecution history of patent application, whether the scope of protection of the patent involved should be limited to that all technical features of the car navigation system are installed in the vehicle.

In this case, the defendant argued that according to the plaintiff's written opinion in the prosecution history of patent application, all components of the patented method should be installed in the vehicle. Especially the opinion B, that is, only when the car navigation system is installed in the vehicle and by which can supply a constant power source from the large-capacity vehicle battery to the RAM, the effect of improving convenience for user through user registered data continuously stored and held can be achieved. This is a necessary condition for overcoming the lack of inventive step of the patent. The plaintiff abandoned other implementation methods through the written opinion, and the scope of patent protection can not include the abandoned technical solutions during the patent infringement litigation.

The court holds that, article 6 of *Interpretations of the Supreme People's Court Concerning Certain Issues on the Application of Laws for the Trial of Cases on Disputes over Infringement of Patent Rights* stipulates: "Where a right holder includes a technical solution,

which the patent applicant or patentee has abandoned through amendments of claims or specification or through statement of opinion in the patent granting or invalidation procedure, in the scope of patent protection in a patent infringement case, the people's court shall not support it." According to the provision above, it should not be determined that the protection scope of the patent is limited to that all the components of the car navigation system are installed in the vehicle. Here are the reasons. Firstly, the plaintiff first emphasized in the written opinion that the difference between the patent and Cited Invention 1 is that Cited Invention 1 aims to solve the problem unique to the navigation apparatus for pedestrians and does not disclose a control method for a car navigation system claimed in the patent application. The plaintiff further emphasized in the written opinion that, by providing the second memory means using RAM that is backed up by being supplied with power from a battery and installing the car navigation system in the vehicle, a technical effect that user registration data can be continuously stored and held is obtained. After comprehensively considering the invention purpose of displaying the location of a specific service facility with a simple operation, which is described in the specification of the patent, as well as the plaintiff's written opinion, it can be concluded that the plaintiff had abandoned the technical solution of a control method for pedestrian navigation system, but it cannot be determined that the patent was granted based on the technical feature that all the components of the car navigation system are installed in the vehicle. Secondly, compared the technical

features of the alleged infringement method with the embodiments of patent, the alleged infringement method uses remote communication technology, and the technical means decided thereby, such as storing two types of data in the D server and other technical means, are irrelevant to the objective of the invention of the patent. The alleged infringement method uses the technical content closely related to the objective of the invention in the patented method, the corresponding technical means in the patent embodiments are only replaced by the means of remote wireless communication technology and the storage technology means determined thereby, which are only formed by the later development, but are easily associated by those ordinary technicians in the field at the time of use. The alternative technical means in the alleged infringement method did not appear at the date of the patent application, and the plaintiff could not intentionally abandon the unknown technical means at the time of applying for the patent.

In summary, the alleged infringement method falls within the scope of protection of the patent in the case of the infringement. The court first rules that the defendant shall stop the infringement.

（The judgment only represents the opinion of the collegial panel）