INTELLECUTAL PROPERTY HIGH COURT OF KOREA

TWENTY FOURTH - SECOND DIVISION

DECISION

Case No.	2021Na1374 Injunction against Infringement, etc.
Plaintiff, Appellant	Corporation A
	Representative Internal Director B
	Attorney for Plaintiff BH Law Firm
	Attorney in Charge Jeong Woo Choi, So Jung Kim, Dong Hyeon Oh, Song Ha Lee
Defendant, Appellee	Corporation C
	Representative Director D
	Attorney for Defendant Barun Law LLC.
	Attorney in Charge Yeon Yoo, Yeong Hoon Jeong, Jae Ho Kim
District Court's Decision Date	Apr. 16, 2021 Seoul Central District Court Decision 2018GaHap543692
Date of Closing Argument	Dec. 22, 2021
Decision Date	Jan. 21, 2022

ORDER

1. The Plaintiff's appeal is dismissed.

2. The cost arising from this appeal shall be borne by the Plaintiff.

PLAINTIFF'S DEMAND and APPELLANT'S DEMAND

The lower court's decision shall be revoked.

The Defendant shall not distribute and use the "paybooc app payment" described in paragraph 1 of the Attached Form in Korea. The Defendant shall delete the "paybooc app payment" described in paragraph 1 in relation to the server described in paragraph 2 of the Attachment.

OPINION

1. Background

A. Patented Invention at Issue (hereinafter, the "Subject Invention")

1) Title of Invention: Method and system for e-commerce credit card payment agency through mobile handset

2) Filing Date of Application/ Date of Registration/ Registration Number: Jul. 3, 2012/ Feb. 26, 2014/ No. 1369905

3) Patentee: Plaintiff

4) Claims

[Claim 1] An e-commerce credit card payment agency system where a payment agency server processes a credit card payment of a credit card company's payment server for at least one payment agency request terminal (hereinafter, **"Element 1"**), comprising: a payment agency request handling unit (hereinafter, **"Element 2**") that extracts identification information from payment agency request signal received from a payment agency request terminal, extracts identification information from payment method information received from the purchaser's mobile handset, and matches such extracted identification information with the corresponding payment agency request signal and payment method information; and a payment approval request handling unit (hereinafter, **"Element 3**") that generates a payment-approval-request signal including seller franchise information, the payment amount, credit card information, etc. from the matched payment agency request signal and payment method information, and transmits the payment approval request signal to the card company payment server, wherein the payment agency request signal is generated in the payment agency request terminal to include the seller franchise information, the payment amount, the identification information, etc. (hereinafter, **"Element 4"**), wherein the payment method information is generated in the mobile handset to include the credit card information, the identification information, etc. (hereinafter, **"Element 5"**), wherein the identification information in the form of a character string is generated in the payment agency server so that the payment agency server can uniquely identify the purchaser in the payment agency request or the act of requesting payment agency itself within a limited time, and the identification information is transmitted from the payment agency server to the payment agency request terminal or the mobile handset to generate payment agency request signal and the payment method information stated above(hereinafter, **"Element 6"**).

[Claims 2 and 3] Omitted

[Claim 4] The e-commerce credit card payment system according to claim 1, wherein the identification information enables the payment agency server to identify the act of payment agency request at least within a limited time, and is generated for each purchase activity.

[Claim 5] Deleted

[Claims 6 and 7] Omitted

[Claims 8 and 9] Deleted

[Claim 10] An e-commerce credit card payment agency method in which a payment agency server processes credit card payment for at least one payment agency request terminal, comprising: a step where, if a purchaser's intent to request payment is delivered to the payment agency request terminal, the payment agency server receives from the payment agency request terminal the generated payment agency request signal that includes seller franchise information, payment amount and conditions information, and identification information of a payment agency request; a step where the payment agency server, upon receiving the payment agency request signal, receives from a purchaser's mobile handset, payment method information generated, such as credit card information and identification information of a payment agency request ; a step where the payment agency server compares the identification information in the payment agency request signal with the identification information in the payment method information and matches the payment method information with the payment agency request signal based on the identification information; and a step where the payment agency server generates a payment approval request signal based on franchise information of a shopping mall, payment amount and terms information, and credit card information, which are extracted from the matched payment agency request signal and the payment method information, and transmits the signal to the card company's payment server, wherein the identification information in the form of a character string is generated by the payment agency server so that the payment agency server can uniquely identify the purchaser in the payment agency request or the act of requesting payment agency itself at least within a limited time, and the identification information is transmitted from the payment agency server to the payment agency request terminal or the mobile handset to generate payment agency request signal and the payment method information stated above

5) Main Content of the Summary of the Invention

a. Technical Field

[0001] The present invention relates to e-commerce, and more particularly to a credit card payment technology in e-commerce.

b. Technological Background

[0002] As e-commerce using the Internet has become active, small-scale distributors who are unable to set up their own payment agency systems, or large-scale sellers who want to outsource payment agency system are increasingly accessing credit card companies' payment agency system through payment agency companies.

[0003] Typically, in some countries, online payment agency uses payment plugins. When a purchaser who accesses a seller's shopping mall website tries to make a payment, an appropriate payment plugin is installed on the web browser of the purchaser's PC from the server of the payment agency which the seller entrusted

payment. The payment plugin provides the payment server of credit card company with the card information, payment information, and authentication information previously registered by the purchaser together with a payment approval request. The card payment is approved based on the card information, payment information, and authentication information received by the payment server of the credit card company and the result thereof is transmitted to the payment plugin. When the plugin delivers the payment result to the seller's server, the purchase is completed on the seller's shopping mall website.

[0004] However, such online payment agency method requires development of a separate plug-in for payment depending on the type of the web browser, so the plug-in is implemented only in a specific web browser due to the policy of the payment agency companies. In addition, the installation of the plug-in for payment on web browsers cannot be enforced due to the policies or practices in each country.

[0005] If an online shopping mall can have its own payment agency system, it can use web browser's encryption transmission. When a purchaser who accesses the seller's shopping mall website makes payment and directly enters his/her the card information on the website, the card information is encrypted and transmitted. With the plug-in method stated above, the purchaser could register the card information in advance, but with the web browser method, the purchaser must enter the card information at each payment.

[0006] If a small seller is not able to have its own online payment agency system, it must use an escrow service of payment agency, such as PayPal, etc., but the fees are high.

[0007] All the three methods perform the three steps of buying, payment requests, and entering of credit card information, on the purchaser's PC. If a PC used by a purchaser is located in a public place, or is used jointly by many purchasers, it may be difficult to install a plug-in and thought to be vulnerable in terms of security.

c. Problem to Be Solved

[0008] The present invention is intended to provide a credit card payment agency method and a payment agency system for e-commerce using a mobile handset, enabling shopping with credit cards even on a PC whose security is unreliable by performing a purchasing step on the PC and a payment request step on the mobile handset.

d. Effect

[0046] It is possible to securely make a payment with a credit card even on a PC in a public place where security is unreliable, or a PC that is used by many people.

[0047] A seller does not have to develop a separate plug-in for each type of web browser, and can be free from the burden of installing a security program for protecting the credit card information.

[0048] The purchasing step and the payment step are separated from each other and carried out on different devices. As a result, it is not necessary to install a plug-in separately for the payment on a PC, because purchasers do shopping on the PC but do not make payment there. Also, they do not need to enter their credit card information on a web browser whenever purchasing goods.

[0049] Because the credit card information is not transmitted to the seller, the purchaser can shop on the online shopping mall with low security reliability, and the seller can save the cost for improving the security reliability.

e. Main Drawings

[0054] According to FIG. 1, an e-commerce credit card payment agency system (10) using a mobile handset can be deployed through a purchaser's PC (100), a purchaser's mobile handset (200), a seller's payment agency request terminal (300), a payment agency server of a payment agency company (400), a payment

server (500) of a card company, the Internet (600), and a mobile communication network (700).

[0055] According to the embodiment, the purchaser's PC (100) may be a desktop computer, or an information communication device, such as a laptop computer, or tablet PC which has an internet access (600) and has a predetermined web browsing capability.

[0056] The purchaser does not necessarily have to use his/her own PC (100) for the transaction, and the present invention can be used when the seller makes a one-to-one deal with the seller at an offline store as well.

[0057] The mobile handset (200) may be a portable communication device, such as smartphone, PDA, etc., capable of accessing the Internet (600) and installing and running an application desired by the user. The mobile handset (200) may also be a cellular phone using the mobile communication network (700).

[0058] The purchaser, carrying the mobile handset (200), accesses the payment agency request terminal (300) through the web browser or the terminal access program installed in his/her own PC (100). By doing so, the purchaser performs an online shopping, specifies the goods to be purchased, and delivers his/her intent to request payment to the payment agency request terminal (300).

[0059] The payment agency request terminal (300) is an information communication device which can access the payment agency server (400) of the payment agency company and can use the payment agency service, and may be a shopping mall server of an online shopping mall, a POS terminal of an offline store, a credit card payment terminal, or a personal computer, or a smartphone of an individual seller.

[0060] The payment agency request terminal (300) generates a payment agency request signal including seller franchise information, payment amount and payment terms information, and identification information of payment agency request, and transmits the generated payment agency request signal to the payment agency server (400).

[0061] Here, the identification information of the payment agency request is the information for identifying the purchaser associated with the payment agency request, or the act of the payment agency request itself uniquely, that is, at least within a limited time. Hereinafter, the identification information refers to the identification information of the payment agency request, unless described otherwise.

[0062] According to the embodiment, the identification information of the payment agency request may be repeatedly used, or discarded after used once.

[0063] For example, as for the identification information used repeatedly to identify the purchaser, it could be a character string entered by the purchaser as member account of the shopping mall website, or the information related to hardware of the mobile handset (200), for example, a MAC address, manufacture serial number, IMEI, etc. It could also be the service identification number of the Internet or mobile communication, such as an IP address or telephone number of the purchaser's mobile handset (200).

[0064] As for the one-off identification information to identify the act of the payment agency request activity, it could be uniquely specified character string entered by the purchaser as an arbitrary character string on a web browser, or generated arbitrarily by the web browser of the purchaser's PC(100), the payment agency request terminal (300), or the payment agency server (400).

[0065] When the purchaser makes an offline transaction without the purchaser's PC (100), the purchaser's mobile handset (200) generates an arbitrary character string as the one-off identification information, and transmits the generated character string to the payment agency request terminal (300) using short-range wireless communication such as NFC, etc. Alternatively, the seller may directly enter the string displayed on the mobile handset (200) of the purchaser.

[0066] Meanwhile, after the purchaser completes the purchase of goods on his/her PC (100) and makes a

credit card payment request to the payment agency request terminal (300), or after the seller selling goods to the purchaser enters the credit card payment request to the payment agency request terminal (300), the purchaser transmits the payment method information including credit card information and identification information of a payment agency request necessary for the payment from his/her mobile handset (200) to the payment agency server (400).

[0067] At this time, if the identification information of the payment agency request is a telephone number of the mobile handset (200) or a character string generated by the mobile handset (200) itself, the purchaser may not enter it, and the mobile handset (200) may transmit its own telephone number or a self-generated character string. If the identification information of the payment agency request is a character string arbitrarily and uniquely generated from the payment agency request terminal (300), the payment agency server (400), or the purchaser's PC (100) when the purchaser makes a payment request, the same character string can be entered into the mobile handset (200) and transmitted.

[0071] The payment agency server (400) extracts the seller franchise information, payment amount and condition information, and identification information of the payment agency request from the payment agency request signal received from the payment agency request terminal (300), and extracts the credit card information and the identification information of the payment agency request from the payment method information received from the purchaser's mobile handset (200).

[0072] The payment agency server (400) compares the identification information extracted from the payment agency request signal with the identification information extracted from the payment method information. If they are identical, the payment approval request signal including the payment agent information, the seller's franchise information, payment amount and condition information, and credit card information is generated.

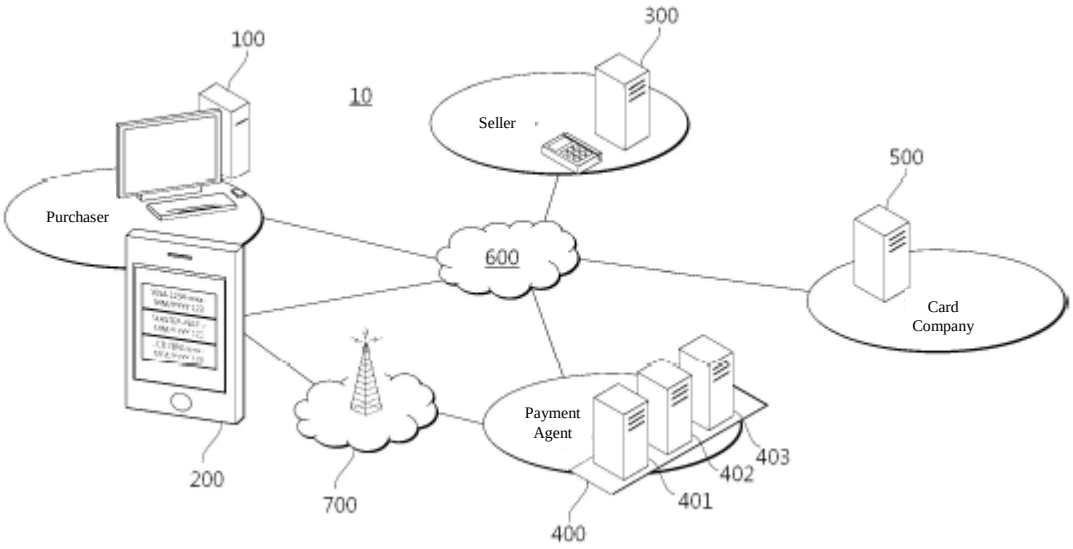
[0074] The payment agency server (400) can check whether the payment method information having the same identification information as the identification information extracted from the payment agency request signal is received, or conversely, search for the payment agency request signal having the same identification information as the identification information extracted from the payment method information. Thus, the payment agency server (400) can match the credit card information with the payment agency request activity received from the payment agency server (400) through different routes at different points in time.

[0077] Even if the seller does not have a device specializing in credit card payment, such as a POS terminal, etc., the seller can make the credit card payment agency request at any place and at any time by running the payment agency request software provided by the payment agency server (400) on the PC or smartphone.

[0078] The payment agency server (400) transmits the payment approval request signal thus generated to the credit card company payment server (500).

[0119] Further, the apparatus according to the present invention can be implemented as a computer-readable code on computer-readable recording media. Computer-readable recording media include all kinds of recording apparatus in which computer-readable data are stored.

f. Representative Drawing



[FIG. 1]

B. Defendant's Description of "paybooc app payment"

In June 2017, Corporation E and the Defendant entered into an "agreement on entrusted operation of login payment service" to entrust the development of system for card approval service, a software that transmits encrypted card information for safe transactions of credit card payment of member customers. Thereafter, the Defendant has developed and operated, in accordance with the agreement stated above, the "paybooc app payment" technology (hereinafter, the "paybooc technology"**)**, which is a "QR code interface payment" system with which the card payment can be made conveniently by scanning a QR code or entering a payment code.

[Factual Basis] Undisputed facts, statements in Plaintiff's Exhibits 1 through 4 and 7 through 16 and Defendant's Exhibit 1, images in Plaintiff's Exhibit 20, purport of the overall argument.

2. Plaintiff's Arguments

The details of the paybooc technology developed and operated by the Defendant are as described in the Attached Form. The drawing shown below (hereinafter, the "Technology Flowchart Argued by the Plaintiff"**)** illustrates the paybooc technology in term of time series.[1] The paybooc technology's e-commerce credit card payment agency system includes all elements of Claims 1 and 4, and the technology's e-commerce credit card payment agency method includes all elements of Claim 10.

For this reason, it may be deemed that the Defendant's development and operation of the paybooc technology constitutes infringement of the patent right to Claims 1, 4, and 10. Thus, the Defendant is under obligation of not distributing and using, and deleting of what is described

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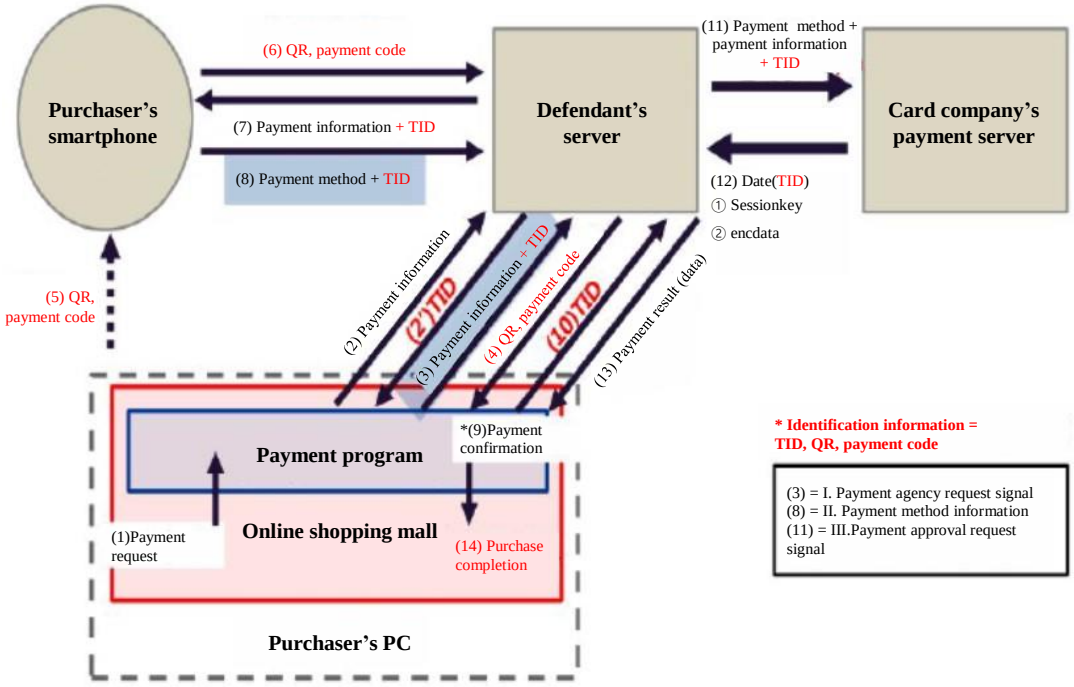
[1] The Plaintiff finally organized its arguments as to the features of the paybooc technology in light of an attachment to the amendment dated Jun. 21, 2021 and the References 1 and 3 in the technology review data dated Nov. 20, 2020 (the first pleading brief of this court).

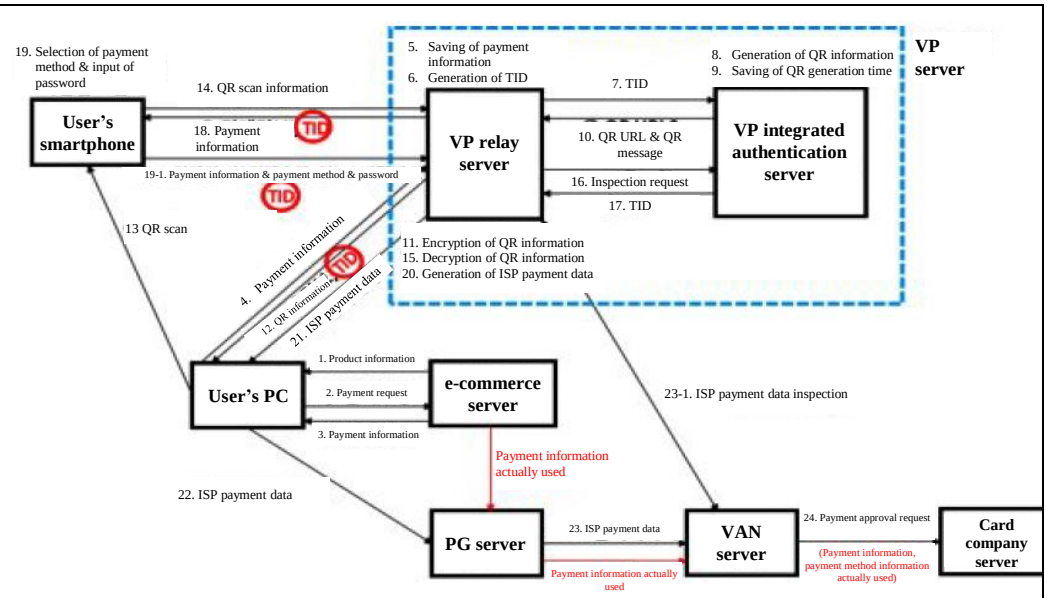
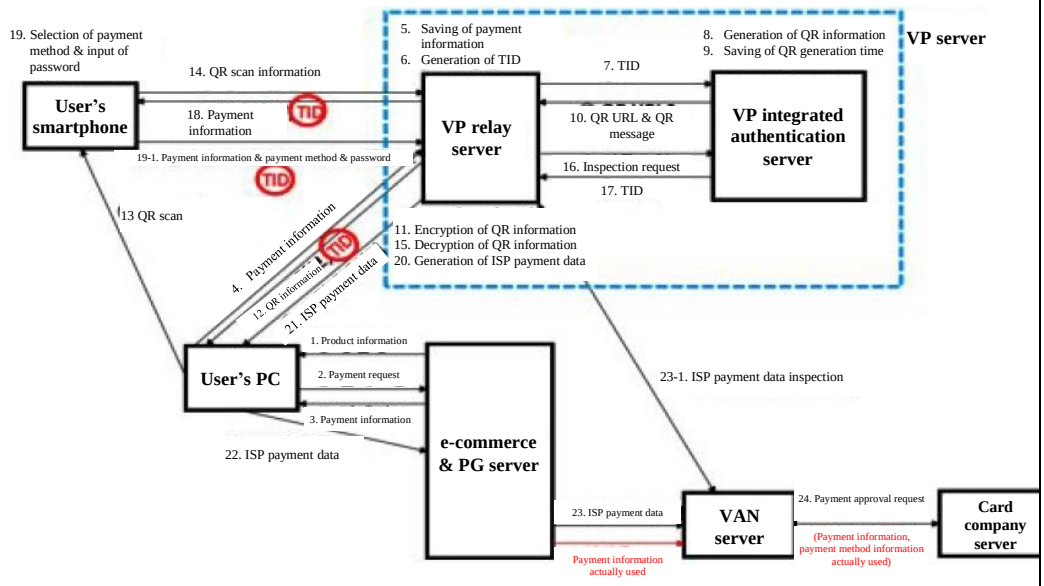
in PLAINTIFF'S DEMAND.



3. Infringement of Patent Right of Claim 1

A. Issue

1) As to the Plaintiff's argument of infringement of the patent right, the Defendant argues the following: as illustrated below, the paybooc technology may be described in terms of time series depending on the existence of the Payment Agency (PG), and since the paybooc technology authenticates a purchaser only in a server operating the technology, it is completely different from the Subject Invention; and the "payment agency request terminal" described in Claim 1 is not included in the paybooc technology as it is. In this regard, the Plaintiff argues that a technical element of the "purchaser's PC" equipped with the "payment program" in the Defendant's paybooc technology is configured as a corresponding element identical to the payment agency request terminal of Claim 1.

Where an online shopping mall server is separated from PG	
Where an online shopping mall server is integrated with PG	

2) Thus, in order to determine whether the Defendant's development and operation of the paybooc technology constitutes infringement of the patent right to Claim 1, it is necessary to determine the technical configuration of the "payment agency request terminal" described in Claim 1.

B. Technical Element of "payment agency request terminal" Described in Claims

1) Relevant Law

In determining the scope of protection of a patented invention, even if the meaning of a term described in the claims is clear, if the details of the technical element could not be known from the term, the scope of protection of the patented invention shall be determined by confirming technical elements that the term describes in reference to the summary and drawings of the invention (Supreme Court Decision 2007Hu883, decided Jun. 14, 2007). Further, even though, in principle, the scope of protection of a patent right shall be decided by what is described in the claims,

in cases where the claims include specification of the article by its function, effects, property, etc. and thus the details of the technical element could not be known from the description of such term only, the technical element of a patented invention shall be decided in light of the summary of the invention, drawings, etc. (Supreme Court Decisions 2005Da77350, 77367, etc. decided on Feb. 28, 2008).

2) Analysis

a) In Claim 1, the term "terminal" in the description "payment agency request terminal" may be understood as a general meaning of a "hardware where software is installed (combined)" (in this regard, both parties do not argue).[2] Further, the term "payment agency request" in the above description is understood to mean the "credit card" payment agency request, as shown in the descriptions of the claims to the effect that "an e-commerce credit card payment agency system where a payment agency server performs a credit card payment procedure for a credit card company payment server for at least one payment agency request terminal".

However, considering the technical field to which the Subject Invention belongs, it may not be deemed that the technical meanings of the description in the claims or the details of technical elements are clearly understood only in light of fact that the general meaning of the terms such as "payment agency request", "terminal", etc. could be understood as such. Also, even if it is deemed that the description of the claims of a "payment agency request" corresponds to a so-called "functional expression" that specifies articles with their function, effect, etc., it is difficult to understand the details of a technical element only from such description. Thus, hereinafter, the details of the technical element of the "payment agency request terminal" will be confirmed objectively and reasonably in light of Claim 1, descriptions, and drawings in the specification (Plaintiff's Exhibit 4) of the Subject Invention, etc.

b) First, according to the descriptions of Claim 1, the payment agency signal generated by the payment agency request terminal includes the "seller franchise information, payment amount information, and identification information" (Element 3). The seller franchise information and the payment amount information are generated by the seller. However, Claim 1 and other parts of the application do not describe the fact that the payment agency request terminal receives such information from the seller (this is different from what is clarified in the claims: the identification information in the form of a character string is generated in the payment agency server and "is transmitted from the payment agency server to the payment agency request terminal or the mobile handset" (Element 6)).

Therefore, according to Claim 1, the payment agency request terminal in Claim 1 premises to hold the information generated by the seller, such as the

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[2] See the first pleading brief of this court.

seller franchise information, the payment amount information, etc., even without the technical means to receive them from the seller.

c) The specification of the Subject Invention describes the following three methods as the prior art for an online payment agency method: a payment plug-in installed in a web browser of the purchaser's PC from a payment agent ([0003]); an online shopping mall having its own payment agency system and using a web browser's encryption and transmission function ([0005]); and a small seller unable to have its own online payment agency system using the payment agency escrow service ([0006]). The specification also describes the following problem: all the three methods perform the three steps of shopping, payment request, and entering of credit card information on "the purchaser's PC"; and if a "PC used by a purchaser" is located in a public place, or is used jointly by multiple purchasers, it may be difficult to install a plug-in and it may be deemed that it is vulnerable in terms of security ([0007]). Further, the specification specifies that "the present invention is intended to provide a credit card payment agency method and a payment agency system for e-commerce using a mobile handset, enabling shopping with credit cards even on a PC whose security is unreliable, by performing a purchasing step on the PC and a payment request step on the mobile handset." ([0008]). Moreover, the specification describes, as the effect of the invention, the following: "it is possible to securely make a payment with a credit card even on a PC in a public place where the security is unreliable, or a PC that is jointly used by many people" [0046]; and "the purchasing step and the payment step are separated from each other" and carried out on different devices. As a result, it is not necessary to install a plug-in separately for the payment on a PC, because purchaser "do shopping on the PC" but "do not make payment there". Also, they do not need to enter their credit card information on a web browser whenever purchasing goods ([0048]).

In light of the above descriptions, Claim 1 has the following as a problem to be solved: only the purchasing step is performed on the "purchaser's PC (PC used by the purchaser)" and the payment agency request step is separated from the purchasing step; and it is possible to do an online shopping even on the purchaser's PC whose security cannot be relied upon. However, the there is no description in the specification of the Subject Invention that indicate the purchaser's PC whose security may not be relied upon will perform beyond purchasing step to the payment agency request step.

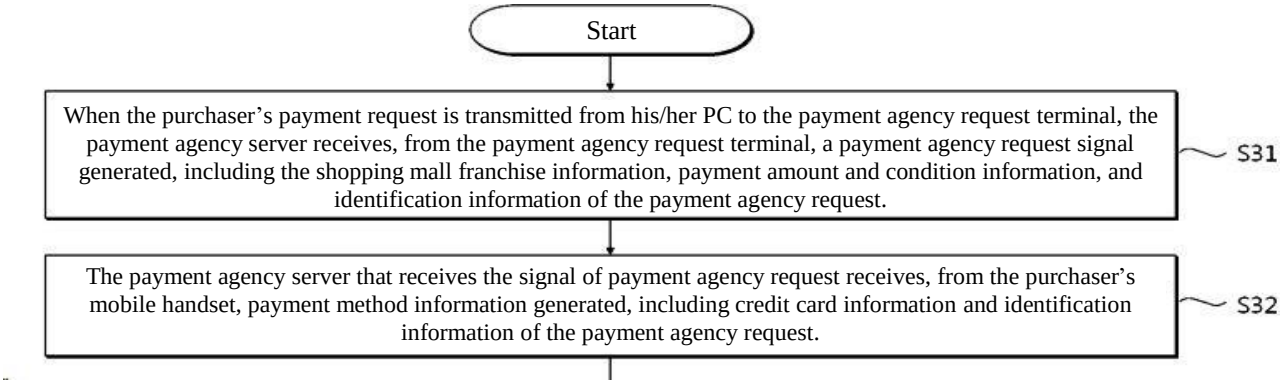
d) Meanwhile, as examined above, the specification of the Subject Invention uses only the expression "mobile handset", and therefore it may be difficult to deemed that the expression is construed as a terminal (information communication device), not purchaser's PC.

However, given the fact that the specification of the Subject Invention describes the following as the background technology: "As e-commerce using the Internet has become active, small-scale distributors who are unable to set

up their own payment agency systems, or large-scale sellers who want to outsource payment agency systems are increasingly accessing credit card companies' payment agency system through payment agency companies." ([0002]); "If an online shopping mall can have its own payment agency system, it can use web browser's encryption transmission" ([0005]); and "If a small seller is not able to have its own online payment agency system, it must use an escrow service of payment agency, such as PayPal, etc., but the fees are high." ([0006]), it may be said that in the Subject Invention has, as its technological background, those who request payment or payment agency in the field of e-commerce credit card payment technology are sellers who operate an online shopping mall, etc. In light of these circumstances and the problem to be solved by the Subject Invention, it would be reasonable to understand that the term "mobile handset" indicates a terminal of the "seller" who makes a payment agency request and may not be deemed to indicate a terminal of the "purchaser".

The specification of the Subject Invention describes, as to the details to practice the invention, the following: (1) "The purchaser accesses the **payment agency request terminal (300**) by using the web browser or the exclusive access program **in his/her own PC (100)** while carrying the mobile handset (200). Further, the purchaser performs the online shopping, specifies the goods to be purchased, and delivers his/her intent to request payment to the payment agency request terminal (300)" ([0058]); (2) "The payment agency request terminal (300) is an information communication device which can access the payment agency server (400) of the payment agent and can use the payment agency service, and may be a shopping mall server of an **online shopping mall**, a POS terminal of **an offline store**, a **credit card payment terminal**, a personal computer, or a smartphone of an individual **seller**" ([0059]); (3) "If the seller operates the online shopping mall, the payment agency server (400) can receive the **payment agency request signals** and the payment method information from the **seller**'s online shopping mall server and the purchaser's mobile phone, respectively" ([0075]); (4) "If the seller operates the offline store, the payment agency server (400) may receive **the payment request signal** from the **seller**'s POS terminal or the credit card payment terminal and receive the payment method information from the purchaser's mobile phone. Even if the seller does not have a device specializing in credit card payment, such as a POS terminal, the **PC, the smartphone, etc. which the seller can control**, can run a software for the payment agency request provided by the payment agency server (400). Thus, the credit card payment agency request can be made at any place and at any time" ([0076]–[0077]); and (5) "According to FIG. 3, in step S31, when a payment request is transmitted from the **purchaser's PC** (100) to the **payment agency request terminal** (300) by the purchaser who has selected all products to be purchased, the payment agency server (400) receives the payment agency request signal generated including the seller franchise information, the payment amount and condition information, and the

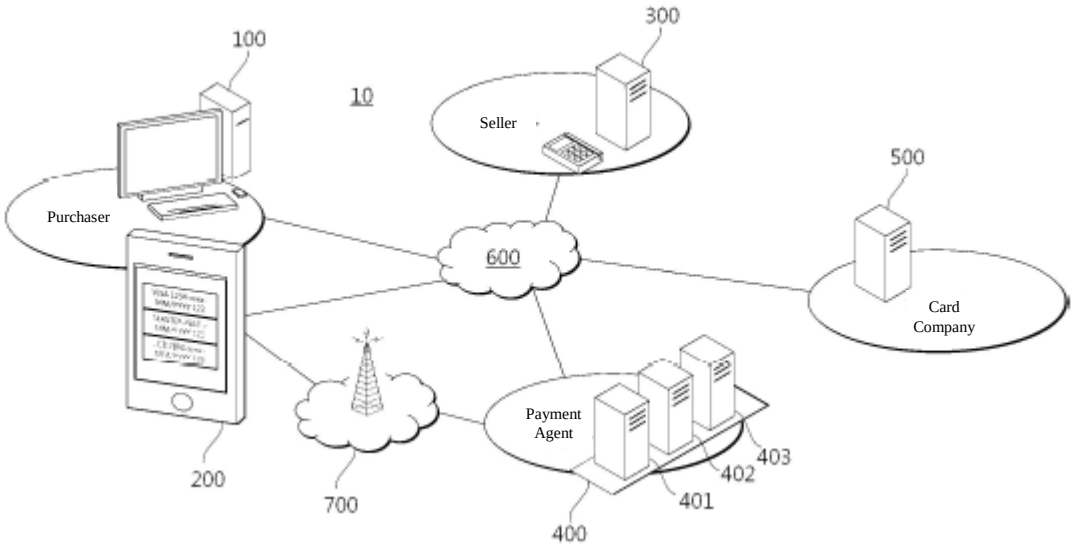
identification information of the payment agency request from the payment agency request terminal (300)" ([0102]).Also, Claim 10 describes that "the purchaser's payment request is transmitted to the payment agency request terminal".



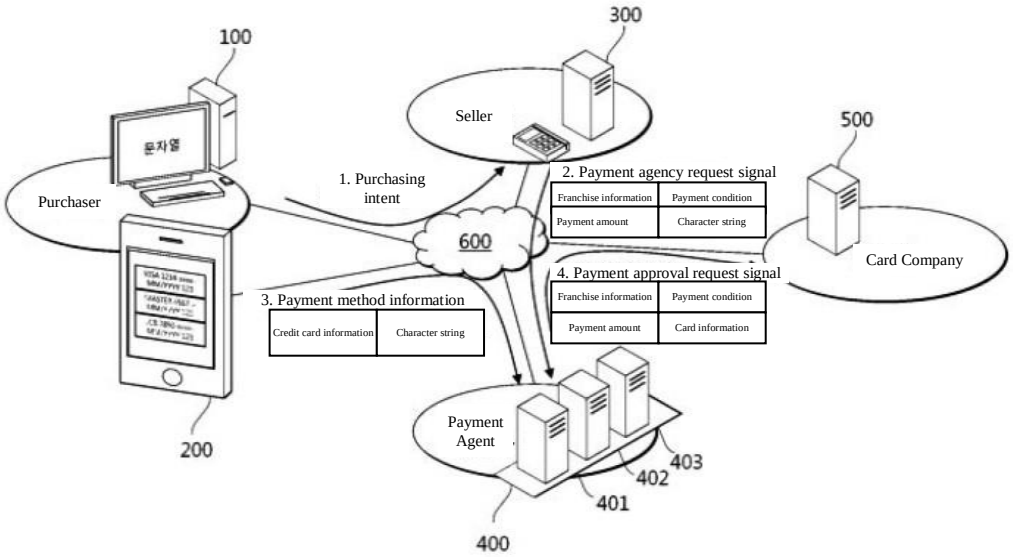
[Extracted from FIG. 3]

The descriptions stated above clearly show the fact that the payment agency request terminal is an information communication device that can be controlled by the seller who accesses the payment processor's payment server and transmits the payment agency request signal, and that the payment agency request terminal is different from the purchaser's PC that sends the payment method information to the payment agency server.

e) Also, the specification of the Subject Invention shows the diagrams shown below



[FIG. 1]



[FIG. 5]

These diagrams illustrate the Internet (600) at the center surrounded by "purchaser's PC (100) and mobile handset (200)", "card company server (500)", "seller's server (300)", "payment agency server (400) of payment agent", etc. Also, an element marked as "seller's payment agency request terminal (300)" belong to the "seller".

These illustrations may be deemed to premise that the purchaser's PC and mobile handset transmit the payment method information, and that the seller's server transmits the payment agency request signal. As examined above, this means that the seller's payment agency request terminal accesses the payment agent's payment server and then transmits the signal of payment agency request. This means that the payment agency request terminal is the seller's information communication device (that can be controlled by the seller).

f) As stated above, in light of Claim 1 and the overall statement and drawings in the specification of the Subject Invention, the technical element of the "payment agency request terminal" in Claim 1 may be construed objectively and reasonably to be limited, at least, to the seller's payment agency request terminal (that can be controlled by the seller).

3) Discussion on Plaintiff's Arguments

a) Plaintiff's Arguments

The functional elements, such as structure, operation, etc. required to achieve the functions of the "payment agency request terminal" described in Claim 1, are clearly described in the summary of the invention in the specification of the Subject Invention. Thus, the details of technical elements specified in the claims could be known from the description of the specification only. Therefore, the descriptions in the claims do not constitute a "functional description" aimed to specify the article by function, effect, etc. Therefore, it does not need to refer the summary of the invention or drawings to understand

the technical elements. Accordingly, since the technical elements are clearly understood with the descriptions of the claims, the descriptions of claims shall not be construed in a limited manner, considering only a part of the descriptions in embodiments in the specification.

b) Discussion

The Plaintiff's argument stated above is intended to argue as to the technical element of the "payment agency request terminal" described in the claims examined above. As pointed out by the Plaintiff, the specification of the Subject Invention describes that "the payment agency request terminal (300) generates a payment agency request signal including seller franchise information, payment amount and condition information, identification information of payment agency request, etc. and transmits the generated the signal of payment agency request to the payment agency server (400)" ([0060]). However, the above description does not contain more detailed technical contents than the following: "the payment agency server receives the payment agency request signal from the payment agency request terminal" (Element 2); and "the payment agency request signal is generated from the payment agency request terminal including at least the seller franchise information, the payment amount, and the identification information" (Element 4). Thus, it may not be deemed that the details of the technical elements described in the claims would be clearly understood solely from the description in the claims, "the payment agency request terminal". Furthermore, even if the details of the technical elements of the claims of the "payment agency request terminal" are clearly understood from the description of the specification, as the Plaintiff argues, such argument further supports the fact that the description of the claims constitutes a functional expression. Also, the argument not be regarded as a ground to deem that the description of the claims does not constitute a functional expression. Thus, the Plaintiff's argument premised otherwise shall not be accepted.

C. Whether the Defendant's paybooc Technology Falls within the Scope of Claim 1

1) Relevant Law

In order for the product or method that is manufactured or used by the other party to a patent infringement litigation (hereinafter, the "Product in Question, etc.") to fall within the scope of the patented invention, elements of the patented invention and organic composite relationship of the elements shall be included in the Subject Product in Question without change (Supreme Court Decision 2021Da217011, decided Jun. 30, 2021; Supreme Court Decision 2013Da14361, decided on Jul. 24, 2013; Supreme Court Decision 2010Da65818, decided Sep. 29, 2011). When the claim of the patented invention is comprised of more than one element, the technical idea is protected as a whole with the elements organically combined, not as independent elements. Therefore, if the Product in Question, etc. has only a portion of the plurality of elements described in the claims of the patented invention, with

the remaining elements lacked, the Product in Question, etc. may not be deemed in principle to infringe the patented invention. Also, it is not allowed to ignore some of the elements described in the claims because they are relatively insignificant when exercising the right. This could be an ex post facto acknowledgement of the extension of the claims (Supreme Court Decision 98Hu2351, decided Nov. 14, 2000; Supreme Court Decision 2004Hu3553, decided Sep. 30, 2005; Supreme Court Decision 2019Do9547, decided Jul. 23, 2020).

2) Analysis

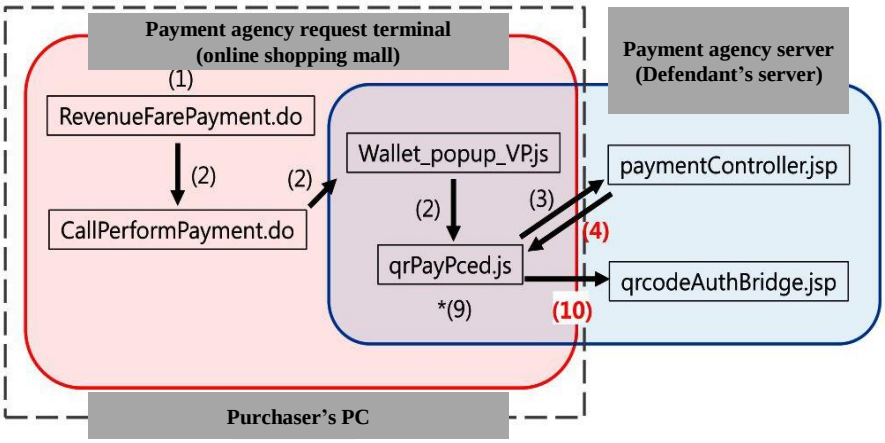
The Plaintiff argues that the element of the "payment agency request terminal" described in Claim 1 is included in the Defendant's paybooc technology as a technical element of the "Purchaser's PC" equipped with the "Payment Program" without change. However, it may not be deemed that the Defendant's paybooc technology is equipped with a technical element identical or equivalent to the "payment agency request terminal" of Claim 1 on the following grounds:

a) The Purchaser's PC, which corresponds to the Defendant's paybook technology, as argued by the Plaintiff, may not be deemed to be a technical element substantially identical to the payment agency request terminal in Claim 1.

(1) The payment agency request terminal of Claim 1 performs the following functions: receiving the identification information from the payment agency server (Element 6); generating the payment agency request signal including at least the seller franchise information, the payment amount information, and the identification information (Element 4); transmitting the payment agency request signal to the payment agency server (Element 2); etc. According to the Plaintiff's argument, as for the Defendant's paybooc technology, the functions stated above are performed by the "Purchaser's PC" equipped with the "payment program". However, as examined above, the payment agency request terminal of Claim 1 is an information communication device of the "seller (that can be controlled by the seller)". There is no ground to deem that Purchaser's PC which, according to the Defendant's argument, corresponds to elements included in paybook technology is an information communication device of the "seller (that can be controlled by the seller)", like the payment agency request terminal of Claim 1.

(2) Meanwhile, as examined above, the specification of the Subject Invention describes that "even if the seller does not have a device specializing in credit card payment, such as a POS terminal, a PC, or a smartphone which the seller can control, he or she can run the payment agency request software provided by the payment agency server (400). Thus, the credit card payment agency request can be made at any place and at any time" ([0077]).

In this regard, the Plaintiff argues the following: in the paybooc technology, the purchaser's PC runs "Wallet_poppup_VP.js" and "qrPayPced.js" programs provided from the Defendant's server as the "payment agency request software" So, the purchaser's PC is an information communication device that "can be controlled by the seller"; and thus, it shall be deemed to be substantially identical to the payment agency request terminal of Claim 1. However, the above description in the specification means that the payment agency request can be made by running the "payment agency request software provided by the payment agency server" on the PC or smartphone "that can be controlled by the seller". It does not mean that the PC or smartphone becomes an information communication device "that can be controlled by the seller" merely because the "payment agency request software provided by the payment agency server" is run on the PC or smartphone. Furthermore, according to the statements in Defendant's Exhibit 14 and the purport of overall argument, programs such as "Wallet_popup_VP.js", etc. are developed and distributed by the Defendant and installed in the purchaser's PC. Thus, the program is run only when a purchaser visits an online shopping mall and selects credit card payment through the Defendant's paybooc technology (in other words, running the program is not controlled by the seller, but purchaser's action or selection). Thus, it is difficult to accept the Plaintiff's argument that the purchaser's PC is an information communication device "that can be controlled by the seller" and substantially identical to the payment agency request terminal of Claim 1 on the grounds that the programs, such as "Wallet_popup_VP.js", are run on the purchaser's PC with the paybooc technology.



b) It is difficult to deem that the purchaser's PC that the Plaintiff argues corresponds to an element equipped in the Defendant's paybooc technology is a technical element equivalent to the payment agency request terminal of Claim 1.

(1) As examined above, Claim 1 has the following technical features: only the purchasing step is performed in "the purchaser's PC"; the

subsequent payment agency request step is separated from the purchasing step to be performed on the terminal (information communication device), not on the "purchaser's PC"; and thus Internet shopping can be conducted on the purchaser's PC whose security cannot be relied upon. The payment agency request terminal is an information communication device which "can be controlled by the seller" who accesses the payment processor's payment sever to transmits the payment agency request signal.

(2) However, unlike the payment agency request terminal of Claim 1, the purchaser's PC in the Defendant's paybooc technology is not an information communication device which "can be controlled by the seller" who accesses the payment processor's payment agency sever to transmit the payment agency request signal. In other words, even according to the Plaintiff's argument, the Defendant's paybooc technology employs a technical element where the "purchaser's PC installed with the payment program" transmits the payment agency request signal to the Defendant's server, not a technical element where the payment agency request signal is transmitted to the payment agency server by the "payment agency request terminal" of the seller (or that can be controlled by the seller). Thus, the Defendant's paybooc technology may not be deemed to have the problem to be solved or technical features in common with Claim 1. Also, it cannot be deemed that the Defendant's paybooc technology would exhibit, substantially identically to Claim 1, an effect allowing "secure payment with a credit card even on a PC in a public place where the security is unreliable or a PC jointly used by a plurality of purchasers".

3) Summary of Analysis

It may not be deemed that the Defendant's paybooc technology includes each and every element of Claim 1 and the organic composite relationship between the elements. The Plaintiff's argument premised otherwise that Defendant's paybooc technology falls within the scope of protection of Claim 1 shall not be accepted, and no further examination is required in this respect.

4. Infringement of Patent Right of Claims 4 and 10

Claim 4 is a dependent claim of Claim 1 and includes all elements of Claim 1, such as the payment agency request terminal, etc. Further, Claim 10 relates to the "method of performing an e-commerce credit card payment agency" and is different from Claim 1 only in terms of the scope of the invention. Also, Claim 10 has technical features identical to those of Claim 1 and includes elements of Claim 1, such as the payment agency request terminal, etc. As examined above, it shall be deemed that the same shall apply to Claims 4 and 10, as long as the Defendant's paybooc technology includes each and every element of Claim 1, including the payment agency request terminal, etc., and the organic composite relationship between them. Thus, the Plaintiff's argument premised otherwise that the Defendant's paybooc technology

falls within the scope of protection of Claims 4 and 10, shall not be accepted, and no further examination is required in this respect.

5. Conclusion

It may not be deemed that the Defendant's development and operation of the paybooc technology constitute infringement of the Plaintiff's Claims 1, 4, and 10. The Plaintiff's petition at issue against the Defendant is premised otherwise and thus shall not be accepted. The first instance decision is consistent with the above analysis and shall be upheld. The Plaintiff's appeal is without merit and is thus dismissed.

Presiding	Judge	Soon Min Kwon
	Judge	Taek Soo JUNG
	Judge	Joo Hyeong Moon

Attached Form

Technology Practiced by Defendant

1. Title of Technology Practiced by Defendant

"paybooc app payment":

A credit card payment agency system that applies a method described in paragraph 3 below and is installed and operated in a server described in paragraph 2.

2. Server

A server that provides credit card payment agency service in e-commerce using mobile handsets that install and run the "paybooc" app, payment agency system operated by the Defendant, as described in paragraph 1.

3. Technology Practiced by Defendant

A. Main Contents

The technology practiced by the Defendant relates to a payment agency system and method. Under the technology, if a purchaser accesses an online shopping mall on his/her PC (hereinafter, the "payment agency request terminal") and makes a request for payment through a payment agency server (the Defendant's server) when purchasing product with a credit card, a one-off QR code and a payment code (hereinafter, the "identification information"**)** are generated and displayed. If the identification information is entered on a mobile handset (usually, a smartphone), the information is transmitted to the payment agency server (the Defendant's server) together with the credit card information. The purchase information is matched with the credit card information based on the identification information in order to identify the purchaser's payment activity. The payment is then completed at payment approval request to the card company's payment server.

B. Detailed Elements of Technology Practiced by Defendant

1) Method of performing an e-commerce credit card payment

Elements	**Technology practiced by Defendant**	**Plaintiff's Exhibit 27**
Element 1	Where a purchaser (1) proceeds with payment, the Defendant's server receives the payment information and the identification information from the PC's payment program (Payment agency request signal (I)).	FIG. 1 FIG. 2 FIG. 3
Element 2	The Defendant's server receives the credit card information and the identification information from a smartphone (Payment method information (II)).	FIG. 4 FIG. 5

Elements	Technology practiced by Defendant	Plaintiff's Exhibit 27
Element 3	The Defendant's server compares the identification information of I received from the smartphone with the identification information of II received from the PC's payment program and then matches the corresponding payment request with I and II.	FIG. 7
Element 4	Based on the payment information and the credit card information in the matched I and II , the Defendant's server generates payment approval request signal(III)and transmits it to the card company's payment server (* The subject of signal generation and transmission is the Defendant's server irrespective of PG, VAN, etc.).	FIG. 8
Element 5	The identification information of I and II is a character string generated by the Defendant's server so that a purchaser in the payment agency request or the act of requesting payment agency itself can be uniquely identified within a limited time (generated uniquely for each purchase). The identification information is transmitted from the Defendant's server to the PC's payment program or smartphone so that I and II can be generated.	FIG. 2 FIG. 3 FIG. 1 FIG. 4 FIG. 5

2) E-commerce credit card payment system

Elements	Technology practiced by Defendant	Plaintiff's Exhibit 27
Element 1	The Defendant's server receives the payment information and the identification information from the PC's payment program (payment agency request signal(I)).	FIG. 2 FIG. 3
	The Defendant's server receives the credit card information and the identification information from a smartphone (payment method information (II)).	FIG. 4 FIG. 5
	The Defendant's server compares the identification information of I received from the smartphone with the identification information of II received from the PC's payment program and then matches the corresponding payment request with I and II.	FIG. 7
Element 2	Based on the payment information and the credit card information in the matched I and II, the Defendant's server generates payment approval request signal (III) and transmits the same to the card company's payment server (* The subject of signal generation and transmission is the Defendant's server even if the signal goes through PG, VAN, etc.).	FIG. 8

Elements	Technology practiced by Defendant	Plaintiff's Exhibit 27
Element 3	The identification information of I and II is a character string generated by the Defendant's server so that a purchaser included in a payment request or the act of requesting payment agency itself can be uniquely identified within a limited time. The identification information is transmitted from the Defendant's server to the PC's payment program or smartphone so that I and II can be generated.	FIG. 1 FIG. 3 FIG. 1 FIG. 4 FIG. 5
Element 4	The identification information of I and II, generated by the Defendant's server, is newly generated for each purchase activity.	FIG. 1 FIG. 3

C. Drawings for Detailed Elements of Technology Practiced by Defendant

1) Method of agency an e-commerce credit card payment

Element 1) Where a purchaser (1) proceeds with payment, the Defendant's server receives the payment information and the identification information from the PC's payment program (Payment agency request signal (I)).

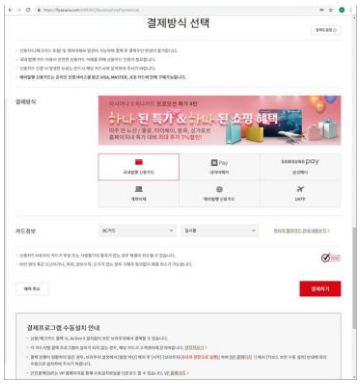
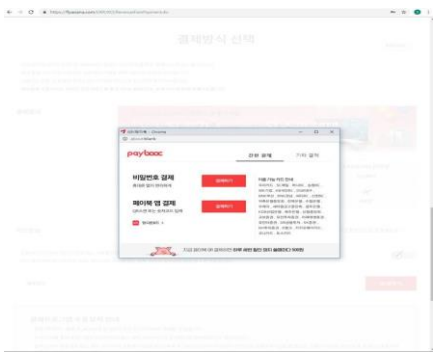
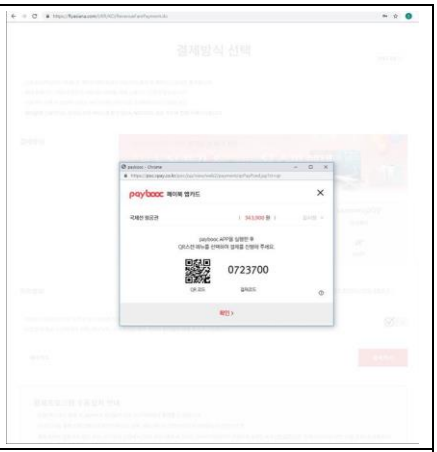
		

FIG. 1. Selection of payment method (Payment request step)	FIG. 2. Payment request	FIG. 3. Response to payment request

Element 2) The Defendant's server receives the credit card information and the identification information from a smartphone (Payment method information(II)).

FIG. 4. Recognition and transmission of identification information

FIG. 5. Transmission of payment method

Element 3) The Defendant's server compares the identification information of I received from the smartphone with the identification information of II received from the PC's payment program and then matches the corresponding payment request with I and II.

FIG. 7.Request for confirmation of payment completion

Element 4) Based on the payment information and the credit card information in the matched I and II, the Defendant's server generates payment approval request signal (III) and transmits the signal to the card company's payment server (* The subject of signal generation and transmission is the Defendant's server irrespective of PG, VAN, etc.).

FIG. 8. Payment in progress

Element 5) The identification information of I and II is a character string generated by the Defendant's server so that a purchaser included in the payment agency request or payment agency request the act of requesting the payment agency itself payment agency request can be uniquely identified within a limited time (generated uniquely for each purchase).

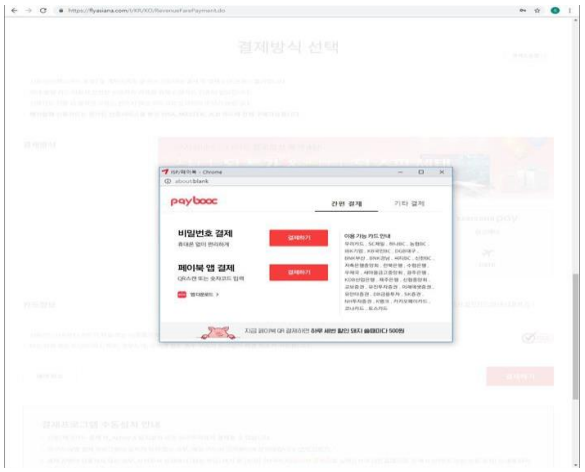


FIG. 2. Request for payment

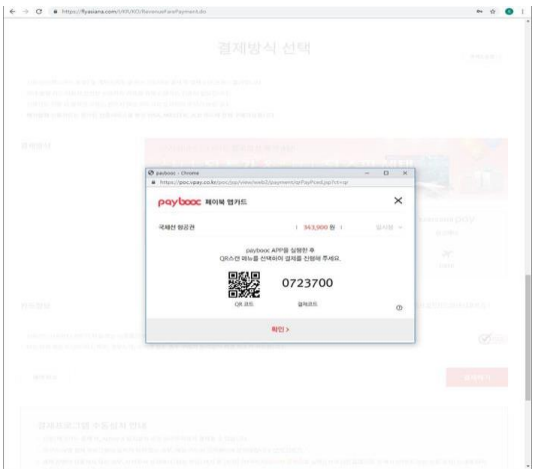


FIG. 3. Response to request for payment

The identification information is transmitted from the Defendant's server to the PC's payment program or smartphone so that I and II can be generated.

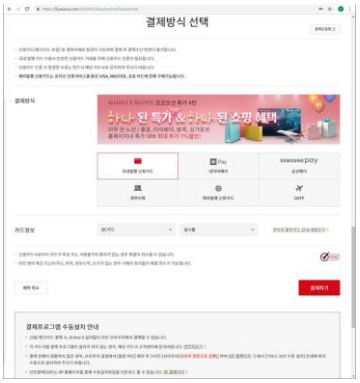


FIG. 1. Selection of payment method (Payment request step)	FIG. 4. Recognition and transmission of identification information	FIG. 5. Transmission of payment method

2) E-commerce credit card payment system

Element 1) The Defendant's server receives the payment information and the identification information from the PC's payment program (payment agency request signal(I)).

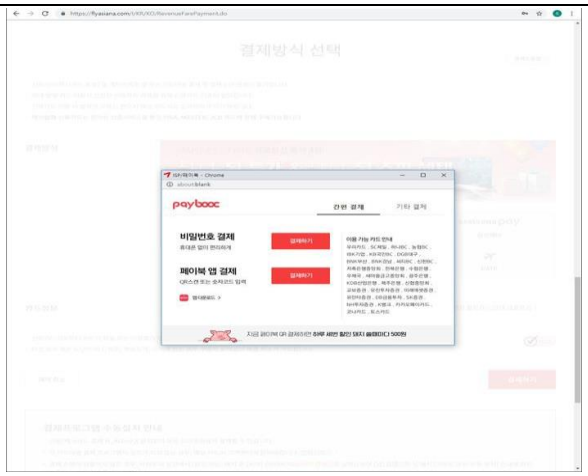
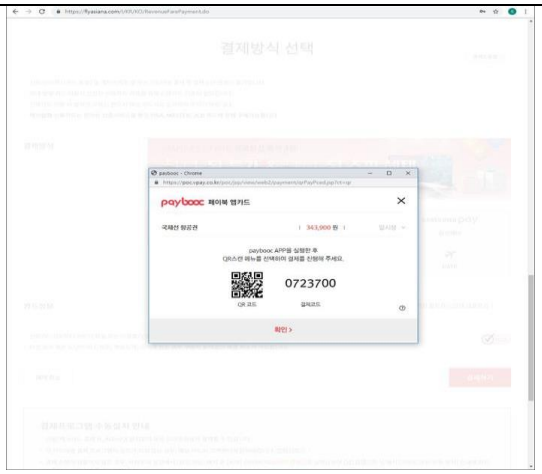
	

FIG. 2. Request for payment	FIG. 3. Response to request for payment

The Defendant's server receives the credit card information and the identification information from a smartphone (payment method information (II)).

FIG. 4. Recognition and transmission of identification information

FIG. 5. Transmission of payment method

The Defendant's server compares the identification information of I received from the smartphone with the identification information of II received from the PC's payment program and then matches the corresponding payment request with I and II.

FIG. 7.Request for confirmation of payment completion

Element 2) Based on the payment information and the credit card information in the matched I and II, the Defendant's server generates payment approval request signal (III) and transmits the same to the card company's payment server (* The subject of signal generation and transmission is the Defendant's server irrespective of PG, VAN, etc.).

FIG. 8. Payment in progress

Element 3) The identification information of I and II is a character string generated by the Defendant's server so that a purchaser included in the payment agency request or the act of requesting payment agency itself can be uniquely identified within a limited time.

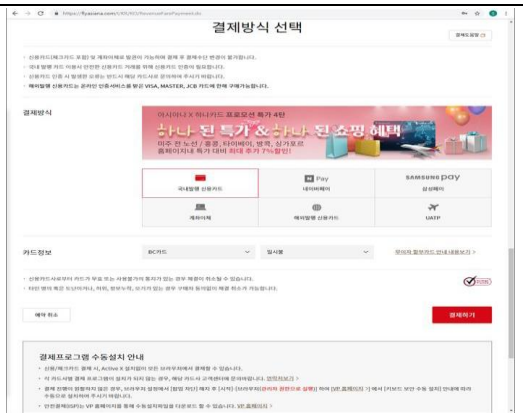


FIG. 1. Selection of payment method (Payment request step)

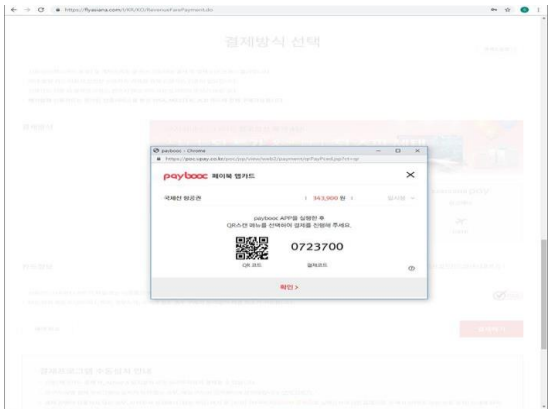


FIG. 3. Response to request for payment

The identification information is transmitted from the Defendant's server to the PC's payment program or smartphone so that I and II can be generated.

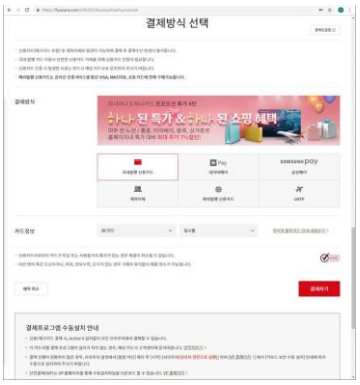


FIG. 1. Selection of payment method (Payment request step)	FIG. 4. Recognition and transmission of identification information	FIG. 5. Transmission of payment method

Element 4) The identification information of I and II, generated by the Defendant's server, is newly generated for each purchase activity.

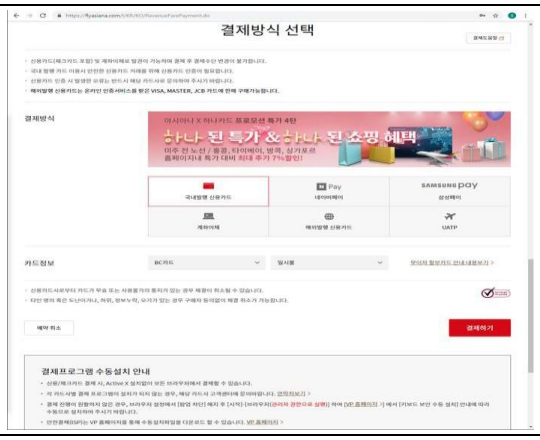
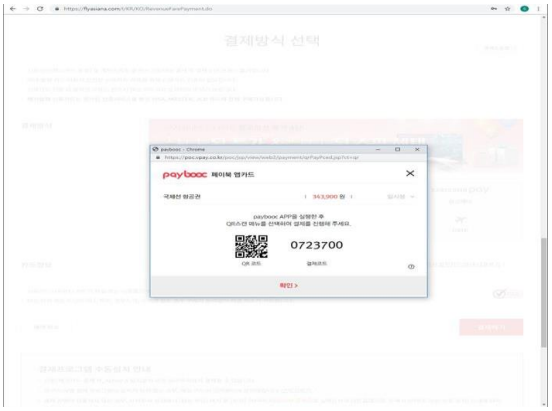
	

FIG. 1. Selection of payment method (Payment request step)	FIG. 3. Response to request for payment

D. Comparison of Plaintiff's Patented Invention and Technology Practiced by Defendant

1) Method of performing an e-commerce credit card payment

Elements	Claim 10	Technology practiced by Defendant	Reference

Element 1	a step of receiving, from the payment agency request terminal, a payment agency request signal generated including seller franchise information, payment amount and conditions information, and identification information of a payment agency request by the payment agency server, where a purchaser's intent to request payment is delivered to the payment agency request terminal	Where a purchaser (1) proceeds with payment, the Defendant's server receives the payment information and the identification information from the PC's payment program **(Payment agency request signal (I))**.	FIG. 1 FIG. 2 FIG. 3
Element 2	a step of receiving, from a purchaser's mobile handset, payment method information generated including the credit card information and the identification information of the payment agency request by the payment agency server	The Defendant's server receives the credit card information and the identification information from a smartphone **(Payment method information (II))**.	FIG. 4 FIG. 5
Element 3	a step of matching the payment method information with the payment agency request signal whose identification information is matched, as the payment agency server compares the identification information in the payment agency request signal with the identification information in the payment method information	The Defendant's server compares the identification information of **I** received from the smartphone with the identification information of **II** received from the PC's payment program and then matches the corresponding payment request with **I** and **II**.	FIG. 7
Element 4	a step of generating a payment approval request signal by the payment agency server based on franchise information of a shopping mall, payment amount and conditions information, and credit card information extracted from the matched payment agency request signal and the payment method information and transmitting the same to the payment server by a card company,	Based on the payment information and the credit card information in the matched **I** and **II**, the Defendant's server **generates payment approval request signal (III)** and transmits the same to the card company's payment server (* The subject of signal generation and transmission is the Defendant's server irrespective of PG, VAN, etc.).	FIG. 8

Element 5	wherein the identification information, as a character string (Element 5-1) generated by the payment agency server so that the payment agency server can uniquely identify the purchaser included in the payment agency request or the payment agency request activity itself at least within a limited time, is transmitted from the payment agency server to the payment agency request terminal or the mobile handset (Element 5-2) so that the payment agency request signal and the payment method information can be generated.	The identification information of **I** and **II** is a character string generated by the Defendant's server so that a purchaser included in the payment agency request or the act of requesting payment agency itself can be uniquely identified within a limited time (generated uniquely for each purchase). The identification information is transmitted from the Defendant's server to the PC's payment program or smartphone so that **I** and **II** can be generated.	FIG. 2 FIG. 3 FIG. 1 FIG. 4 FIG. 5

2) E-commerce credit card payment system

Elements	**Claims 1 and 4**	**Technology practiced by Defendant**	**Reference**
Element 1	The payment agency request signal including at least the seller franchise information, the payment amount information and the identification information, received from the payment agency request terminal (Element 1-1)	The Defendant's server receives the payment information and the identification information from the PC's payment program (**Payment agency request signal(I)**).	FIG. 2 FIG. 3
	The payment method information including at least the credit card information and the identification information, received from the purchaser's mobile handset (Element 1-2)	The Defendant's server receives the credit card information and the identification information from a smartphone (**Payment method information(II)**).	FIG. 4 FIG. 5
	Extract the identification information from (Element 1-1) and (Element 1-2) and find the payment agency request signal and the payment method information that has the identical information and match them (Element 1-3)	The Defendant's server compares the identification information of **I** received from the smartphone with the identification information of **II** received from the PC's payment program and then matches the corresponding payment request with **I** and **II**.	FIG. 7
Element 2	Generate the payment approval request signal including at least the seller franchise information, the payment amount and the credit card information from the matched payment agency request signal and the payment method information	Based on the payment information and the credit card information in the matched **I** and **II**, the Defendant's server generates **payment approval request signal (III)** and transmits the same to the card company's payment server (* The subject of signal generation and transmission is the Defendant's server irrespective of PG, VAN, etc.).	FIG. 8

Element 3	A character string generated by the payment agency server so that the payment agency server can uniquely identify the purchaser in the payment agency request or the payment agency request activity at least within a limited time (Element 3-1), transmitted from the payment agency server to the payment agency request terminal or the mobile handset so that the payment agency request signal and the payment method information can be generated (Element 3-2)	The identification information under **I** and **II** is a character string generated by the Defendant's server so that a purchaser included in the payment agency request or a the act of requesting payment agency itself can be uniquely identified within a limited time. The identification information is transmitted from the Defendant's server to the PC's payment program or smartphone so that **I** and **II** can be generated.	FIG. 1 FIG. 3 FIG. 1 FIG. 4 FIG. 5
Element 4	In Claim 1, the identification information is generated in an on-off manner, for each purchase activity, and used by the payment agency server for identification uniquely in a limited time.	The identification information of **I** and **II**, generated by the Defendant's server, is newly generated for each purchase activity.	FIG. 1 FIG. 3