

**Case Information**

Case	ENERGY-SAVING BEHAVIOUR SHEET CASE
Court, case no.	Intellectual Property High Court (H24 (Gyo-Ke) 10134)
Date of judgment	March 6, 2012
Parties	Plaintiff: X Defendant: Japan Patent Office

**FACTS**

The application (No. 2010-82481, filed on March 31, 2010) was rejected by the Examiner of JPO based on a lack of industrial applicability.

Final claim 1 of the application is as follows.

A behavior sheet for saving energy, comprising: a plurality of place names inside a building; a first place axis showing the amount of savable electric power per hour at each place by axial length; a first time axis showing a time scale; a first energy-saving behavior placement area for illustrating an energy-saving behavior at a certain area specified by the first place axis and the first time axis;

Further, the behavior sheet comprises a first energy-saving behavior-identifying area where the electric power per hour which can be saved by the energy-saving behavior is an axial length of the first place axis and the duration of the energy-saving behavior is an axial length of the first time axis; thereby showing the energy-saving behavior illustrated in the first energy-saving behavior placement area and a rough amount of energy (amount of energy which can be identified by an area that is an integrated area of the amount of energy per hour which can be saved by the energy-saving behavior and the duration of the energy-saving behavior).

An appeal against the decision of rejection was filed and examined by the Board of Appeal, which rendered a decision to dismiss the appeal and to uphold the decision of rejection. The decision was as follows.

This application should be rejected since there is no industrial applicability. Furthermore, even if there is any industrial applicability, there is no inventive step in the claimed invention.

The plaintiff filed a lawsuit to seek rescission of the Board's decision.

### **ISSUE**

The issue was whether the claimed invention is statutory.

### **HOLDING**

- (1) An invention is defined as "a highly advanced creation of technical ideas by which a law of nature is utilized" in Japanese patent law. As far as humans are beings who can behave freely and have a right to self-determination, although specific mental activities, decisions, or behaviors of humans are sometimes useful and effective, they themselves cannot be said to utilize a law of nature directly. Therefore, even if certain creations of technical ideas to solve a problem are concrete, useful and effective, in case that, in solving the problem, a part utilizing a law of nature does not include but only utilizes principles or rules utilizing human mental activities, principles or rules adaptable to social science, human decisions, or mathematical methods, then these creations are not considered to be statutory.
- (2) The layout of the diagram of [energy-saving behavior sheet] is defined by naming and giving meanings to the axes (first place axis and first time axis) and areas (first energy-saving behavior placement area and first energy-saving behavior identifying area) defined by the axes. Thus, it has characteristics in the information of the name and the meaning of each axis and each area. Further, naming and giving meaning to the axes and areas of [the sheet] do not directly mean that it utilizes a law of nature, and humans recognize and grasp the size of the area and understand the meaning of the size when [the sheet] is suggested. Besides, the sheet of the invention is supposed not to be read by any device but to be suggested to humans. And means for suggesting it to humans are writing it on media such as paper or displaying it on a display screen, which are not a technical feature exceeding the general method of writing and displaying of the diagram.
- (3) According to the specification of the application, it was difficult to know how much energy can be saved by a certain energy-saving behavior and to know which energy-saving behavior should be prioritized. However, this invention solves these problems and allows a person to know the required duration of an energy-saving behavior and the place by grasping a rough amount of energy which can be saved. The following is the function and effect of the invention. The person recognizes the

size of the area when he or she sees an area defined by the axes. If names and meanings are given to the axes and the area, the person can understand the meaning of the area. In these processes, a psychological rule (mechanism of recognition) is utilized and by this rule the person can recognize and grasp the size of the area, which means it is exclusively based on a human mental activity and not based on a law of nature.

(4) In view of the above factors, the lawsuit should be dismissed.

February 29, 2016

Original document (Japanese):

[http://www.courts.go.jp/app/files/hanrei\\_jp/840/082840\\_hanrei.pdf](http://www.courts.go.jp/app/files/hanrei_jp/840/082840_hanrei.pdf)

English Translation:

N/A