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**Datasheet for the decision
of 12 October 2021**

Case Number: T 1488/17 - 3.4.03

Application Number: 12803183.8

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IPC: G07F17/32, H04L12/16,
A63F13/48, A63F13/795,
A63F13/798

Language of the proceedings: EN

Title of invention:

SYSTEM AND METHOD FOR CONDUCTING ONLINE VIDEO GAME TOURNAMENTS

Applicant:

Worldgaming Network LP

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - (no)
Obvious implementation of non-technical features (rules for
playing games)

Decisions cited:

T 0641/00, T 0258/03



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Case Number: T 1488/17 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 12 October 2021

Appellant: Worldgaming Network LP
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 2 February 2017
refusing European patent application No.
12803183.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman G. Decker
Members: M. Papastefanou
M. Ley

Summary of Facts and Submissions

- I. The appeal of the applicant is against the decision of the examining division refusing the European patent application No. 12 803 183.8 (published as WO 2012/174656 A1) on the ground that the sole request before it did not involve an inventive step (Article 56 EPC).
- II. At the end of the oral proceedings before the board, which were held as a video conference at the board's order, the appellant (applicant) requested, as a Main Request, that the decision under appeal be set aside and a patent be granted on the basis of the claims underlying the impugned decision. As an auxiliary request, the appellant requested that the case be remitted to the examining decision for further prosecution if the board "*decide[d] to set aside the impugned Decision, but [was] unable to grant the subject application*" (see also statement of the grounds of appeal, penultimate paragraph on the last page).
- III. Reference is made to the following document, cited in the impugned decision:
- D2: WO 01/65358 A2.
- IV. Claim 1 of the sole substantive request is worded as follows:

A system for conducting a video game tournament having a plurality of levels, starting with a first level and ending with a last level, and involving a plurality of competing players, the system comprising a tournament server connected to a communications network; each

player has a respective player device and game machine; a hosting network also connected to the communications network, wherein the game machines are connected via the hosting network, wherein the player devices are connected to the tournament server via the communications network, wherein the matches are played on the hosting network and the hosting network is configured to transmit the results of each match to the tournament server via the communications network, and wherein the tournament server includes:

a. a record of competing players registered for the tournament indicating at which level each player is eligible to play;

b. a receiver configured to receive indications from the players that they are ready to play a match;

c. a ready list for each level which includes players who have indicated that they are ready to play a match and who are eligible to play at that level;

d. a processor configured to match players on each ready list, output a signal to the matched players of the match and remove the matched players from the ready list;

e. a receiver configured to receive the results of each completed match;

f. a processor configured to analyze the results to determine whether each player won or lost the match, wherein the second processor is further adapted to update the record of competing players to indicate that a winning player is eligible to

play at a higher level when the player wins a match that is not at the last level;
wherein the tournament server is configured to award a grand prize to the winning player when the player wins a match at the last level, and wherein each pair of matched players comprises two players who are selected to compete against each other in a match.

- V. The appellant argued essentially that the claimed system differed from the prior art by technical features which were not obvious to the skilled person. The appellant's arguments are dealt with in more detail in the reasons for the decision.

Reasons for the Decision

1. The claimed invention

The claimed invention relates to a system for conducting online a video game tournament having a plurality of levels.

- 1.1 In a conventional online video game tournament, players register to play at the tournament. The tournament normally comprises several levels and players start playing at the lowest (first) level and they advance to higher levels as they win games (matches). The tournament follows a predetermined time schedule according to which the games at every level are to take place. Players are obliged to follow this schedule if they want to advance in the tournament. This may cause difficulties to individual players that may not be available to play a game at a predetermined time. It may also cause limited participation at the tournament when players see that they will not be available to

play all the scheduled matches. In some cases, players are allowed to schedule their matches themselves but this may cause other problems such as prolongation of the tournament time for some players and not for others, etc. (see paragraphs [0002] to [0007] of the published application).

- 1.2 The claimed invention proposes a system conducting a video game tournament in which players can decide themselves when they play their game(s). The system maintains a list of registered players and the level of the tournament which each player is eligible to play at. Players have first to declare themselves ready to play before they are set to play a game. The system maintains a second list of players that have declared themselves ready to play. The system matches players, who are in this second list and at the same level, for a game. After the game ends, the system allows the winner to advance to the next (higher) level, and if they were at the last (highest) level they are awarded a prize.

After each game, players can decide whether or not they declare themselves ready to play the next game. So players can play several games in a row or can interrupt the tournament and resume at a later time, without any consequence to the running of the tournament. In such a way, the system allows players to have more control of their playing schedule, while the tournament runs normally (see paragraph [0010] of the application).

2. Main Request - Inventive step

- 2.1 It is common ground that D2 represents the closest prior art.

D2 describes a system for playing online multiplayer computer games. Users/players using their own player devices/gaming machines connect to a server via a communication network (e.g. the Internet) and play computer games (see for example Figures 1A to 1G). As D2 describes, the system comprises a "tournament server" which provides for tournament game-play between and among a plurality of players. The tournament server *"provides a forum for registered clients to demonstrate their game skills by participating in game tournaments which server [sic] to eliminate and rank players according to their skill..."*. Moreover the system comprises a user identification server and a registration component which provide user identification and registration functionality and permit players to register, define a user profile for each user and control access of the players to the game services of the system (see page 20, lines 4 to 18).

- 2.2 It is also common ground that the system of claim 1 differs from the system of D2 in that:
- it provides a ready list in the tournament server, the ready list being populated in response to signals received from players via their player devices;
 - it provides a second processor in the tournament server which is configured to match players on the ready list, transmits a signal to each of the matched players and updates the ready list by deleting the matched players (see also statement of the grounds of appeal, last paragraph on the first page).

- 2.3 In a first line of argument, the appellant argued that the problem solved by the claimed system was *"to provide a system for conducting a video game tournament*

which allows players to participate in the tournament on an 'on demand' basis. In other words, the players elect whether or not their details are entered onto the second database of the tournament server (the ready list)" (see statement of the grounds of appeal, first paragraph on the second page).

The claimed system provided flexibility to the players because they did not need to play any games at predetermined times. Players could play whenever they wished and this did not affect the other players participating at the tournament. The players themselves could decide that they wanted to play by signalling that they were ready to do so. So they could play one game and stop for a period of time or could play several games in a row.

- 2.4 The board notes that in D2 there is no information about how the tournament is run by the tournament server. Comparing claim 1 with D2, the technical effect of the identified distinguishing features lies in the implementation of the tournament according to the application. The skilled person would thus be faced with the technical problem of how to implement the tournament according to the application in the system of D2.

In such a case, a comparison of a tournament where players can play "on demand" to a tournament with a predetermined game schedule would not be appropriate, since there is no description of how the tournament is run in D2. However, for the sake of discussion, the board took the more favourable approach for the appellant and decided to follow the appellant's reasoning. It was thus considered that the skilled person would understand that D2 disclosed implicitly

the conventional way of running a game tournament (see point 1.1 above) and therefore the problem to be solved would be the one formulated by the appellant (see point 2.3 above).

2.5 In the board's view, the distinguishing features define how the tournament is to be run, i.e. they relate to the rules of running the tournament. Such rules are rules for playing games, which are not technical and excluded from patentability as such (Article 52(2)(c) and (3) EPC).

2.5.1 The board considers that providing more flexibility to video game players participating at an online game tournament is not related to any technical problems, nor does it involve any technical considerations. The aim of providing each player with the ability to determine themselves when they will play their next match is to encourage players to participate to a game tournament with a more flexible schedule. It also provides for a smooth running of the tournament because its running does not depend on a fixed game schedule (see also paragraph [0010] of the published application). In the board's view, neither of these aspects relates to any technical problems or constraints. They are both related to administrative decisions relating to the scheduling of the tournament.

2.5.2 Moreover, the increased flexibility is achieved by modifying the rules of the game tournament. It is the change of the rules that provides the possibility to the players to determine freely when they play their matches. As stated previously, the rules of the tournament are not technical, and any modification to them does not address any technical problem or involve

any technical considerations, but merely provides a set of new rules for playing a game.

- 2.5.3 Hence, the claimed system differs from the one in D2 only in that it runs a tournament with modified game rules. These modified rules are not technical as they relate to the underlying non-technical game rules of the tournament. According to established case law and practice (see e.g. T 641/00, "Two identities/COMVIK", OJ EPO 2003, 352, Headnote 2, and Reasons 5 to 7), these modified rules for running the tournament will be given to the skilled person for implementation.

The technical problem to be solved would then be how to implement these specific game rules.

- 2.5.4 In the claimed system this is achieved by using notoriously well known technical means (a "list", a processor, a "receiver") which are defined by their corresponding functions implementing the non-technical game rules. In the board's opinion, the skilled person would implement the modified game rules in the gaming system of D2 using such notoriously well known technical means in an obvious manner.
- 2.5.5 Moreover, even if any flexibility in the running of the tournament were to be considered a technical effect, it would be the result of modifying the rules of the tournament, i.e. the rules for playing the game. Hence, the identified problem (see point 2.3 above) - irrespective of whether or not it is a technical one - is not solved by technical means. It is rather circumvented by modifying the underlying non-technical scheme (the game rules), see also T 258/03, "Auction method/HITACHI", OJ EPO 2004, 575, Headnote II, and Reasons 5.7.

2.6 In an alternative line of reasoning, the appellant argued that the claims related to a system, which was incontestably technical, and the distinguishing features were technical features. Even if these features were implementing rules for playing games, this did not change the fact that the features themselves were components of a technical system and were of technical nature. Although they were known technical components when taken in isolation, it was their functions that were important. Each component had an associated function and enabled players to play in a certain way. The technical problem was not related to the implementation of game rules but to how to provide a system for the specific game tournament. This was a technical problem.

D2 was rather general on the implementation of the described game tournament; claim 1 in comparison provided specific details on the implementation of the tournament. There was nothing in D2 or the common general knowledge that would incite the skilled person to provide the specific implementation of claim 1. The claimed implementation was thus not obvious for the skilled person and the subject-matter of claim 1 involved an inventive step.

2.7 The board does not find this argument persuasive. As a general remark, the board notes that a distinguishing feature needs to solve a technical problem in a non-obvious way in order to be considered a basis for an inventive step.

The board agrees with the appellant that claim 1 defines a system which enables players to play a specific game tournament, the components of which are

of technical nature. These components and their functionalities, however, are selected and implemented in view of the game rules of the tournament. This is also reflected in the formulation of the claim, where all the technical components are defined only by their corresponding functions, which in turn reflect the various rules of the game.

- 2.7.1 It is true that the skilled person tasked with the implementation of the game rules has a generally open choice of how to implement these rules within the gaming system. The board acknowledges that there is no particular incentive for the skilled person, either in the teaching of D2 or in their common general knowledge, to select the specific implementation of claim 1. However, the board cannot see any technical effect achieved by this implementation that would imply the presence of an inventive step.
- 2.7.2 The game rules have to be implemented by corresponding operations of the gaming system. An additional characteristic for the players is provided, namely, whether or not they are ready to play a match. There are limited ways to implement this, e.g. as a flag associated to each player in the player database, as an additional record for each player's entry in the database, or as a separate database. The board notes that the claim does not specify any particular implementation, only that the system includes a *ready list for each level which includes players who have indicated that they are ready to play a match and who are eligible to play at that level*. Neither in the claim nor in the application as a whole is there a mention of a second database implementing this ready list, as the appellant argued. Hence, the skilled person is free to implement this "ready list" in any

way they see fit, based on their common general knowledge.

- 2.7.3 The claim defines specifically only that the system includes two processors, one for matching players from the ready list, outputting a signal to them and removing them from the ready list (feature d), and another one for analyzing the results, determining whether a player won or lost a match, for updating the players' records with the level they are eligible to play after the match (feature f).

The application does not provide any information as to why there are two processors selected for implementing these functions instead of one or more than two. It is generally known that a computer system would be able to run faster if its operations are executed by several processors instead by one. The board takes the view that the skilled person tasked to implement the given game rules would select the appropriate number of processors to include in the system based on commonly known aspects, such as the desired overall speed, complexity, and cost. In the absence of any specific constraints or considerations that would dictate the use of two processors as defined in the claim, the board concludes that the skilled person would arrive at this implementation in an obvious manner.

- 2.8 Summarising, the board's conclusion is that the features distinguishing claim 1 from the state of the art constitute an obvious implementation of the non-technical rules for playing the game tournament.

- 2.9 The subject-matter of claim 1 of the Main Request, therefore, does not involve an inventive step within the meaning of Article 56 EPC.

3. Auxiliary Request

Since the board agrees with the conclusions of the examining division, it will not set aside the decision under appeal. Hence, the question of a remittal of the case to the examining division according to the appellant's auxiliary request is moot.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



A. Voyé

G. Decker

Decision electronically authenticated