

**INTERACTIVE DENTAL TREATMENT NETWORK CASE**  
**STATUTORY SUBJECT MATTER**  
**IP High Court**  
**CASE 2007(Ne) 10639(2008.6.24)**

**HOLDING**

When a claim includes a limitation relating to mental activity of a human being, but as a whole utilizes a law of nature, the claimed subject matter may still be construed as statutory subject matter pursuant to Article 29(1) of the Japanese Patent Law.

**FACTS**

The Plaintiff filed a patent application for an invention relating to a dental treatment system. The system includes a computer located in a dental clinic and a network server including a database and connected to the computer via a network. Claim 1 is as follows.

1. A dental treatment system based on a computer, comprising:
  - a network server including a database that stores information on a material of dental prosthetic material, a method of treatment, and a preparation;
  - a communication network for providing an access to the network server;
  - one or more computers for accessing information stored in the database and displaying the information in a human-readable form, the computers being installed in a dental clinic;
  - means for judging a dental renovation to be required; and
  - means for establishing an initial treatment plan including a design standard of a preparation for dental prosthetic material used in the dental renovation,
  - the communication network being operative to transmit the initial treatment plan to a dental technician room, and
  - the communication network being operative to transmit a final treatment plan including amendment to the initial treatment plan as required.

The appeal board of the Japan Patent Office (the Defendant) stated that the underlined part of claim 1 relates to mental activity of a human being and does not utilize a law of nature. Accordingly, the board found that the subject matter of claim 1 is not an "invention" as provided in Article 29(1) of the Patent Law and upheld the rejection of the patent application. The plaintiff appealed to the IP High Court seeking a cancellation of the appeal decision.

## **ISSUE**

When a claim includes a limitation pertaining to mental activity of a human being, may the claimed subject matter still be deemed an "invention" (i.e., statutory subject matter) as provided in Article 29(1) of the Patent Law?

## **HOLDING**

The IP High Court judged that even if a claim includes a limitation pertaining to mental activity of a human being, the claimed subject matter cannot be excluded from the scope of patent protection/statutory subject matter, insofar as the essence of the claimed subject matter provides a way of supporting the mental activity of a human being, or a technical solution for replacing the mental activity.

In the present case, the underlined part of claim 1 includes a component driven by human activity. Although mental activity in the form of evaluation or judgment is necessary for implementing the subject matter of claim 1, as a whole the claimed subject matter of claim 1 is far from being purely mental activity. Rather, it includes "a network server including a database", "a communication network", "a computer installed in a dental clinic", and "a device for displaying an image and processing an image", and provides a technical solution for supporting dental treatment. Therefore, the subject matter of claim 1 corresponds to "the highly advanced creation of technical ideas by which a law of nature is utilized", as defined in the Patent Law 2(1), and thus the appeal decision should be cancelled.