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**Datasheet for the decision
of 16 December 2021**

Case Number: T 2077/17 - 3.4.03

Application Number: 06754081.5

Publication Number: 1894172

IPC: G07F17/32

Language of the proceedings: EN

Title of invention:

TICKET FOR CREDITS FOR GAMING CONSOLE

Applicant:

Novomatic AG

Headword:

Relevant legal provisions:

EPC 1973 Art. 56

RPBA 2020 Art. 13(2)

Keyword:

Inventive step - (no)

Amendment after summons - exceptional circumstances (no)

Decisions cited:

Catchword:



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Case Number: T 2077/17 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 16 December 2021

Appellant: Novomatic AG
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 18 April 2017
refusing European patent application No.
06754081.5 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman T. Häusser
Members: M. Stenger
E. Mille

Summary of Facts and Submissions

- I. The appeal concerns the decision of the Examining Division to refuse European application no. 06 754 081, filed as International application and published as WO 2006/131274 A1.
The decision is based on a main request and auxiliary requests 1 to 3 and refers to communications dated 14 February 2017 and 31 March 2017. In these communications, the Examining Division gives reasons concerning lack of inventive step.
- II. At the end of the oral proceedings before the Board, the appellant requested that the decision under appeal be set aside and a patent be granted on the basis of the set of claims of a main request or alternatively of any of auxiliary requests 1, 1a, 2 and 3, the said main request and auxiliary requests 1 to 3 having been filed with the statement setting out the grounds of appeal and the said auxiliary request 1a having been filed with the appellant's letter dated 15 November 2021.
- III. It is referred to the following document:

D1: WO 03/104946 A2
- IV. Claim 1 of the main request has the following wording (labelling a), b), ... added by the Board):
- a) *A gaming system comprising a plurality of gaming consoles (72, 74),*
 - b) *wherein a first gaming console (72) is provided with a credit meter (15) for playable credits,*
 - c) *a storage memory for non-playable credits,*

- d) *transfer means for transferring at least a portion of said playable credits to said storage memory storing said transferred credits as non-playable credits,*
- e) *and a ticket dispenser (30) for dispensing a ticket (39) containing information linking said ticket to non-playable credits stored in said storage memory, and*
- f) *wherein a second gaming console (74) is provided with a credit meter (15) for playable credits, a ticket reader for reading said ticket dispensed by said first gaming console (72) and transfer means for transferring non-playable credits stored in the storage memory of the first gaming console (72) to the credit meter (15) of the second gaming console (74) in accordance with the information on the ticket read by the ticket reader of the second gaming console (74), characterized in that*
- g) *wherein said ticket dispenser (30) is adapted to dispense, when on a trigger condition, a ticket (39) with a gaming console identification means for identifying the gaming console dispensing the ticket (39),*
- h) *wherein the gaming console (74) reading a ticket (39) with its ticket reader includes means for identifying the gaming console (72) as having printed the ticket on the basis of said gaming console identification means of the ticket (39), and*
- i) *wherein said gaming console (74) queries only the identified gaming console as to the validity of the ticket (39).*

V. The wording of claim 1 of auxiliary request 1 differs from the wording of claim 1 of the main request in that it comprises, inserted between features f) and g), the

following feature (labelling j), k), ... added by the Board):

j) a server (70) linked to the plurality of gaming consoles (72, 74) forms a secondary backup means storing the non-playable credits stored in the gaming consoles (72, 74),

and in that feature i) is replaced by the following features:

k) wherein said gaming console (74) in a first step queries only the identified gaming console as to the validity of the ticket (39), and

l) in a second step, where a signal in response to said query is not returned by the identified gaming console, the server (70) forming the secondary backup means temporarily honors the value of the stored ticket as long as the identified gaming console is inactive and,

m) when the previously identified gaming console (72) becomes active again, the server (70) simultaneously updates the identified gaming console non-playable accounts for any used ticket,

n) wherein means are provided for giving a warning signal upon identification of a discrepancy between the information on the server and the information on the identified gaming machine.

VI. Claim 1 of auxiliary request 1a differs from claim 1 of auxiliary request 1 in that it comprises, inserted after feature j), feature o) as follows (labelling o) added by the Board):

o) *wherein the server (70) is adapted to keep track of all transactions completed on each gaming console (10) of the network (77a to 77c),*

VII. Claim 1 of auxiliary request 2 differs from claim 1 of auxiliary request 1 in substance in that it comprises, at its end, the additional feature p) as follows (labelling p) added by the Board):

p) *wherein, upon entry of the dispensed ticket (39) into the ticket reader of the gaming console reading the ticket, the ticket (39) is stored in the ticket dispenser.*

VIII. Claim 1 of auxiliary request 3 differs from claim 1 of auxiliary request 2 in that it comprises, inserted after feature g), the additional feature q) as follows (labelling q) added by the Board):

q) *said gaming console identification means being a static identification number retained by the gaming console when turned off then on again,*

and in that it further comprises, inserted after feature h), the additional feature r) as follows (labelling r) added by the Board):

r) *wherein upon transfer of all non-playable credits from the first gaming console (72) to the credit meter of the second gaming console (74), the account storing the non-playable credits is deleted from the storage memory of the first gaming console (72),*

IX. The relevant arguments of the appellant submitted during the oral proceedings and/or in the grounds of appeal may be summarized as follows.

(a) Main request - inventive step

The memory for the non-playable credits constituted a separate memory element in addition to the credit meter in which the playable credits were stored. Providing a separate memory element for the non-playable credits transferred thereto by transfer means made it possible to access both the non-playable credits and the playable credits simultaneously. Without such a separate memory element, the access would have to be sequential, resulting in pauses of maybe one or two seconds in the gameplay which would irritate the player. Further, a separate memory element made it possible to use different access rights for the non-playable and the playable credits.

It was not necessary to mention these effects in the claims themselves, since they could be achieved in a way obvious to the skilled person. The objective technical problem could then be formulated as how to increase security and performance of the gaming console.

(b) Auxiliary request 1 - inventive step

According to feature j), the non-playable credits of a plurality of gaming consoles were stored in a single server. This was not disclosed in D1.

Further, the level of security of all entities involved in the backup procedure of D1 was on the same level, all of them being gaming consoles. Since all entities were equally secure, there was no need in D1 for a reconciliation procedure after one of these gaming consoles was active again. In contrast to that, the

server of the application was less secure than the gaming consoles. Therefore, a reconciliation procedure was required. Using a server for the backup with a reconciliation procedure according to features j), l), m) and n) of the application was, however, less costly and needed less resources than the complicated backup scheme involving all the gaming consoles as disclosed in D1. The solution of claim 1 of auxiliary request was therefore a particular compromise.

(c) Auxiliary request 1a - admission

The appeal was submitted before the RPBA 2020 were in force. The Board should take that into account and use its discretion in an applicant-friendly manner. Further, the amendments introduced in Claim 1 of this auxiliary request were a direct reaction to the changed understanding of the term "server" by the Board as expressed in its communication preparing the oral proceedings.

(d) Auxiliary request 2 - inventive step

D1 failed to disclose means for storing entered tickets in a ticket reader. There was not even a hint in the disclosure of D1 to implement ticket retaining means.

(e) Auxiliary request 3 - inventive step

The additional features of claim 1 of auxiliary request 3 allowed for reliable identification of the gaming console that had issued the ticket and thus, transfer of non-playable credits with less data traffic even after an inactive phase of a gaming console.

Moreover, deletion of the non-playable credit account prevented multiple use of a dispensed ticket and reduced the necessary storage capacity.

Reasons for the Decision

1. Admissibility

The appeal is admissible.

2. The application

The application relates to a gaming system comprising a plurality of gaming consoles. Playable credits can be transferred from the credit meter of a console to a storage memory for non-playable credits of the console. Non-playable credits can be transferred from such a memory of one console to the credit meter of another console by means of a ticket with information linking the ticket to the respective non-playable credits.

3. Prior art

D1 relates to a server- and cashless gaming system comprising a number of peer networked gaming terminals. Credit is stored in the local meter of a gaming terminal and can be transferred to a new terminal by a user presenting an ID instrument at the new terminal.

4. Main request - inventive step

4.1 Disclosure of D1

Using the wording of claim 1 of the main request as far as possible, D1 discloses:

A gaming system comprising a plurality of gaming consoles (abstract, "peer networked gaming terminals"), wherein a first gaming console is provided with a credit meter for playable credits (page 2, lines 18 to 20, "the credit is entered directly into the local meters"), and a ticket dispenser for dispensing a ticket containing information linking said ticket to non-playable credits (i.e. credits that are to be transferred) stored in the local meter of the first gaming console (page 2, lines 20 to 22, "A patron may be issued an identification (ID) instrument that may be accepted by any gaming terminal in the network"), wherein a second gaming console is provided with a credit meter for playable credits, a ticket reader for reading said ticket dispensed by said first gaming console and transfer means for transferring credits stored in the first gaming console to the credit meter of the second gaming console in accordance with the information on the ticket read by the ticket reader of the second gaming console (page 2, lines 22 to 27), wherein said ticket dispenser is adapted to dispense, when on a trigger condition (i.e. when dispensing of a ticket is requested), a ticket with a gaming console identification means for identifying the gaming console dispensing the ticket (page 14, line 31 to page 15, line 2), wherein the gaming console reading a ticket with its ticket reader includes means for identifying the gaming console as having printed the ticket on the basis of said gaming console identification means of the ticket (page 15, lines 2 to 3), wherein said gaming console queries only the identified gaming console (page 15, lines 3 to 7) as to the validity of the ticket (page 8, lines 15 to 17).

4.2 Difference

D1 does not disclose that the credits that are to be transferred to another gaming console are transferred to and stored in a (separate) storage memory. Thus, claim 1 of the main request differs in substance from D1 by features c) and d) as defined above:

c) a storage memory for non-playable credits,

and

d) transfer means for transferring at least a portion of said playable credits to said storage memory storing said transferred credits as non-playable credits.

The appellant did not dispute this finding.

4.3 Objective technical problem, obviousness

The Board doubts that the provision of a separate storage memory (element) for non-playable credits and corresponding transfer means is necessary in order to enable simultaneous access to playable and non-playable credits or the use of different access rights for these credits, as alleged by the appellant.

Irrespective thereof, however, even if that were the case, such a provision according to distinguishing features c) and d) would not in themselves be sufficient to reliably achieve these effects. Instead, achieving these effects would require further features relating to how the elements of the memory of the gaming console are actually accessed. Such features,

however, are not present in the claims nor are they mentioned in the rest of the application.

The Board notes that this finding corresponds to what the Examining Division set out in section 10 of the communication dated 31 March 2017.

Since the effects mentioned by the appellant are not achieved by the distinguishing features, they cannot be used to define the objective technical problem.

The only effect achieved by distinguishing features c) and d) that the Board can identify is that credits in a game are split, distributed or transferred according to their intended use (playable or non-playable, i.e. to be transferred). In itself, this is a financial and administrative concept not requiring the exercise of any technical skills.

On the basis of this effect, the objective technical problem to be solved can then be formulated as how to implement this financial and administrative concept in the gaming terminal of D1.

To provide a separate different storage memory element for the separate different non-playable credits (e.g. in the form of reserving a separate portion of the memory already present in the gaming console or in the form of physically adding a further memory chip) does not go beyond a straightforward implementation of the financial and administrative concept mentioned above.

Thereby, the subject-matter of claim 1 of the main request is not inventive under Article 56 EPC 1973.

5. Auxiliary request 1 - inventive step

Claim 1 of auxiliary request 1 differs from claim 1 of the main request in that feature i) is replaced by features j), k), l), m) and n).

D1 discloses that the next used terminal establishes network communication with the previously used gaming terminal without having to rely on broadcasting techniques (page 15, lines 3 to 7). Thus, D1 discloses feature k).

Further, D1 discloses that the cashless meters owned by a given terminal may be replicated (mirrored) to a "predetermined number of other peer gaming terminals" (secondary owners, see page 14, lines 21 to 22). The secondary owners are solicited in a (second) step when there is no response from a primary owner (i.e. the previously used gaming terminal) to an initial transfer request, accepting the transfer of cashless meters (page 14, lines 23 to 30). Thus, the peer gaming terminals of D1 acting as secondary owners perform, in addition to their functions as gaming terminals, the functions of the server as defined in feature l).

Feature l) is thus disclosed in D1, even if the term "server" is not used and the role of the server is performed in D1 by one of the gaming terminals (the computer architecture of the gaming consoles being identical to those used in computer servers, see page 1, line 32 to page 2, line 3).

The Board notes that the application does not exclude that the servers mentioned perform additional tasks further to the ones defined in features j) and l) to n). On the contrary, the application even explicitly states that a gaming console may act as a server for

other gaming consoles (see page 5, lines 1-2 of the description of the application).

The Board accepts that the manner of providing secondary owners disclosed in D1 does not necessarily correspond to providing one single secondary owner replicating the cashless meters of all gaming terminals. However, since the "predetermined number" mentioned in D1 (see above) can be assumed to be greater than one, the replication is not implemented in a one-to-one manner, either, contrary to the argument of the appellant. Starting from D1, the skilled person would thus consider a plurality of different relations between the primary and the secondary owners. They would thereby arrive at a one-to-many relationship as required by feature j) as a routine measure depending on the circumstances without the exercise of an inventive step.

D1 does not explicitly disclose that the secondary owners update the primary owners simultaneously to their becoming active again (feature m)) and that a warning signal is given when a discrepancy between the information on the secondary owners and the primary owners is detected (feature n)).

However, in a distributed credit accounting system, it must be considered obvious, if not inevitable, to update all elements of the system after they have been inactive. The same holds for notifying any discrepancy between such elements.

The Board notes that since according to the application, the server functions may be performed by a gaming console (page 5, lines 1-2 of the original description), the arguments of the appellant with respect to different levels of security and the

entailed need for a reconciliation procedure between the server and the gaming consoles do not apply.

Thereby, features m) and n) are, if not implicitly disclosed in D1, at least obvious in view of D1 and common general knowledge.

Thus, the subject-matter of claim 1 of auxiliary request 1 is not inventive under Article 56 EPC 1973 in view of D1 and common general knowledge.

6. Auxiliary request 1a - admission

The appeal was filed before the RPBA 2020 were in force, as submitted by the appellant. Nevertheless, Article 13(2) RPBA 2020 applies to the present case, since neither the summons to oral proceedings, nor a communication of the Board under Rule 100(2) were notified before 1 January 2020 (Article 25(1) and (3) RPBA 2020).

According to Article 13(2) RPBA 2020, amendments to a party's appeal case made after notification of a summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances which have been justified with cogent reasons by the party concerned.

In the present case, the appellant argued that the amendments introduced in Claim 1 of auxiliary request 1a were a direct reaction to the changed understanding of the term "server" by the Board as expressed in its communication preparing the oral proceedings.

However, the Examining Division, in the communication dated 14 February 2017, to which the decision under

appeal made reference, had already indicated that a server was basically "a computer with predetermined functionalities" and that the application itself suggested in lines 1 and 2 of page 5 that a gaming console may act as a server (see point 9 of that communication). The Board, in its communication preparing the oral proceedings, had indicated that "the role of the server is performed in D1 by one of the gaming terminals" (see point 4. of the communication), i.e. that one of the gaming terminals in D1 acts as a server by assuming the required functionalities. Hence, the Board, in its communication preparing the oral proceedings, did not understand the term "server" differently than the Examining Division in its communication dated 14 February 2017, although the Board did not, contrary to that communication of the Examining Division, refer to the cashier terminal 106 and the automated cashier 108.

The Board further notes that the appellant, during the first instance proceedings, withdrew its request for oral proceedings and thus abstained from discussing the issue finally with the Examining Division, thereby renouncing the possibility of filing a corresponding request during such oral proceedings.

For these reasons, the Board did not accept that there were exceptional circumstances that would have justified the admission of auxiliary request 1a at such a late stage of the proceedings and decided not to admit this request into the proceedings under Article 13(2) RPBA 2020.

7. Auxiliary request 2 - inventive step

Claim 1 of auxiliary request 2 differs from claim 1 of auxiliary request 1 by the additional feature p) relating to storing the ticket after it having been read.

The Board accepts the appellant's arguments that this feature is not disclosed nor explicitly suggested in D1.

However, additional feature p) represents one of precisely two possibilities with generally known advantages and disadvantages, the other possibility being to render the ticket to the user after it had been read by the ticket reader. The Board notes that both options have been used in the past in similar situations like payment systems for car parking lots.

Thereby, the skilled person would have chosen one of these two possibilities according to the circumstances, without the exercise of inventive skills.

Hence, the subject-matter of claim 1 of auxiliary request 2 is not inventive under Article 56 EPC 1973.

8. Auxiliary request 3 - inventive step

Claim 1 of auxiliary request 3 differs from claim 1 of auxiliary request 2 by features q) and r) as defined above (see point VIII.).

Static device identifications as defined in feature q) have to be considered to be the most obvious choice for a system in which a plurality of devices are to be addressed, since dynamic device identifications would have to be managed, leading not only to more data traffic as submitted by the appellant, but to a more

complex overall system. Thus, the skilled person would choose static device identification whenever the flexibility needs of the overall system allowed this choice. Further, erasing data that is not needed anymore, i.e. in the present case according to feature r), empty or transferred accounts, is an obvious possibility to recover storage space and thus reduce storage need. The Board notes that D1 even suggests this possibility (see page 11, lines 25 to 26). Thus, no inventive step can be acknowledged on the basis of features q) and r).

Hence, the subject-matter of claim 1 of auxiliary request 3 lacks inventive step under Article 56 EPC 1973.

9. Conclusion

None of the admitted requests fulfills the requirements of Article 56 EPC 1973. Thus, the appeal must fail.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

T. Häusser

Decision electronically authenticated