

## Business Method Patents in Japan

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### Software that cooperatively works with hardware resources

is considered as utilizing a law of nature  
(JPEG).

- When the claimed invention as a whole utilizes a law of nature, the invention is statutory, even if a part of it does not utilize a law of nature.  
(JPEG, affirmably cited in H19Gyo-Ke10056, IP High Court, 2007)

JPEG: Japanese Patent Examination Guideline

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### Patent law defines a statutory invention as

“A creation of technical ideas utilizing a  
law of nature.”

(Section 2.1 of Patent Law)

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### Ex. 1 from JPEG

- X A device storing music.
- O A device storing a test pattern for use in checking the performance of a television set.

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### Non-Patentable Examples

1. A method of doing business as such
2. A law of economics
3. A method of playing a game
4. A method of teaching
5. A method of calculating the sum of natural numbers  $n$  to  $n+k$  in accordance with the formula  $S=(k+1)(2n+k)/2$ .

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### Ex. 2 from JPEG × (Not Statutory Subject)

A method of determining a selling price of a product comprising the steps of:

attaching a label on the product to indicate a production time of the product, an expiration date and a list price at the production time; and  
determining the selling price at a selling time based on the formula:

Selling price =  $f$  (selling time) x list price, wherein the function  $f$  monotonously decreases from 1 to 0.

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**Ex. 2 from JPEG**      **O (Statutory Subject)**

A method of determining a selling price of a product in a cash register equipped with a reader for reading bar codes indicating a production time and an expiration date of the product and a list price of the product at the production time, a clock for outputting current time, arithmetic means for calculating the selling price, a display for indicating the selling price, the method comprising the steps of:

reading, by said reader, the bar codes attached to the product;  
outputting, by said clock, the current time;  
calculating, by said arithmetic means, the selling price based on a formula:

Selling price = f (selling time) x list price, wherein the function f monotonously decreases from 1 to 0; and  
indicating the selling price on the display.      (modified by RYUKA)

**Ex. 4 from JPEG**      **x (Not Statutory Subject)**

A storing method of articles distributed via a communication network, comprising the steps of:

receiving an article distributed via the communication network;  
displaying the received article;  
checking, by a user, if intended keywords exist in the text of the article; and  
if the keywords exist, storing the article on a storage.

**Ex. 3 from JPEG**      **x (Not Statutory Subject)**

A calculation apparatus to calculate the formula:

$$S = \{(m+n)^2 - (m-n)^2\} / 4$$

comprising:

means for inputting natural numbers n and m,  
arithmetic means for calculating S, and  
means for outputting the S.

**Ex. 4 from JPEG**      **O (Statutory Subject)**

A storing method of articles including texts, that are distributed via a communication network, comprising the steps of:

inputting intended keywords;  
receiving the article via the communication network;  
determining, by determination means, whether the intended keywords exist in the text included in the article; and  
if the keywords exist, storing the article on a storage.

(modified by RYUKA)

**Ex. 3 from JPEG**      **O (Statutory Subject)**

A calculation apparatus to calculate the formula:

$$S = \{(m+n)^2 - (m-n)^2\} / 4$$

comprising:

means for inputting natural numbers n and m;  
a table storing  $(k^2)/4$  in a manner such that  $(k^2)/4$  can be allocated by k;  
arithmetic means for calculating m+n and m-n;  
extracting means for extracting  $(m+n)^2/4$  and  $(m-n)^2/4$  from said table using m+n and m-m respectively as said k, and

means for outputting said S, wherein

said arithmetic means further calculates said S by subtracting said  $(m-n)^2/4$  from said  $(m+n)^2/4$ .

(modified by RYUKA)

**Ex. 5 from JPEG**      **x (Not Statutory Subject)**

A service method for offering service points depending on an amount of a commodity purchased at a shop on the Internet, comprising the steps of:

noting an amount of service points given and a name of a person to whom the service points are given;  
acquiring an e-mail address of the person from a customer list storage based on the name of the person;  
adding the service points to an accumulated points of the person stored in the customer list storage; and  
notifying the person that the service points have been given via e-mail using the e-mail address of the person.

**Ex. 5 from JPEG**      ○ (Statutory Subject)

A service method for offering service points depending on an amount of a commodity purchased at a shop on the Internet, comprising the steps of:

notifying a server of an amount of service points given and a name of a person to whom the service points are given via the Internet;

acquiring, by said server, an e-mail address of the person from a customer list storage based on the name of the person;

adding, by said server, the service points to an accumulated points of the person stored in the customer list storage; and

notifying, by said server, the person that the service points have been given via e-mail using the e-mail address of the person.

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**Ex. 7 from JPEG**      × (Not Statutory Subject)

A method of holding a party, comprising the steps of:

sending invitation e-mails to members on an invitation list, to invite the members to the party, with a message stating that those who respond early will receive a gift at the party;

receiving response e-mails responding to said invitation e-mails and confirming attendances;

registering an order of arrival of said response e-mails in the invitation list;

collecting party fees at a party reception desk; and

giving gifts in said order registered in said invitation list after collecting said party fees.

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**Ex. 6 from JPEG**      × (Not Statutory Subject)

A computerized card game machine, comprising:

means for assigning specific points of a score to a set of cards dealt, according to the complexity of the hand involved.

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**Ex. 7 from JPEG**      ○ (Statutory Subject)

An operation method of an information processing system for supporting party holding, said information processing system having a storage that stores an invitation message and a member list including e-mail addresses and names of members, and e-mail means for transmitting and receiving e-mails, said method comprising the steps of:

reading e-mail addresses from said member list stored in said storage;

transmitting to said email addresses, by said e-mail means, said message as invitation e-mails requesting attendance confirmation;

detecting response e-mails received by said e-mail means;

memorizing, in said member list stored in said storage, an order of detecting said response e-mails; and

outputting said order and names of those responded to said invitation e-mails, which are read from said member list stored in said storage.

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**Ex. 6 from JPEG**      ○ (Statutory Subject)

A computerized card game machine, comprising:

a memory for storing a hand data table in which a given set of cards is matched to specific hand data and a score data table in which the hand data is matched to scores;

means for assigning one or more pieces of hand data by retrieving said hand data table based on a set of cards previously selected;

means for finding one or more scores by retrieving the score data table using said one or more pieces of hand data; and

outputting means for outputting said one or more pieces of hand data and a total of said one or more scores.

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## Analysis of Examples

One can make a business method statutory by claiming what a computer does and reciting tables, databases, information, or temporary data stored in a storage or memory.

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## Drafting US applications ready for future Japanese filing

1. Describe hardware such as storages and memories, even if the hardware is not characteristic at all (even if it is a typical PC or cell phone).
2. Describe how software uses tables, databases, information, or temporary data.
3. Describe that the tables, databases, etc. are stored in a storage or memory.

## Advantages of the invention NOT considered for inventive step

1. Can process quickly
2. Can process a large amount of data
3. Can obtain uniform results

∴ Those are expected by computerization.

See "Differences of Arguments Against US Obviousness and JP Easiness OAs" for details.

Then:

Japanese claims can be amended in the future to show that the software cooperatively works with the hardware. This is essential for responding to a rejection for non-statutory subject matter.

Note that the claimed invention must also satisfy the novelty and inventive step requirements.

## Non Inventive examples of software invention (from JPEG)

1. Application to different fields
2. Addition of a commonly known means or replacement by equivalent
3. Software implementation of functions performed by hardware
4. Computerization of existing human transactions