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Correction2025-390051

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Trial and Appeal Decision

Corrections 2025-390051

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The case of trial for correction of Japanese Patent No. 7528390 has resulted in the following trial decision.

[Conclusion]
The correction of the scope of claims of Japanese Patent No. 7528390 shall be approved with respect to the corrected claims [1, 2, 4] and 3, as indicated in the corrected scope of claims attached to the written request for appeal.

Reason
1. Background of Procedures
Japanese Patent No. 7528390 (hereinafter referred to as "the Patent") was filed on September 11, 2023 by transferring a part of Japanese Patent Application No. 2023 / 208276 filed on December 22, 2021 to a new patent application (Japanese Patent Application No. 2021 / 14678) filed on September 11,

On March 5, 2024, a new patent application (Japanese Patent Application No. 2024 - 32983) was filed, and on July 26 of the same year, the establishment of a patent right was registered. Subsequently, on April 21, 2025, a request for a trial for correction of the case was filed.

No. 2. Object of Appeal

The object of the request for the trial for correction of the case is, as stated in the object of the request in the written request for the trial for correction of the case, "to request a trial decision to permit the correction of the scope of claims of Japanese Patent No. 7528390 as the corrected scope of claims attached to the written request for the trial for correction of the case with respect to Claims 1 to 4 after correction."

3. Details of the Correction

The contents of the correction made by the request for the trial for correction of the case (hereinafter referred to as the "Correction of the Case") are as follows (the underlines were added by the panel to indicate the parts to be corrected).

1. Correction 1

Claim 1 of the scope of claims is corrected as follows: "When a first operation input is performed while the player character is in the air, the player character is caused to board an aerial boarding character capable of moving in the air from among the boarding characters, and is caused to be in a state capable of moving in the air".

2. Correction 2
"Claim 1, wherein the computer further causes the player character to cause predetermined damage when the player character falls from a height exceeding a predetermined reference or falls from the air to the ground at a speed exceeding a predetermined reference. The game program according to claim 2, wherein "the game program causes a computer of a information processing apparatus to control a player character in a virtual space on the basis of an operation input to determine whether or not the player character is in the air, and when any of a plurality of types of boarding characters on which the player character is able to board is selected from among owned characters owned by the player character and a boarding instruction is given, the computer causes the selected boarding character to board the player character so that the player character can move, and even when any boarding character other than the aerial boarding character capable of moving in the air is the currently selected boarding character and a first operation input is given when the player character is in the air, the computer causes the aerial boarding character to appear in the virtual space, and causes the player character to board the aerial boarding character instead of the currently selected boarding character from among the boarding characters; and A game program for causing a player character to be movable in the air, causing the player character on board the aerial boarding character to move in the air based on an operation input while the player character is on board the aerial boarding character, and causing a predetermined damage to the

player character when the player character falls from a height exceeding a predetermined reference or falls from the air to the ground at a speed exceeding a predetermined reference. "

3. Correction 3

In Claim 4 of the scope of claims, "a game program according to any one of Claims 1 to 3" is corrected to "a game program according to Claim 1 or 2."

4. Judgment on Appropriateness of Correction

1. Regarding Correction A (1) Regarding the requirements provided in the proviso to Article 126, paragraph (1) of the Patent Act

In Correction A, in Claim 1 of the scope of claims before correction, "when the first operation input is performed while the player character is in the air, the player character is made to board an aerial boarding character which is movable in the air among the boarding characters and is made to be movable in the air" is changed to "even if any boarding character other than the aerial boarding character which is movable in the air is the currently selected boarding character, when the first operation input is performed while the player character is in the air, the aerial boarding character is made to appear in the virtual space, and the player character is made to board the aerial boarding character instead of the currently selected boarding character among the boarding characters and is made to be movable in the air". In "the case where the first operation input is performed when the player character is in the air," the relationship

between the currently selected boarding character and the "aerial boarding character" to be made to appear and the relationship between the currently selected boarding character and the "aerial boarding character" to be made to board are not specified, but are specified as "even if any boarding character other than the aerial boarding character capable of moving in the air is the currently selected boarding character," "the aerial riding character is made to appear in the virtual space," and "not the currently selected boarding character but the aerial boarding character is made to board." Therefore, Correction A is one listed in item (I) of the proviso to Article 126, paragraph (1) of the Patent Act. The amendment is made for the purpose of restriction of the scope of claims.

(2) Requirements as provided in Article 126 (5) of the Patent Act The description and the scope of claims attached to the application of the Patent Or, in [0099] of the drawings (hereinafter referred to as "the Description, etc. of the Patent"), it is described that "As shown in the upper part of FIG. 11, when the player character 70 is in a normal state, the player character 70 performs a jump operation based on the operation input of the player. By the jump operation, the player character 70 is separated from the ground 71 and is temporarily in the air. While the player character 70 is temporarily in the air, as shown in the upper part of FIG. 11, a display prompting the player character 70 to press the A button 53 and a display indicating the bird character 78 are displayed in the vicinity of the player character 70. At this time, when the A button 53 is pressed, the bird character

78 appears as shown in the lower part of FIG. 11, and the player character 70 is in a state of riding on the bird character 78. As shown in the upper part of FIG. 11, even when an image indicating a riding character other than the bird character 78 (for example, the horse character 77) is displayed as the selection image 76 If the A button 53 is pressed while the player character 70 is in the air, the player character 70 boards the bird character 78. That is, when the player character 70 is in the air, the player character 70 boards the bird character 78 in response to the pressing of the A button 53 even if the selection operation of the boarding character is not performed. "In view of the descriptions in [0099] that "while the player character 70 is temporarily in the air," "when the A button 53 is pressed, the bird character 78 appears as shown in the lower part of FIG. 11," and "even when an image indicating a boarding character other than the bird character 78 (for example, the horse character 77) is displayed as the selection image 76, when the A button 53 is pressed when the player character 70 is in the air, the player character 70 boards the bird character 78," the Description, etc. of the Patent include the following description relating to Correction A: "even if any boarding character other than the aerial boarding character capable of moving in the air is the currently selected boarding character, when the first operation input is performed when the player character is in the air, the aerial boarding character appears in the virtual space, and the player character is not the currently selected boarding character among the boarding characters. It can be said that the configuration of "letting the aerial boarding character board" is described. Therefore,

Correction A does not introduce any new technical matter in relation to the technical matters derived by synthesizing all the descriptions of the matters described in the Description, etc. Therefore, Correction A is made within the scope of the matters described in the Description, etc. of the Patent, and falls under Article 126 (5) of the Patent Act.

(3) Requirements as provided in Article 126 (6) of the Patent Act As examined in (1) above, Correction A limits the matters specifying the invention in Claim 1 of the scope of claims of the Patent, and therefore does not fall under the expansion or modification of the scope of claims. Therefore, Correction A falls under Article 126 (6) of the Patent Act.

2. Regarding Correction 2
(1) Regarding the requirements provided in the proviso to Article 126 (1) of the Patent Act Correction B is, in Claim 3 of the scope of claims before correction, described as "Claim 1, wherein the computer further causes the player character to cause predetermined damage when the player character falls from a height exceeding a predetermined reference or falls from the air to the ground at a speed exceeding a predetermined reference. The game program according to claim 2, wherein "the game program causes a computer of a information processing apparatus to control a player character based on an operation input in a virtual space to determine whether or not the player character is in the air, and when any of a plurality of types of boarding characters on

which the player character is able to board is selected from among owned characters owned by the player character and a boarding instruction is performed, the computer causes the selected boarding character to board the player character so that the player character can move, and even when any boarding character other than the aerial boarding character capable of moving in the air is the currently selected boarding character and a first operation input is performed when the player character is in the air, the aerial boarding character is caused to appear in the virtual space, and the player character is allowed to board the aerial boarding character instead of the currently selected boarding character among the boarding characters; and A game program for causing a player character to be movable in the air, causing the player character on board the aerial boarding character to move in the air based on an operation input while the player character is on board the aerial boarding character, and causing a predetermined damage to the player character when the player character falls from the air to the ground from a height exceeding a predetermined reference or at a speed exceeding a predetermined reference. "

A. Claim 3 is amended to an independent claim form by specifying that "Claim 1 or 2" before correction is cited by using the structure of Claim 1 cited by Claim 3 before correction;

B. Along with the correction of A above, in Claim 1 before the correction, "when the first

operation input is performed when the player character is in the air, the player character is made to ride on an aerial boarding character capable of moving in the air among the boarding characters and is made to be movable in the air" is specified as "even if any boarding character other than the aerial boarding character capable of moving in the air is the currently selected boarding character, when the first operation input is performed when the player character is in the air, the aerial boarding character is made to appear in the virtual space, and the player character is made to ride on the aerial boarding character instead of the currently selected boarding character among the boarding characters and is made to be movable in the air";

C. In addition to the above corrections A and B, it is specified that the "computer of the information processing apparatus" in Claim 1 before correction is "made to determine whether or not the player character is in the air".

The correction in (a) above is intended to eliminate the citation relationship between Claim 3 before the correction, which was a citation of Claim 1 or 2 before the correction, and Claim 2, which cites Claim 1, so as not to cite Claim 2, and to change the claim into an independent claim, thereby making the statement of a claim which cites the statement of another claim not to cite the statement of the other claim.

As examined in 1 (1) above, the correction of B above falls under the purpose of restriction of the scope of claims.

Regarding the correction of C above, although Claim 1 before the correction specifies "when the first operation input is performed when the player character is in the air", it does not specify the process of determining that "the player character is in the air". In the correction of C above, Claim 3 after the correction specifies that "the computer of the information processing apparatus" "makes it possible to determine whether or not the player character is in the air". Therefore, the correction of C above is aimed at restricting the scope of claims. Therefore, Correction B falls under the restriction of the scope of claims listed in item (I) of the proviso to Article 126, paragraph (1) of the Patent Act, and also falls under the restriction of the scope of claims listed in item (iv) of the proviso to Article 126, paragraph (1) of the Patent Act, for the purpose of making the statement of a claim which refers to the statement of another claim not to refer to the statement of the other claim.

(2) Requirements as provided in Patent Act Article 126 (5)
A. Regarding the correction of (1) a above
The amendment of Claim 3 into an independent claim by specifying that it refers to "Claim 1 or 2" before the correction by using the structure of Claim 1 to which Claim 3 before the correction refers uses the matters specifying the invention described in Claim 1 before the correction and does not include the content that substantially changes the meaning before and after the correction. Therefore, the correction in (1) A above does not introduce any new technical

matter.

B. Correction of (1) B above
As discussed in 1 (2) above, the correction in (1) B above does not introduce any new technical matter.

C. Correction of (1) C above
In [0159] of the patent specification, etc., it is described that "On the other hand, in step S205, the processor 81 determines whether or not the player character 70 is in the air. If the processor 81 determines YES in step S205, the processor 81 next performs the process of step S206, and if the processor 81 determines NO in step S205, the processor 81 next performs the process of step S208. In addition, if the processor 81 determines YES in step S205, the processor 81 displays a display for prompting the depression of the A button 53 and a display indicating a boarding character for the air (for example, a bird character 78) (see FIG. 11))."Then, it can be said that "the processor 81 determines whether or not the player character 70 is in the air" in [0159] corresponds to "causing the computer of the information processing apparatus to determine whether or not the player character is in the air" according to Correction 2, and the correction of (1) C above does not introduce any new technical matter.

Therefore, as examined in the above A to C, Correction B does not introduce any new technical matter in relation to the technical matters derived by synthesizing all the descriptions of the matters described in the Description, etc. Therefore, Correction B is

made within the scope of the matters described in the Description, etc. of the Patent, and complies with the provisions of Article 126 (5) of the Patent Act.

(3) Requirements as provided in Article 126 (6) of the Patent Act As examined in (1) above, Correction B is intended to restrict the scope of claims and to make the statement of a claim which refers to the statement of another claim not refer to the statement of the said other claim. Therefore, Correction B does not fall under the expansion or change of the scope of claims. Therefore, Correction B falls under Article 126 (6) of the Patent Act.

3. Regarding Correction 3
(1) Regarding the requirements as provided in the proviso to Article 126 (1) of the Patent Act
A. Correction C is intended to change the statement of Claim 4 before correction, which refers to any one of Claims 1 to 3 before correction, from "the game program stated in any one of Claims 1 to 3" to "the game program stated in Claim 1 or 2" in Claim 4 of the scope of claims before correction, so as to eliminate the citation relationship between the claims with respect to Claim 3 and make the statement of Claim 3 not to be cited, thereby making the statement of a claim which refers to the statement of another claim not to refer to the statement of the other claim.

B. As examined in 1 (1) above, along with the correction in A above, specifying "when

the first operation input is performed while the player character is in the air, the player character is made to board an aerial boarding character capable of moving in the air among the boarding characters and is made to be movable in the air" in Claim 1 before the correction as "even if any boarding character other than the aerial boarding character capable of moving in the air is the currently selected boarding character, when the first operation input is performed while the player character is in the air, the aerial boarding character is made to appear in the virtual space, and the player character is made to board the aerial boarding character instead of the currently selected boarding character among the boarding characters and is made to be movable in the air" falls under the purpose of restriction of the scope of claims. Therefore, Correction C falls under the restriction of the scope of claims listed in item (I) of the proviso to Article 126, paragraph (1) of the Patent Act, and also falls under the restriction of the scope of claims listed in item (iv) of the proviso to Article 161, paragraph (1) of the Patent Act, which is intended to make the statement of a claim which refers to another claim not refer to the statement of the other claim.

(2) Requirements as provided in Patent Act Article 126 (5)
A. Regarding the correction of (1) a above
Although the statement of Claim 4 before correction refers to any of Claims 1 to 3 before correction, the cancellation of the reference relationship between the claims with respect to Claim 3 and not referring to the statement of Claim 3 itself does not include the content that substantially

changes the meaning before and after correction. Therefore, the correction of (1) A above does not introduce a new technical matter.

B. Correction of (1) B above
As discussed in 1 (2) above, the correction in (1) B above does not introduce any new technical matter.

Therefore, as examined in the above A and B, Correction 3 does not introduce any new technical matter in relation to the technical matters derived by synthesizing all the descriptions of the matters described in the Description, etc. Therefore, Correction C is made within the scope of the matters described in the Description, etc. of the Patent, and falls under Article 126 (5) of the Patent Act.

(3) Requirements as provided in Article 126 (6) of the Patent Act As examined in (1) above, Correction C is for the purpose of restriction of the scope of claims, and is for the purpose of making the statement of a claim which refers to the statement of another claim not refer to the statement of the said other claim. Therefore, Correction C does not fall under the expansion or change of the scope of claims. Therefore, Correction C falls under Article 126 (6) of the Patent Act.

4. Requirements prescribed in Article 126 (7) of the Patent Act
Corrections A to C are for the purpose of restriction of the scope of claims as provided

in item (I) of the proviso to Article 126, paragraph (1) of the Patent Act, and for the purpose of changing the statement of a claim which refers to another claim as provided in item (iv) of the proviso to Article 126, paragraph (1) of the Patent Act into a statement which does not refer to another claim. As a result of the examination, it is recognized that the inventions according to Claims 1 to 4 before the Correction could have been patented without finding any reason why they could not be patented. However, there is no circumstance where a reason why the inventions according to Claims 1 to 4 after the Correction cannot be patented independently at the time of filing of the patent application is newly found. The purpose of the Correction is to restrict the scope of claims, and the purpose of the Correction is to change the statement of a claim which refers to the statement of another claim into a statement which does not refer to the statement of the other claim. Therefore, this correction complies with the provisions of Article 126 (7) of the Patent Act.

5. Regarding the unit of correction relating to the request for correction

(1) Regarding a group of claims
Regarding Claims 1 to 4 before correction, Claim 2 refers to Claim 1, Claim 3 refers to Claim 1 or Claim 2, and Claim 4 refers to Claims 1 to 3. These claims are corrected in conjunction with Claim 1 whose description is corrected by Correction A. Therefore, Claims 1 to 4 after correction corresponding to Claims 1 to 4 before correction are a group of claims as provided in Article 126 (3) of the

Patent Act.

(2) Regarding the request for a different unit of correction
The appellant demands that corrected Claim 3 be corrected separately from the other claims in the group of claims if the correction of the said claim is permitted.

6. Summary
As described above, the Correction aims at the matters provided in Article 126 (1) (I) and (iv) of the Patent Act, and complies with the provisions of Article 156 (5) to (7) of the Patent Act. Therefore, the Correction requested by the Request for Correction is approved. As requested by the Appellant, corrected Claim 3 is allowed to be corrected separately from other claims in the group of claims. Therefore, the appeal/trial decision shall be made as described in the conclusion.

June 19, 2025 Chief administrative judge, Administrative judge of the Japan Patent Office, Hiroyuki Inoue, Administrative judge of the Japan Patent Office, Izumi Kurano, Administrative judge of the Japan Patent Office, Yasuo Ohama

[Decision classification] P141. 851 - Y (A63F) 857

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