

# Prosecuting Software Inventions in Japan

## 日本软件发明的审查



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**Confidential**

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# Program and Medium Claims

	JP	Cf. US
Program per se 程序	YES	NO
Computer Readable Storage Medium 计算机可读介质	YES	YES
Suggestion 建议	Rewrite 改写 Medium Claims 介质权项 ↓ Program Claims 程序权项	Rewrite 改写 Program Claims 程序权项 ↓ Medium Claims 介质权项

Providing software updates over the Internet directly infringes program claims, but not medium claims.

经互联网提供软件更新直接侵犯程序权项，但不侵犯介质权项

# Forms of Program Claims

## 程序权利要求的形式

- A program which makes a computer execute procedure A, procedure B, procedure C, ...  
一种程序，使计算机执行过程A、B、C
- A program which makes a computer operate as means A, means B, means C, ...  
一种程序，使计算机运行作为装置A、B、C
- A program which makes a computer realize function A, function B, function C, ...  
一种程序使计算机实现功能A、B、C

# Forms of Storage Medium Claims

## 存储介质权项的形式

- A computer-readable storage medium having a program recorded thereon, where the program makes the computer execute procedure A, procedure B, procedure C, ... 一种记录有程序的计算机可读介质，该程序使计算机执行过程A、B、C
- A computer-readable storage medium having a program recorded thereon, where the program makes the computer operate as means A, means B, means C, ... 一种记录有程序的计算机可读介质，该程序使计算机运行作为装置A、B、C
- A computer-readable storage medium having a program recorded thereon, where the program makes the computer realize function A, function B, function C... 一种记录有程序的计算机可读介质，该程序使计算机实现功能A、B、C

# Claim Form of Storage Medium Having Structured Data

## 具有结构化数据的存储介质的权项形式

A computer-readable storage medium having data recorded thereon, where the data comprises data structure A, data structure B, data structure C, ...

一种记录有数据的计算机可计介质，该数据包括数据结构A、B、C

# To support the program & recording medium claims in Japan in the future:

## 为了将来在日本支持程序和记录介质权项

Include standard descriptions such as below in the PCT and priority base applications. 在PCT及优先权基础申请中包含如下标准描述

[0052] Software programs are provided via a recording medium such as flash memory 2090 or optical disk 2095. The programs are installed from the recording medium to hard disk drive 2040, and read out to RAM 2020 by CPU 2000. The programs are then read by the CPU 2000 and make the CPU 2000 execute all steps that are described in this specification with reference to Figs -- and --.

经记录媒介提供软件程序，该程序安装到硬盘上，并由CPU读取到RAM中。该程序被CPU读取并使CPU执行各步骤。

# Software Inventions for a New Business Method

## 用于新商业方法的软件发明

Pure Business Method 纯商业方法	NO 不允许
Software Invention for a New Business Method 用于新商业方法的软件发明	YES, if: the software specifically cooperates with hardware(Japan Patent Examination Guidelines) 如果软件具体与硬件相配合则可以
Suggestion 建议	Recite cooperative relationships with hardware in claims. Include more specific cooperative relationships in the specification so that they can be recited in the claims after filing. 在权项中引入与硬件的配合关系。在说明书中包含更具体的配合关系，以便将来递交后能引入到权项中。

# JPEG\* Ex. 1 (NOT Statutory Subject Matter)

## 不合法主题的举例1

\* Japan Patent Examination Guideline

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.

一种经通信网络保存分发文章的方法，包括：

经网络接收文章；

显示接收到的文章；

由用户检查目标关键词是否存在于文章中；

若是，则在存储器上保存所述文章。



# JPEG Ex. 2 (Statutory Subject Matter)

## 合法主题的举例2

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

- receiving articles distributed via communication network;
- displaying the received articles;

- determining whether intended keywords exist in texts of the said articles by article storing determination means, and if exist, giving “save” command from the said determination means to an article storing execution means; and
- storing the said article given “save” command on the article storage means.

一种存储经网络分发的文章的方法，包括：

- 经网络接收文章；

- 显示接收到的文章

- 由文章存储确定装置确定目标关键词是否存在于文章中；

- 若是，则由确定装置向文章存储执行装置发送“存储”命令；

- 根据“存储”命令将文章保存在文章保存装置中。

# JPEG Ex. 3 (NOT Statutory Subject Matter)

## 不合法计量的举例3

A service method for offering service points depending on an amount of commodity purchased at a shop on the Internet, comprising the steps of:  
notifying an amount of service points offered and a name of a person to whom the said service points are offered via the Internet;  
acquiring the e-mail address of the said person from a customer list storage means based on the name of the said person;  
adding the said service points to the accumulated points of the said person stored in the said customer list storage means; and  
notifying to the said person that the said service points have been given via e-mail using the e-mail address of the said person.

一种服务方法，根据商品购买量提供积分，包括：  
记录已积分数量和接受积分的人名；  
获取此人的邮件地址；  
在该人的累计积分上增加积分；  
经邮件通知该人。

# JPEG Ex. 4 (Statutory Subject Matter)

## 合法主题的举例4

A service method for offering service points depending on an amount of commodity purchased at a shop on the Internet, comprising the steps of:  
notifying a server of an amount of service points offered and a name of the person to whom the said service points are offered via the Internet;  
acquiring by said server, the e-mail address of the said person from a customer list storage means based on the name of the said person;  
adding by said server, the said service points to the accumulated points of the said person stored in the said customer list storage means; and  
notifying by said server, to the said person that the said service points have been given, by e-mail using the said e-mail address of the said person.

一种服务方法，根据商品购买量提供积分，包括：  
经互联网向服务器通知积分量及人名；  
由服务器获取该人的邮件地址；  
由服务器在该人的累计积分上加上积分；  
由服务器通知该人。

# JPEG Ex. 5 (NOT Statutory Subject Matter)

## 不合法主题的举例6

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.

一种计算机化卡牌计算机，包括：  
装置，根据参与手的复杂性向一组牌位分发具体的点  
数。

# JPEG Ex. 6 (Statutory Subject Matter)

## 合法主题的举例6

A computerized card game machine, comprising:

means for memorizing a scoring hand data table in which a given set of cards is matched to specific scoring hand data, and a score data table in which the scoring hand data are matched to the score data;

means for assigning corresponding scoring hand data by retrieving said scoring hand data table based on a set of cards selected, assigning corresponding score data by retrieving the score data table on the basis of the applicable scoring hand data, and

outputting all of the scoring hand data and total points scored.

一种计算机化卡牌游戏机，包括：

装置，保存给定组的卡牌与具体手数据相匹配的手数据表以及手数据表与点数相匹配的点数据表；

装置，通过调用手数据表来分发手数据，并通过调用手数据表来分发点数据；  
输出装置，输出手数据和总点数。

Including a standard computer block diagram into priority base and PCT applications to support business method claims in Japan 在优先权基础及PCT申请中包含标准计算机模块图，以支持日本的商业方法权项

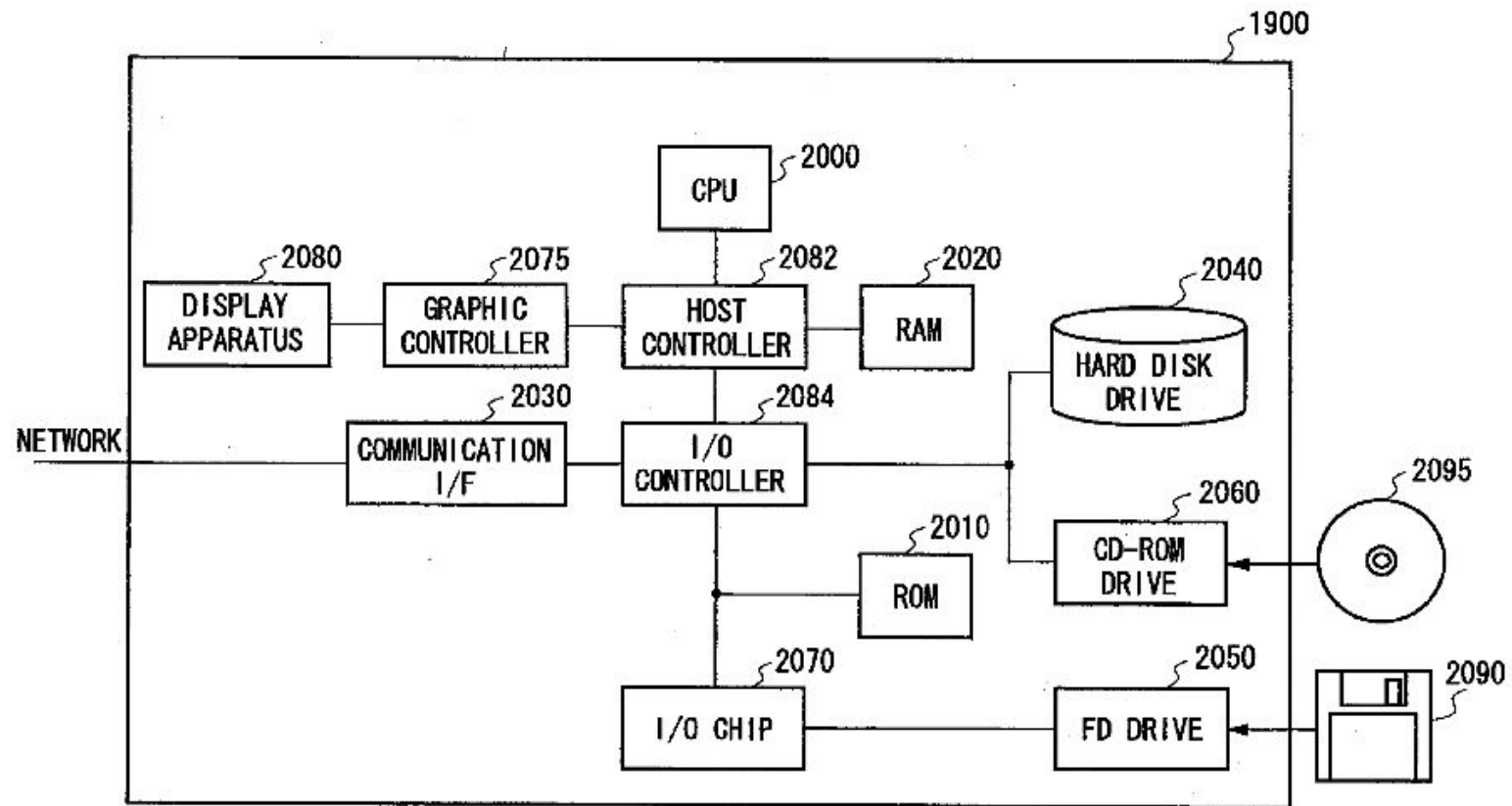


FIG. 4

## Describing cooperation with hardware in priority base and PCT applications to support business method claims in Japan 在优先权基础和PCT申请中描述与硬件相配合以支持在日本的商业方法

A simple description like below still helps significantly.

如下这种简单描述能带来很大帮助

[0050] CPU 2000 may read data files --- from hard disk drive 2040, process them, and rewrite the files --- to hard disk drive 2040 again. Tables --- and ---, and data/information --- and --- described in the embodiments can be read from hard disk drive 2040 and temporarily stored in RAM 2020 by CPU 2000. CPU 2000 may then read tables ----, and --- and data/information --- and --- from RAM 2020, process them, and store them to RAM 2020 again. A Graphic controller displays images created by CPU 2000 on display apparatus 2080. CPU能够从硬盘读取文件，处理并将其写回硬盘。实施例中描述的表格、数据/信息能够被从硬盘中读取并临时保存于RAM中。CPU从RAM读取他们并在处理后保存到RAM中。图像控制器将由CPU产生的图像显示在显示装置上。

# Functional Claims of Software Inventions

## 软件发明的功能权项

	JP	Cf. US	Cf. EP
<b>Scope of Protection</b> <b>保护范围</b>	<p>Anything capable of realizing the function.            能实现该功能的任何东西</p> <p>(although the scope is often limited to what is disclosed in the specification            但该范围经常被限制于说明书所公开的内容)</p>	<p>Limited to the embodiments disclosed in the specification and their equivalents only.            仅限制于说明书所公开的实施例及其等价物</p> <p>35 USC §112, 6th paragraph</p>	<p>Anything capable of realizing the function.            能实现该功能的任何东西</p>
<b>Suggestion</b> <b>建议</b>	<p><b>Draft functional claims.</b>            撰写功能权项</p>	<p>Consider adding structural claims that recite structural features.            考虑增加引入结构特征的结构权项</p>	<p>Draft functional claims.            撰写功能权限</p>



# Multiple Dependencies of the claims

## 权利要求的多项引用

	JP, EP	Cf. KR, CN	Cf. US
Multiple layers of multiple Dependencies 多层次的多项引用	<p>YES 允许 Good for future mendments 将来更易修改</p> <p>More possibilities to have dependent claims examined 从权被审查的可能性更高</p>	NO 不允许	NO 不允许
Single layer of multiple Dependencies 单层次的多项引用	<p>YES 允许 Counted as one claim for determining claim fees* 算作一项来计费 *JPY4000 after the first claim in JP *EU225 after 15 and EU555 after 50 in EP JP第1项以后、EU第15及50项以后</p>		<p>YES, but: 允许但: A surcharge of \$780 is required and each dependency is counted as one claim 每一引用被当作一权项收费</p>

# Claim Dependencies in PCT Applications

## PCT申请中的引用关系

- Will enter into JP or EP 打算进入日本或欧洲
  - Multiple layer of multiple dependencies 多层次的多项引用

Will NOT enter into JP or EP, but will enter CN or KR

打算进入CN或KR而不进入JP或EP

- Single layer of multiple dependencies 单层次的多项引用

Single dependencies are not suggested in PCT applications.

在PCT申请中不建议单个引用关系

- Much easier to reduce the dependencies than to add dependencies at a later stage 将来的减少比增加更容易
- Adding dependencies at a later stage may introduce a new matter. 将来增加引用关系会导致新主题
- US claims can be changed at the entry by filing a continuation application (bypass application) from the PCT. 美国权项在进入时可修改，通过递交基于PCT的CA申请（过路申请）

# Thank you very much 非常感谢 about RYUKA 关于龍華

Despite the world recession, RYUKA represented a record number of patent applications in 2009 and 2010. 264 patent applications in total were transferred to us from various major law firms in 2009. 尽管世界不景气，但龍華依然在2009和2010年中实现了创记录的申请量。在2009年，总共有来自于各主要事务所的264件专利申请进入US。

The reason for this is our commitment to proactive communication. Proactive communication leads us to a deeper understanding of our clients' goals. 主要原因是我们主动沟通，这使我们更深入地了解我们客户的目标

At RYUKA, we strive to learn more and strengthen our creative processes for the benefit of our valued clients and society. 我们努力学习更多，增强自我创新能力，为尊敬的客户和社会带来效益

