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D E C I S I O N
of 18 December 2003

Case Number: T 0061/00 - 3.4.1

Application Number: 92308628.4

Publication Number: 0534718

IPC: G07F 17/32

Language of the proceedings: EN

Title of invention:

Gaming machine information, communication and display system

Patentee:

BALLY GAMING INTERNATIONAL, INC.

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 56

Keyword:

"Inventive step - yes (after amendment)"

Decisions cited:

T 0129/88

Catchword:

-



Case Number: T 0061/00 - 3.4.1

D E C I S I O N
of the Technical Board of Appeal 3.4.1
of 18 December 2003

Appellant: BALLY GAMING INTERNATIONAL, INC.
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Representative: Madgwick, Paul Roland
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
5 October 1999 concerning maintenance of
European patent No. 0534718 in amended form.

Composition of the Board:

Chairman: G. Davies
Members: M. G. L. Rognoni
H. K. Wolfrum
G. Assi
R. Moufang

Summary of Facts and Submissions

I. The appellant (patent proprietor) lodged an appeal, received on 2 December 1999, against the interlocutory decision of the opposition division, dispatched on 5 October 1999, concerning the maintenance of European patent No. 0 534 718 in amended form. The appeal fee was paid on 2 December 1999 and the statement setting out the grounds of appeal was received on 9 February 2000.

The opponent also lodged an appeal, received on 6 December 1999, against the same decision and paid the appeal fee on the same day. On 2 February 2000 and before filing a statement of grounds of appeal, the opponent withdrew the appeal. On 12 November 2003, the opponent withdrew the opposition.

II. The opposition had been filed against the patent as a whole, based on Articles 100(a) and (c) EPC.

III. Of all the documents cited during the opposition and the appeal, only the following ones remain relevant to the present decision:

D2: US-A-4 805 907

D3: US-A-4 157 829

D4: EP-A-0 360 613

D5: US-A-5 038 022

D6: US-A-4 636 951.

Before the opposition division, the opponent had, *inter alia*, submitted the following written evidence relating to the alleged prior use of Computa Game systems:

NGH3: Computa Game Equipment Manual, Revision 1, dated "September 1990";

NGH4: Computa Game Software Manual, Revision 3, dated "July 1991".

In response to the opponent's prior use allegation, the patentee, *inter alia*, filed the following statutory declaration:

SD-EWC1: Statutory declaration dated 20 May 1998 by Mr E. W. Culley.

IV. Oral proceedings were held on 18 December 2003.

V. The appellant (patent proprietor) requested that the patent be maintained on the basis of the following documents:

- claims 1 to 7 filed in the oral proceedings;
- page 2 of the patent specification filed in the oral proceedings and pages 3 to 9 as granted;
- Figures 1 to 3 as granted.

VI. The wording of claim 1 reads as follows:

"1. A gaming machine information and communication system comprising: a central data processor (16) and a plurality of gaming machines (10); and providing game accounting, security, maintenance, player-tracking and employee/player interaction between the plurality of gaming machines (10) and the central data processor (16); the system further comprising means (12,14,18) for communicating a central data processor (16) with the gaming machines (10), the means (12,14,18) including a plurality of control units (14) for communication between the data processor (16) and the gaming machines (10) providing game accounting, security, maintenance and player tracking data each having a microprocessor and being located within the cabinet of a respective one of the gaming machines (10); and a plurality of interface units (12) for communication between a player and the control units (14) wherein the interface units (12), which each have a microprocessor and are each provided with a display a card reader and keypad, are separate and in addition to the control units (14), and are each mounted in or attached to the cabinet of a respective one of the gaming machines to be accessible to the player, whereby the player is interactively communicable with the processor (16) via the control units (14); and the system includes means for downloading of personality data from the data processor (16) to the control unit."

VII. The appellant argued essentially as follows:

Regarding the public prior use, the evidence on file supported the view that the Computa Game systems had only been "installed for play" at the gaming clubs in New South Wales and that the club employees did not have full access to the Computa Game systems and were probably bound by a confidentiality agreement. Thus, the installation of the Computa Game systems had made available to the public only those features which were visible to a player visiting the gaming clubs.

Since neither the public prior use nor any of documents D2, D3, D4, D5 and D6 suggested a gaming machine information and communication system comprising means for downloading of personality data from the central data processor to the control units, the subject matter of claim 1 involved an inventive step within the meaning of Article 56 EPC.

VIII. In the appeal proceedings, the opponent did not make any further submissions.

Reasons for the Decision

1. The appeal is admissible.
2. *Articles 123(2) and (3) EPC*

The subject-matter of claim 1 of the appellant's only request is based on claim 1 of the patent specification and on some features of the application as originally filed (see in particular page 2, lines 54 to 55 and the

description of Figure 3 on page 3 of the published application). The Board is satisfied that all amendments are admissible under Articles 123(2) and (3) EPC.

3. *Public prior use*

3.1 In the opposition proceedings, the opponent maintained, with the support of written evidence, that Computa Game systems had been made available to the public before the priority date of the contested patent at several gaming clubs in New South Wales (Australia).

In fact, the appellant has not disputed that early versions 1 and 2 of the Computa Game system were installed for play at several gaming clubs in New South Wales before the priority date of the patent in suit. According to the appellant, however, neither the players nor the club employees had any possibility of becoming acquainted with all the features of such systems.

3.2 In a communication dispatched with the summons to oral proceedings, the Board asked the parties several questions directed to clarifying the circumstances of the public prior use. The opponent, then still party as of right to the appeal proceedings, did not reply and instead withdrew its opposition.

Under these circumstances, the Board sees no reason to undertake investigations going beyond the examination of the evidence on file (see T 129/88, OJ EPO 1993, 598).

- 4.1 The written evidence provided by the parties and their corresponding submissions do not permit to clarify the exact circumstances under which Computa Game systems were installed in the gaming clubs. In particular, it is uncertain whether they were "sold" or merely "installed for play". It is also unclear whether the employees of the gaming clubs were bound by a confidentiality agreement. Hence, the Board considers that the features of the installed Computa Game systems made available to the public were only those which could be derived by a skilled person visiting one of the gaming clubs as a player, ie those features which could be inferred by viewing and operating a gaming machine of the Computa Game system.
- 4.2 Documents NGH3 and NGH4 are internal manuals of the Computa Game system (versions 1 and 2). Although they bear the dates "September 1990" and "July 1991", respectively, there is no evidence that these manuals were made available to the public before the priority date of the patent in suit. However, as it is uncontested that their contents accurately describe the Computa Game systems installed before the priority date at several gaming clubs in New South Wales, such documents can be regarded as indicative of the features which a Computa Game system would have revealed to the players.
- 4.3 From documents NGH3 and NGH4 and from the statutory declaration SD-EWC1, it can be inferred that the skilled person visiting the gaming clubs where the Computa Game systems were installed would have seen the interface units - called "*Poker Machine Units*" - arranged next to the gaming machines (see Figures 3.1.1,

3.1.6, 3.1.7, 3.2.1 and 3.2.6 of NGH3). Each interface unit included an alphanumeric display, a card reader and three push-buttons labelled "JACKPOT", "DRINKS" and "FAULT" ("SERVICE" in version 2) for remotely requesting club employees to pay out a jackpot, to deliver drinks or to service the machine. The skilled person would have further understood that the player's card stored information about the player which could be read by the card reader (see page 0.1 of NGH4).

A person skilled in the art would not have been able to see how the interface unit was connected, because all the electrical connectors were apparently on the underside of the interface unit and thus not visible to the player (see Figures 3.1.1 and 3.1.8 of NGH3). However, it would have been implicit to such a skilled person to assume that there was a data processor dealing centrally with the requests sent by the interface units to the club staff.

Inventive step

5.1 In view of the above considerations, it can be concluded that the Computa Game systems (version 1 or 2) installed for play at gaming clubs before the priority date disclosed the following features of claim 1:

- a gaming machine information and communication system comprising a central data processor and plurality of gaming machines and of interface units - each including a display,

- a card reader and "Keypad" (ie three service buttons) - providing communication for maintenance, player-tracking and employee/player interaction between the players/gaming machines and the club employees,
- a central data processor.

5.2 To a skilled person, the installed Computa Game system would not have directly or indirectly revealed the following features recited of claim 1:

- means for providing game accounting and security;
- communication means comprising control units and interface units, the control units controlling the communication between the data processor and the gaming machines, and the interface units providing communication between the players and the control units;
- the control units and the interface units being provided with microprocessors;
- the interface units comprising a keypad;
- the system including means for downloading of personality data from the data processor to the control units.

As to *"the interface unit"* being *"each mounted in or attached to the cabinet of a respective one of the gaming machines"*, it is not possible to conclude on the

basis of Figure 3.1.1 of document NGH3 whether the installed Compta Game system actually comprised this feature or whether the interface units were separate from the gaming machine cabinet. It can, however, be argued that it would have been a mere matter of design for the skilled person to decide where to locate the interface unit of each gaming machine and that no particular technical considerations would have been involved in this choice.

- 6.1 D5 describes an apparatus for enabling a gaming machine to provide credit to a player with no need for the player to leave the machine. Each gaming machine comprises a card reader 26 communicating with a remote financial institution 28 where it is determined if the card is entitled to the credit requested. A keyboard 20 and a display 18 allow a player to type in a PIN number and to download credit into the gaming machine. Although the financial institution is normally remote from the casino, it is also foreseen that it could be the casino itself (see column 3, lines 60 to 65). From Figure 2 and the corresponding description it is understood that the card reader 26 has two separate functions: it can both read a card and control the communications between the financial institution, the interface unit (consisting of the card reading part of the card reader, the keyboard and the display, all mounted in the cabinet of the gaming machine) and the gaming machine. The communication controlling part of the card reader corresponds to the control unit of claim 1. Although it is not explicitly mentioned that the financial institution has a central data processor, the Board regards this feature as implicit in the disclosure of document D5.

6.2 The gaming machine information and communication system according to claim 1 thus differs from the disclosure of document D5 by the following features:

- the system provides security, maintenance, player-tracking and employee/player interaction;
- the control units provide security, maintenance and player tracking data;
- each control unit has a microprocessor;
- each interface unit has a microprocessor;
- the interface units are separate and in addition to the control units;
- the system includes means for downloading of personality data from the data processor to the control unit.

The features of claim 1 relating to the control units and the interface units having separate microprocessors can be regarded as a straightforward option available to the skilled person wishing to improve the performance of the system.

7.1 From the above, it can be seen that neither the Computa Game System nor D5 teaches or suggests providing a gaming machine information and communication system with means for downloading "*personality data*" from the central data processor to the gaming machine's control unit.

- 7.2 According to the contested patent (see page 3, lines 23 to 24 and page 3, line 54 to page 5, line 29), "the personality data" or operating parameters of a gaming machine consists of a list of variable parameters containing addresses, coin denomination, limits and characteristics that vary from one gaming machine and/or casino to another. They may also contain information for other casino-defined functions, such as the service requests available to certain players.
- 7.3 The technical effect achieved by the downloading of personality data from the central data processor to the control unit is that various parameters of the gaming machine can be remotely changed by the central data processor. This is particularly advantageous in that it makes it possible to adapt and modify the gaming machine's "behaviour" quickly and easily, as the situation requires.
- 7.4 None of the remaining documents D2, D3, D4 and D6 refers to gaming machines being provided with "*personality data*" which can be downloaded from a central data processor.
- 8.1 Thus, in the light of the cited prior art, it would not have been obvious to a person skilled in the art, starting from a gaming machine information and communication system comprising the features disclosed by the public prior use, to arrive at a system falling within the terms of claim 1 of the appellant's request.

- 8.2 For these reasons, the subject-matter of claim 1 involves an inventive step within the meaning of Articles 52(1) and 56 EPC.
- 8.3 Dependent claims 2 to 7 relate to specific embodiments of the system of claim 1 and, therefore, their subject-matter is also patentable.
9. In summary, the Board has come to the conclusion that, taking into consideration the amendments made to the patent documents according to the appellant's sole request, the patent and the invention to which it relates meet the requirements of the EPC.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to maintain the patent on the basis of the appellant's request

The Registrar:

The Chairman:

R. Schumacher

G. Davies