

Inquiry of history information

Decision of Refusal (PatentsApplication2026-019762)

* NOTICES *

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Decision of Refusal

Patent Application Number: Japanese Patent Application No. 2026-019762

Date proposed: July 7, 2026

Patent Office Examiner: Satoshi Kishi 3603 2D00

Title of the invention:STORAGE MEDIUM STORING GAME PROGRAM, GAME SYSTEM, GAME APPARATUS, AND GAME PROCESSING METHOD

Patent applicant: Nintendo Co., Ltd. (and 1 other person)

Agent: Ryo Teramoto (and one other person)

This application should be refused for the reason 1 mentioned in the Notice of Reasons for Refusal dated 4/21/Reiwa 8. In addition, although the contents of the written opinion have been examined, sufficient grounds for overturning the reasons for refusal cannot be found.

Remarks

- Reason1 (Patent Act Article 29 (2))

- Claim 1

- Cited Document, etc. 1-5

1. Allegation of copyright infringement

The applicant has repeatedly asserted that the video of Cited Document 1 is a video of a game that infringes the copyright of Pokemon. However, there is no provision in the Patent Act to exclude those that infringe the copyrights of others from the "inventions made available to the public through electric telecommunication lines" in Article 29 (1) (iii), and the Examination Guidelines do not indicate that the presence or absence of infringement of copyrights in cited inventions affects the inventive step judgment. In addition, there is no Supreme Court judgment or IP High Court Grand Panel Case Judgment that mentions such a point. Even in consideration of the purpose of the Patent Act (Article 1) and the purpose of the Patent Act Article 29 (2), it cannot be concluded that the presence or absence of infringement of copyrights in the cited invention affects the inventive step judgment. Therefore, the presence or absence of infringement of copyrights in the cited invention is irrelevant to the inventive step judgment, and it can be said that this is a standard idea for patent practitioners. Therefore, this assertion does not affect the conclusion of the inventive step judgment.

2. Regarding the assertion that the examiner erroneously recognizes an infringing product as a genuine product, the applicant repeatedly asserts that it is "extremely inappropriate for the examiner to go out of his way to erroneously recognize an infringing product as a genuine product" with respect to character names such as "Pokemon", "Pokemon", "Satoshi", "Pikachu", "Bulbasaur", and "monster ball". However, as described in 1 above, since the presence or absence of infringement of copyrights in the cited invention is irrelevant to the inventive step judgment, the notification of reasons for refusal does not mention or need to mention that the cited invention is an infringing product or a genuine product. In addition, as described in 1 above, since it is a standard idea that the presence or absence of infringement of copyrights in cited inventions is irrelevant to inventive step judgment, patent practitioners who have read the notification of reasons for refusal do not consider that "the examiner has recognized that Cited Document 1 is a video of a genuine Pokemon game". Even if there is a person who thinks such a thing, it should be said to be an insane misunderstanding. The possibility that the notification of reasons for refusal may be misunderstood does not affect the inventive step judgment. Therefore, this assertion does not affect the conclusion of the inventive step judgment.

3. Regarding the assertion that the character name, etc., should not be described, the applicant repeatedly asserts that "if the correct recognition cannot be made, the character name, etc., should not be described in the first place" for the character names, etc., such as "Pokemon", "Pokemon", "Satoshi", "Pikachu", "Bulbasaur", and "monster ball". However, the invention according to Claim 1 is mainly configured to control the operation of a large number of objects such as a "player character," a "field character," a "capture item," and a "battle character," and a large number of objects also appear in the moving image of Cited Document 1, etc.; therefore, if a large number of objects appearing in the moving image of Cited Document 1, etc. are not distinguished in some way, the reason for refusal is not understandable. Then, from the video of Cited Document 1, etc., it is possible to objectively grasp the character name of Pokeball (video title and poster's statement at 0:18), the character name of Ash (poster's statement at 1:22), the character name of Pikachu (poster's statement and character notation at 2:18), the character name of Bulbasaur (character notation at 3:24), and the object name of Pokemon (poster's statement at 2:24) through the eyes and ears. If it is not allowed to refer to the character name in the notification of reasons for refusal, it is considered that redundancy should be accepted and accuracy should be prioritized, and it should be certified as "an object in the shape of a small animal" instead of "Pokemon", "an object in the shape of a boy wearing a red cap" instead of "Satoshi", "an object in the shape of a small yellow animal" instead of "Pikachu", "an object in the shape of a small green animal" instead of "Bulbasaur", and "a sphere object with the upper half red and the lower half white" instead of "monster ball"; however, such rephrasing does not change the logical

configuration of the reason for refusal, and thus does not affect the inventive step judgment. Therefore, this assertion does not affect the conclusion of the inventive step judgment.

4. Regarding the allegation regarding the error in the finding of the common features

The applicant asserts that since "Cited Document 1 is merely a moving image in which the claim configuration cannot be directly and uniquely derived" and "merely displays a mere phenomenon in which the specific technical configuration cannot be said to be objectively disclosed," the recognitions of the coincidence points described in "3. Comparison between the invention according to Claim 1 and the cited invention" in the notification of reasons for refusal are all incorrect. Is this argument an argument that (1) it is recognized that Cited Document 1 is a video (so-called "game video") of a poster playing a game, but the invention of a game program cannot be certified from a mere game video?

(2) Since Cited Document 1 is not even a game video, but merely an animation video in which a poster synthesizes a narration as if he / she is playing a game, it is unclear whether the argument is that the invention of the game program cannot be certified. However, in the case of (2), the behavior of the poster is too ridiculous, and from the description in the written opinion that "Cited Document 1 is merely a video in which the claim configuration cannot be directly and uniquely derived, and is not a Pokemon game but a video of a game that infringes the copyright of Pokemon," it seems that the applicant only recognizes that Cited Document 1 is a game video, and therefore, the assertion of (1) will be examined. Since the invention according to Claim 1 is an invention of a "game program" mainly configured to control the operations of a large number of objects such as a "player character", a "field character", a "capture item", and a "battle character", as a cited example for examining the inventive step of such an invention, it is sufficient to disclose which object performs which operation by causing a computer to execute a program. Then, it is recognized that the game video of Cited Document 1, etc. sufficiently discloses which object performs which operation by causing the PC to execute the program through vision and hearing by the transition of the screen and the statement of the poster to the extent that it can be compared with the invention according to Claim 1. Therefore, this assertion cannot be adopted.

5. Regarding the assertion regarding the error in the determination of the easily-conceived property of Difference 1, the applicant asserts that "it is very difficult to provide the configuration according to Difference 1 by introducing a user interface that can be operated by a touch panel into the cited invention. In addition, even if a user interface that can be operated by a touch panel is introduced into the cited invention, there is no basis for designing as in the feature of the invention according to Claim 1 of the present application, and it is difficult

even for a person skilled in the art who knows the well-known techniques in Cited Documents 2 and 3 to easily conceive of the invention". However, Cited Document 2 describes that "ARK", which is a survival action game in which you can enjoy adventures by taming ancient creatures, has a personal computer version and a mobile version, and Cited Document 3 describes that "PUBG", which is a battle royale game in which up to 100 players survive until they become the last one, has a personal computer version and a mobile version, and if it is asserted that "ARK: Survival Evolved" and "ARK Mobile" are completely different games in terms of genre and rules, or that "PLAYERUNKNOWN'S BATTLEGROUNDS (PUBG)" and "PUBG MOBILE" are completely different games in terms of genre and rules, it is a mistake in fact. In addition, a notebook PC that can be operated by a touch panel is well known, and it is easy for a person skilled in the art to adopt a well-known operation means for a PC game. Therefore, it would have been easily conceived by a person skilled in the art who knows the well-known technique to introduce a user interface that can be operated by a touch panel while maintaining the basic rule of capturing and fighting characters with respect to the cited invention. Then, since the characteristic user interface in the invention according to Claim 1 merely displays "command instruction images of a plurality of commands" on the game screen and "controls by command selection by operation input using a touch panel", considering that various buttons and icons are displayed on various game screens shown in Cited Documents 2-3, it is considered that there is no error in the determination of the easily-conceived property of Difference 1. Therefore, this assertion cannot be adopted.

6. Regarding the assertion relating to the error in the determination of the easily-conceived property of Difference 2, the applicant asserts that "in the cited invention, it is very difficult to provide the configuration according to Difference 2 by introducing a specification that an opponent Pokemon can be captured by throwing a monster ball not only in a non-battle state but also during a battle, and it is difficult even for a person skilled in the art who knows the well-known technique in Cited Document 4 to easily conceive of the configuration". However, when applying the well-known technique of capture during battle to the cited invention having the configuration of capture in a non-battle state, there is no reason why the configuration of capture in a non-battle state originally provided in the cited invention must be eliminated. In addition, the cited invention is configured so that capture cannot be performed during a battle, but this is not the case due to the restrictions of information science, but is merely the case as a specification; therefore, it is easy for a person skilled in the art to apply the well-known technique to obtain a specification that allows capture during a battle. Furthermore, there is no relation between the fact that the cited invention is in the process of development and the judgment that the difference could have been easily conceived. In addition, the written opinion describes that "in fact, the cited invention seems to display an effect of capturing another character as a result of a battle, and when the effect is after the battle due to a technical problem, the idea of capturing in both states does not come out anywhere.", but since it is clear that the captures disclosed in 2:06 to 2:38 and 5:05 to 5:22 of Cited Document 1, etc. are performed in a non-battle state,

the meaning of this description cannot be fully understood. Therefore, this assertion cannot be adopted.

7. Regarding the assertion regarding the error in the determination of the easily-conceived property of Difference 3, the applicant asserts that "although the cited invention is clearly intended to infringe the Pokemon IP, the fact that the specification is not as described above means that it is difficult to introduce the specification. Therefore, it is not easy for a person skilled in the art who knows the well-known technique to provide the cited invention with the configuration according to Difference 3". However, the inventive step stipulated in the Patent Act Article 29 (2) should be determined not only from the viewpoint of what the cited invention is, but also from the viewpoint of whether or not a person skilled in the art could have provided the configuration related to the difference by exerting ordinary creativity. Here, regarding the position of a person skilled in the art in determining the inventive step of the game-related invention and the degree of creativity thereof, the case in which the collegial body of appeal examiners stated the general theory is cited below (the underline is added by the examiner).

<"Advance Notice of JPO Decision" dated August 12, 2025, for Invalidation Trial No. 2024 / 800035> No. 8-2 (1) B (A)> "(A) As a premise of judgment (regarding genre of game) According to the description of Evidence A No. 68 mentioned in the above No. 7-5, (regarding genre of game), the field of game production has been increasingly divided, and games have been developed by teams of various types of producers (programmers, artists, designers, producers, testers, composers, sound designers, scenario writers, etc. Furthermore, for example, level designers, game system designers, scripters, battle designers, etc. in the case of designers) who play respective roles (the above No. 7-5 (3)), and these producers as a person skilled in the art have created a new genre of games that combine a wide variety of game genres (the above No. 7-5 (2)), and when a popular game appears, the mechanics of the game are used in other games, and many games are built on existing games (the above No. 7-5 (4)). A person skilled in the art in the field of games is considered to be a development team consisting of programmers, artists, designers, producers, testers, composers, sound designers, scenario writers, etc., and regarding game elements that are public before the original filing date of the present application, regardless of genre, combining game elements of one game with game elements of another game, adopting the mechanics of another game, and applying them to the evolution of game technology are the following matters: It can be said that it is an exercise of the ordinary creativity of a person skilled in the art. "

The judgment criteria for the inventive step cannot be different between the invalidation trial and the appeal against the decision of refusal, and the inventive step judgment at the examination stage should be made based on the same criteria as the appeal against the decision of refusal, and thus it is easy for a person skilled in the art who knows the well-known technique to provide the cited invention with the

configuration according to Difference 3. Therefore, this assertion cannot be adopted.

8. Regarding the argument regarding "hindsight"

The applicant asserts that "it is considered to be a logical development by so-called 'hindsight' in which a person skilled in the art knows the invention of the present application in advance and collects only convenient parts from a large number of documents. ". However, the method itself in which a judge who knows the content of the invention of the present application determines the inventive step of the invention of the present application is recognized in the Examination Guidelines (Part III, Chapter 2, Section 3, "Procedure of Examination for Novelty and inventive step" 1. Summary) and the Intellectual Property High Court Grand Panel Case Decision (Intellectual Property High Court Decision on April 13, 2018, "Pyrimidine Derivatives", page 87, lines 8-13). The elimination of the hindsight is performed by sufficiently determining the easily-conceived property of the difference, and it is considered that it has been achieved in this case. Therefore, this assertion cannot be adopted.

9.[Conclusion]

As described above, the invention according to Claim 1 could have been easily invented by a person skilled in the art based on the cited invention and the well-known technique.

- Claim 2

- Cited Document, etc. 1-5

All of the assertions by the applicant regarding the inventive step of Claim 2 have been examined above. Therefore, the invention according to Claim 2 could have been easily invented by a person skilled in the art based on the cited invention and the well-known technique.

- Claim 3

- Cited Document, etc. 1-7

The applicant asserts that "since the poster of the cited invention cannot hit the ball, applying the lock-on of Cited Document 6 or Cited Document 7 is a view based on the unique interpretation of the examiner, and cannot be accepted". However, in the cited invention, it is easy for a person skilled in the art to apply the well-known techniques described in Cited Documents 6-7 in order to reduce the stress felt by the player. Therefore, the invention according to Claim 3 could have been easily invented by a person skilled in the art based on the cited invention and the well-known technique.

- Claim 6

- Cited Document, etc. 1-8

The applicant asserts that "since the 'picking' described in Cited Document 8 is a characteristic of newly acquiring an item instead of picking up and acquiring an item that has fallen in the field, it is considered that the correspondence of the examiner is incorrect. ". However, since the characteristic associated with the word "picking up things" is nothing but picking up an item on the ground, the configuration according to Claim 6 could have been easily conceived by a person skilled in the art by applying the well-known technique to the cited invention. In addition, in the cited invention, the player character cannot pick up an item on the field, but this is not due to the restrictions of information science, and it is merely a specification, and therefore, it is easy for a person skilled in the art to apply the well-known technique to make a specification that can be picked up. Therefore, the invention according to Claim 6 could have been easily invented by a person skilled in the art based on the cited invention and the well-known technique.

- Claims 7-8, 13-14, and 19-20

- Cited Document, etc. 1-5

All of the assertions by the applicant for the inventive step of Claims 7-8, 13-14, and 19-20 have been examined above. Therefore, the inventions according to Claims 7-8, 13-14, and 19-20 could have been easily made by a person skilled in the art based on the cited invention and the well-known technique.

- Claims 9, 15, and 21
- Cited Document, etc. 1-7

All of the applicant's arguments for the inventive step of Claims 9, 15, and 21 have been examined above. Therefore, the inventions according to Claims 9, 15, and 21 could have been easily invented by a person skilled in the art based on the cited invention and the well-known technique.

- Claims 12, 18, and 24
- Cited Document, etc. 1-8

All of the assertions by the applicant regarding the inventive step of Claims 12, 18, and 24 have been examined above. Therefore, the inventions according to Claims 12, 18, and 24 could have been easily invented by a person skilled in the art based on the cited invention and the well-known technique.

<claims for which no reason for refusal is found>

Regarding the inventions according to the claims (4-5, 10-11, 16-17, 22-23), no reason for refusal is found at present.

<The list of cited documents etc.>

1. Pokemon Generations - 3D indie Pokemon Gameplay, YouTube [online] [video], 2013 Year 06 / 01, [retrieved on April 21, 2026],

<<https://www.youtube.com/watch?v=9TznS7pE-T8>>

2. What is the difference between the popular survival action "ARK: Survival Evolved" and the smartphone version "ARK mobile"? Play video is also released!, Famitsu App [online] [video], 2018, April 04, 04, [searched on April 21, 2026],

<https://app.famitsu.com/20180404_1271567/> (document showing well-known art)

3. The smartphone version of "PUBG MOBILE" will start service from today, May 16! The number of pre-registrations exceeds 1.3 million, Famitsu. com [online] [video], 2018, April 16, 05, [searched on April 21, 2026], <<https://www.famitsu.com/news/201805/16157378.html>> (document showing well-known art)

4. Let's catch Pokemon and make them friends!, Pocket Monster XY official site [online], 2013, April 09, 07, [searched on April 21, 2026], <<https://web.archive.org/web/20130709010304/https://www.pokemon.co.jp/ex/xy/about/04.html>> (documents showing well-known

techniques)

Jigade was captured with four 5.Pokemon Y Pokemon Y hyperballs, YouTube [online] [video],2013 , October 18, 2026, [retrieved on April 21, 2013], <https://www.youtube.com/watch?v=8OIA_FbgMBM > (document showing well-known art)

6.JP 2007-312930A (Document showing well-known arts)

7.JP 2013-070869A (Document showing well-known arts)

8. What can be picked up by picking up things, Pocket monster X and Y capture information summary wiki [online],2014 , April 17, 02, [retrieved on April 21, 2026], <<https://w.atwiki.jp/pokemonxy/pages/34.html> > (document showing well-known technique)

(Note) Some or all of the submitted non-patent documents may not be sent due to legal or contractual restrictions.

The applicant who is dissatisfied with the examiner's decision, may file a request for a trial against examiner's decision of refusal to the Commissioner of the Japan Patent Office within three months (where overseas resident, within four months) from the date when the copy of the examiner's decision has been served (refer to Patent Act Article 121 (1)).

<Explanation based on the Administrative Case Litigation Act Article 46 (2)>

The applicant may not file an action for the revocation of an administrative disposition against the examiner's decision. The applicant may file a suit against the trial decision regarding the demand for the trial of this examiner's decision (refer to Patent Act Article 178 (6)).

Chief administrative judge / attorney, examiner, assistant examiner: KIRIYAMA, Akiyo, KISHI, Satoshi , 3815 3603