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Datasheet for the decision
of 11 August 2021

Case Number:	T 0941/17 - 3.4.03
Application Number:	12770002.9
Publication Number:	2761606
IPC:	G07F17/32
Language of the proceedings:	EN

Title of invention:
GAMING DEVICES AND METHODS OF OPERATING THEM

Applicant:
Novomatic AG

Headword:

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - all requests (no)

Decisions cited:

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It can be changed at any time and without notice

Catchword:

Case Number: T 0941/17 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 11 August 2021

Appellant:	Novomatic AG
(Applicant)	Wiener Strasse 158
	2352 Gumpoldskirchen (AT)
Representative:	Novomatic AG
	IP & Rechtsabteilung
	Wiener Strasse 158
	2352 Gumpoldskirchen (AT)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 12 October 2016 refusing European patent application No. 12770002.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	G. Eliasson
Members:	M. Papastefanou
	W. Van der Eijk

Summary of Facts and Submissions

I.   The appeal is against the decision of the examining
       division refusing the European patent application
       No. 12 770 0002.9 (published as WO 2013/045276 A1) on
       the ground that the sole request before it did not
       involve an inventive step (Article 56 EPC).

II.   The appellant (applicant) requested initially that the
       decision under appeal be set aside and that a patent be
       granted on the basis of *"the claims currently on file"*
       (see last line on page 1 of the statement of grounds of
       appeal) as Main Request, or on the basis of one of the
       First and Second Auxiliary Requests, filed with the
       statement of the grounds of appeal. As "claims
       currently on file" the board understood the claims
       underlying the impugned decision.

       In its letter of 23 April 2021, the appellant requested
       *"that the decision of the Examining Division is set
       aside in its entirety, and that a patent be granted on
       the basis of the claims underlying the impugned
       decision"* (see first paragraph of that letter). The
       appellant did not mention at all the auxiliary requests
       filed with the statement of the grounds of appeal in
       that letter, but since there is no explicit mention of
       any withdrawal of an auxiliary request, the board
       considers that they are still pending.

       Summarising, the appellant's requests are that the
       decision under appeal be set aside and that a patent be
       granted on the basis of the claims underlying the
       impugned decision (filed with letter dated
       26 August 2016) (Main Request) or on the basis of one
       of the First and the Second Auxiliary Requests, filed

with the statement of the grounds of appeal.

III.   After the board issued its preliminary opinion in a
        communication dated 15 September 2020, the appellant
        withdrew its request for oral proceedings (letter of
        23 April 2021).

        Thereafter board cancelled the oral proceedings and
        issues its decision in writing.

IV.   Reference is made to the following documents:

        D1: US 2011/0223991 A1
        D5: EP 1 993 080 A2.

V.   Claim 1 of the **Main Request** has the following wording:

        *A group of associated gaming devices (10) each having a
        lottery drawer (25) comprising a database (18) having a
        plurality of entries (30, 35), each database entry (35)
        containing a header (36) and one or more winning
        numbers associated with a predetermined time interval,
        and
        a clock (19) for extracting the winning number or
        numbers from a database entry (35) of the database (18)
        for the time interval indicated by the clock (19), and
        a pseudo random number generator (20) for generating
        pseudo random numbers from a seed supplied as header
        (36) of the database entry (35) by the database (18) at
        the beginning of the time interval as identified by the
        clock (19), and
        a comparator (22) for at least one receiving of the
        extracted winning number or numbers and at least one
        pseudo random number generated by the pseudo random
        generator (20), wherein the comparator (22) is adapted
        for generating a win signal when the extracted winning*

*number and the generated pseudo random number match;
and*
*wherein all of the associated gaming devices include
identical databases (18) having the plurality of
entries (30) and pseudo random number generators (20)
whereby win signals are generated simultaneously in
each of the group of associated gaming devices (10).*

VI.   Claim 1 of the **First Auxiliary Request** has the
following wording (additional features with respect to
claim 1 of the Main Request underlined by the board):

*A group of associated gaming devices (10) each having a
lottery drawer (25) comprising a database (18) having a
plurality of entries (30, 35), each database entry (35)
containing a header (36) and one or more winning
numbers associated with a predetermined time interval,
and
a clock (19) for extracting the winning number or
numbers from a database entry (35) of the database (18)
for the time interval indicated by the clock (19), and
a pseudo random number generator (20) for generating
pseudo random numbers from a seed supplied as header
(36) of the database entry (35) by the database (18) at
the beginning of the time interval as identified by the
clock (19), and
a comparator (22) for at least one receiving of the
extracted winning number or numbers and at least one
pseudo random number generated by the pseudo random
generator (20), wherein the comparator (22) is adapted
for generating a win signal when the extracted winning
number and the generated pseudo random number match
such that a win is signaled to a player and a payout is
made; and*
*wherein all of the associated gaming devices include
identical databases (18) having the plurality of*

entries (30) and pseudo random number generators (20)
whereby win signals are generated simultaneously in
each of the group of associated gaming devices (10) and
independently on whether or not the gaming devices (10)
are connected to a central controller.

VII.   Compared to claim 1 of the First Auxiliary Request,
        claim 1 of the **Second Auxiliary Request** defines
        additionally that each of the gaming devices comprises
        means for synchronization of the clock (19).

Reasons for the Decision

1.   The appeal is admissible.

2.   The claimed invention

2.1   The claimed invention relates to a group of associated
        gaming devices, a method of operating them and an
        individual gaming device.

        According to the application, it is desirable from time
        to time to have all the gaming devices in the group
        produce a winning outcome at the same time. Such an
        occurrence creates spontaneous enthusiasm with the
        players and draws attention to the gaming devices,
        increasing thus the chances that more users will start
        playing at those devices, increasing the profit of the
        devices' owner.

2.2   For this to happen it is important that all the gaming
        devices generate a winning game outcome at the same
        time. This would be simple when the devices were
        connected to a central server, which could trigger the

generation of a winning outcome to all the devices. Depending on the location and the distribution of the gaming devices, however, it can be difficult to have them all hard-wired to a server. Wireless communication is possible, but not always reliable. The claimed invention proposes an implementation of the synchronised win without the need for the devices to be connected to a central server or to each other.

2.3   The forced winning outcome is generated by a lottery drawer, irrespective of the game played at the machine. Each machine comprises a database, a pseudo-random number generator, and a clock. Each entry in the database is associated to a specific time interval (e. g. 24 hours) and comprises a header containing a seed value for the pseudo-random number generator, and one or more winning numbers. When the specific time interval starts, the seed from the header of the corresponding database entry is fed to the pseudo-random generator. The clock draws the winning numbers from the corresponding database entry at predetermined times during the specific time interval. Each drawn winning number is fed to a comparator, which compares it to the generated pseudo-random numbers and if there is a match a winning signal is generated. By using a specific seed to the pseudo-random number generator, the "random" numbers are generated so that they match the winning numbers drawn by the clock from the database, and a winning outcome is obtained.

2.4   By using synchronised clocks and identical databases and pseudo-number generators in the associated gaming devices the simultaneous occurrence of the winning outcomes in all the devices can be achieved (see pages 1 to 3 of the published application).

3.   Main Request

3.1   As explained the communication of 15 September 2020,
        the board agreed with the appellant that the clock of
        the claims did not correspond to the clock signal of
        the processor in the system of D1, as the examining
        division had held in the impugned decision (see point
        4.3 of that communication). Moreover, the board
        preliminarily considered that document D5 was a more
        suitable starting point for the assessment of inventive
        step than D1 (see points 4.4 to 4.6).

        The appellant did not object to the selection of D5 as
        closest prior art and the board does not see any reason
        to deviate from its preliminary opinion.

3.2   D5 describes a group of associated gaming machines (see
        Figure 1) which are set to generate a specific event
        (like a winning game outcome) at the same time without
        being connected to each other or to any central server.

        Each of the gaming machines comprises a clock,
        following "real time", like Greenwich Time. Each gaming
        machine further comprises an event list, in which
        specific events are listed and are associated with
        specific times. The clocks of the gaming machines are
        synchronised and the event lists of the associate
        gaming machines are identical. A controller follows the
        clock and when specific times arrive, the corresponding
        events (from the list) are generated at the gaming
        machines simultaneously (see paragraphs [0003] to
        [0011], [0020] to [0023] and Figure 2).

3.2.1   In the terminology of claim 1 of the Main Request, D5
        describes a group of associated gaming devices, each of
        them comprising a clock and a database having a

plurality of entries (event list) associated to
predetermined time intervals. The clock extracts the
events from the database (list) for the time interval
indicated by the clock. A winning outcome is generated
simultaneously in each of the group of the associated
gaming devices.

3.3   Comparing claim 1 with D5, the features distinguishing
        the claimed group of associated gaming devices from D5
        appear to relate to how the forced winning game outcome
        is generated.

        In claim 1 there is a lottery drawer using a pseudo-
        random number generator and a comparator. A database
        contains entries with lists of winning numbers for a
        specific time interval, like 24 hours, for example. At
        predetermined times, a seed from the specific database
        entry is provided to the pseudo random number
        generator, which generates a pseudo random number. At
        the same time a winning number is drawn from the list
        of winning numbers of the database entry. The pseudo
        random number and the winning number are fed to the
        comparator and, when the two numbers much, a winning
        signal will be generated.

        In D5 there is no information about how the winning
        outcome is achieved or what game it relates to.

3.4   The board considers that the use of a draw of a lottery
        as a way to generate a winning outcome does not address
        any technical problem. In the board's view, the choice
        of a specific game to be played is an administrative
        decision unrelated to any technical problems or
        considerations.

3.5   A lottery draw is a well known game of chance: a player
       selects one or more numbers, there is a draw of one or
       more random numbers, and the player's numbers are
       compared to the drawn numbers to determine whether
       there is a match. If there is a match the player wins
       the lottery. It is also part of the game that, by
       manipulating the lottery drawer, predetermined
       number(s) can be "drawn" so that they match specific
       number(s) selected by the player(s).

3.6   In the board's opinion, the features distinguishing
       claim 1 from D5 relate to the implementation of such a
       lottery draw in the gaming device. The winning numbers
       in the database entries correspond to the numbers that
       a player would select. By providing a predetermined
       seed to the random number generator, the draw is
       "manipulated" in such a manner that predetermined
       pseudo-random numbers are generated, which are then
       compared with the winning numbers extracted from the
       database.

3.7   The skilled person (a computer programmer, expert in
       gaming devices) would seek for a way to implement the
       winning event in the gaming devices of D5. The idea to
       use a lottery drawer and the rules of the "manipulated"
       lottery draw are not technical features and will be
       given to the skilled person for implementation in the
       associated gaming devices of D5. The skilled person
       would carry out this task in an obvious manner using
       only common general knowledge, especially since no
       details are provided in the application that would
       indicate particular technical problems to be solved or
       technical considerations to take into account in the
       implementation of the lottery drawer.

3.8   In its letter of 23 April 2021 the appellant put
        forward an argument related to the event list of D5.
        Making reference to paragraphs [0006] and [0007] of D5
        the appellant argued that the event list in the gaming
        machines of D5 comprises a finite list of events to
        occur in specific points in time. When the point in
        time of the last event in the list is reached, the
        event list must be replaced.

        In contrast to that, in the claimed invention the
        lottery drawer used entries from a database to create
        the winning events using a pseudo random number
        generator. The events in the database did not define a
        series of fixed points in time. Rather, the series of
        the sequential entries in the database would wrap
        around to the beginning when the end of the entries in
        the database was reached (see lines 30 and 31 on page 4
        of the published application).

        The use of draw of lottery in the claim, thus solved
        the technical problem of making the event list of D5
        reusable so that the present event list need not be
        replaced by a new event list when its end is reached.

3.8.1   The board is not convinced by this argument.

        Firstly, the board considers that this argument is not
        related to the claimed invention. The claimed method
        defines how one winning event is generated
        simultaneously in all the associated gaming devices.
        The considerations that may relate to generating a
        series of such winning events during a longer period of
        time are irrelevant for the assessment of the claimed
        invention.

        Secondly, even if the appellant's argument is taken

into account, the board notes that it is not correct
that the sequential entries (30) do not define fixed
points in time. As it is explained in the application
(see page 4, lines 17 to 21), the sequential entries
(30) correspond to a predetermined time interval, like
24 hours, and with the setting of a first date for the
first entry, they correspond to specific dates (see
also Figure 3). Each entry 30 comprises a list of
winning numbers to be drawn on the specific date (time
interval).

Furthermore, as the application explains, the number of
the sequential entries is chosen so that the same
winning numbers are not drawn on the same date for the
whole lifetime of the machine. In the example of Figure
3, there are 448 such entries covering more than one
year of continuous play, if it is assumed that each
entry corresponds to a day (page 4, lines 30 to 33).
Hence, the size of the database with the sequential
entries can be as long as it is desired, with the sole
limit being the size of the corresponding memory of the
machine.

The same applies for the machines of D5. The event list
can be as long as it is desired, even covering the
whole life time of the machine. Moreover, configuring
the machine so that the event list wraps round to its
beginning when the last event in the list is reached is
considered to be an obvious alternative if the size of
the memory was to be limited in some way.

The board, hence, does not see that such a feature
would contribute to an inventive step even if it were
to be included in claim 1 of the Main Request.

3.9   The board's conclusion is, therefore, that the subject-matter of claim 1 of the Main Request does not involve an inventive step within the meaning of Article 56 EPC.

4.   Auxiliary Requests

4.1   Compared with claim 1 of the Main Request, claim 1 of the **First Auxiliary Request** defines additionally that
        (i)   when there is a winning outcome, the win is signalled to a player and a payout is made and
        (ii)   the winning outcome is generated simultaneously to all the associated gaming devices independently of whether or not the gaming devices are connected to a central controller.

4.1.1   Regarding feature (i), the board considers that informing a player that they won and paying them out is a standard feature of any gaming device, including those described in D5. Hence this feature is at least obvious if not implicitly disclosed in D5. Regarding feature (ii) the board notes that D5 states explicitly that the associated gaming devices are not connected to any central server (see for example paragraph [0020]). This feature is thus disclosed in D5.

4.1.2   The board concludes, thus, that the subject-matter of claim 1 of the First Auxiliary Request does not involve an inventive step.

4.2   Compared to claim 1 of the First Auxiliary Request, claim 1 of the **Second Auxiliary Request** defines additionally that each of the gaming devices comprises means for synchronising the clock.

4.2.1   This feature is disclosed in D5, see for example
         paragraph [0011] and claim 7.

4.3   The subject-matter of claim 1 of the Second Auxiliary
         Request does not involve an inventive step, either.

5.   Since none of the requests on file is allowable, the
         appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

S. Sánchez Chiquero   G. Eliasson

Decision electronically authenticated