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**Datasheet for the decision
of 18 May 2022**

Case Number: T 1497/19 - 3.4.03

Application Number: 14152664.0

Publication Number: 2899701

IPC: G07F17/32

Language of the proceedings: EN

Title of invention:

Gambling game system providing additional awards

Applicant:

Hsu, Tien-Shu

Headword:

Relevant legal provisions:

RPBA 2020 Art. 13(2), 13(1)
EPC Art. 84, 123(2), 52(2)(c), 56

Keyword:

Amendment after summons - exercise of discretion - taken into account (yes)
Inventive step - (no) - obvious alternative - mixture of technical and non-technical features
Patentable invention - rules for playing games

Decisions cited:

Catchword:



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Case Number: T 1497/19 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 18 May 2022

Appellant:
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 18 February
2019 refusing European patent application No.
14152664.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman M. Stenger
Members: J. Thomas
T. Bokor

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division to refuse European patent application No. 14 152 664 on the grounds that the subject-matter of the then main request did not fulfil the requirements of Articles 84, 123(2) and 52(1) EPC in combination with Article 56 EPC. The then auxiliary request was not admitted into the proceedings under Rule 137(3) EPC, because *prima facie* the objections under Articles 84, 123(2) and 52(1) EPC in combination with Article 56 EPC were not overcome.
- II. At the end of the oral proceedings held by video conference before the Board the appellant requested that the decision under appeal be set aside, and a patent be granted on the basis of claims 1 to 6 filed with letter dated 12 April 2022, as main and sole request.
- III. The following document is referred to:
D1: EP 2 348 493 A1
- IV. Claim 1 of the main request reads as follows:
*"A gambling game system providing additional awards, comprising:
a game result generation device (20) generating one of a plurality of game results;
a betting table (40) marking with a plurality of payout odds corresponding to the plurality of game results respectively and receiving player's betting, wherein the betting table (40) includes an electronic interface displayed on an electric screen (42), and a plurality of betting zones (41)*

of the betting table (40) are displayed on the electronic screen (42);
an electronic display board (50) including a plurality of display zones (51) corresponding to the game results respectively, wherein the electronic display board (50) is integrated and displayed on the electric screen (42), and the electronic screen (42) is a touch screen;
a payout element (60) paying out to the players who win the betting in the round of a game according to the payout odds; and
a central control unit (70) including a signal input end (71) and a signal output end (72), the signal input end (71) receiving the game result generated by the game result generation device (20) and the players' betting received by the betting table (40) and the signal output end (72) transmitting the game result and the players' betting to the payout element (60);
the gambling game system **characterized in that** the gambling game system further comprises a dynamic raised odds calculation element (30) to select a specific number of the plurality of game results randomly in each round of the game, and the dynamic raised odds calculation element (30) generates dynamic raised odds (511) corresponding to each of the selected game results, wherein the value of the dynamic raised odds (511) is greater than the value of the payout odds; and
wherein when betting on the betting table (40) has finished in one round of the game, the at least one dynamic raised odds (511) randomly selected by the dynamic raised odds calculation element (30) is transmitted to the signal input end (71) and outputted from the signal output end (72) to the electronic display board (50) and the payout

element (60), and then the electronic display board (50) displays the dynamic raised odds (511) corresponding to the selected game results instantly on the plurality of display zones (51), and the payout element (60) pays out the awarding to the players according to the dynamic raised odds (511) instead of the payout odds."

- V. The appellant's arguments, insofar as they are relevant to the present decision, are summarised as follows:

The new main request should be admitted into the proceedings since it concerned features objected to by the Board and presented a target-oriented converging limitation of the subject-matter defined in claim 1.

In the appellant's view, the subject-matter defined in claim 1 did also provide an inventive step over the prior art. D1 was accepted as the closest prior art and also the two distinguishing features as found by the examining division and by the Board. Admittedly, the first distinguishing feature (the screen being a *touch screen*) could not make an inventive contribution over the prior art. However, the second distinguishing feature was considered to be inventive over the teaching of document D1. Document D1 focused on a different technical problem which was *"how to maintain a profitable return ratio while providing opportunities for players to potentially earn higher odds"*. In contrast thereto, the invention solved the technical problem of *"how to raise the uncertainty and excitement of the game for the player, and to ensure that dynamic raised odds will exist in every round of the game"*. Since the technical problems were different in the present invention compared to document D1, the skilled person had no incentive to / would not change anything

in the gambling system known from document D1 in order to arrive at the subject-matter defined in claim 1.

Reasons for the Decision

1. Admission of the main request in the proceedings

- 1.1 The present main request was filed after notification of the summons to oral proceedings, so that its admission into the proceedings had to be decided under Article 13(2) RPBA 2020.
- 1.2 Article 13(2) RPBA 2020 states that "*any amendment to the 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*" (emphasis by the Board).
- 1.3 The Board is of the opinion that the amendments in the present case submitted after the notification of the summons to oral proceedings overcome the objections raised under Articles 84 and 123(2) EPC in the communication under Article 15(1) RPBA 2020 and are therefore a response to the Board's opinion.
- 1.4 Concerning the objections raised under Article 56 EPC in the communication under Article 15(1) RPBA 2020, the case remains unchanged so that it is questionable whether the new main request were to be considered as an "amendment" for the inventive step discussion. If it were not to be considered as constituting an amendment, its admission under Article 13(2) RPBA 2020 could not be contested in that respect.

- 1.5 If however, the new main request were to be considered as constituting an amendment, the Board would still have a discretion for admitting this request into the proceedings due to the expression "*in principle*" in Article 13(2) RPBA 2020. This (limited) discretion of the Board should of course be applied carefully and with due regard to the criteria set out in Article 13(1) RPBA 2020, which include *inter alia* procedural economy.
- 1.6 In the case at hand, the Board is of the opinion that the admission of the new main request into the proceedings does certainly not delay the proceedings. On the contrary, it allows the Board to come to a final conclusion and to decide on the substance of the case more directly as the wording of claim 1 of the new main request does not change the position of the Board with respect to Article 56 EPC, because no substantive amendment was made that would have affected the assessment of inventive step. The objections under Article 56 EPC thus remain unchanged compared to the objections raised in the communication under Article 15(1) RPBA 2020.
- 1.7 The Board therefore concludes that, even if the new main request were to be considered as constituting an amendment to the appeal case within the meaning of Articles 13(1) and (2) RPBA 2020, the admission of this request would not delay the proceedings, but instead render the procedure more efficient. Therefore, the Board exercises its discretion under Articles 13(1) and (2) RPBA 2020 and exceptionally admits the new main request into the proceedings.

2. Inventive step

2.1 Closest prior art

Document D1 represents the closest prior art. It discloses (the references in parentheses in the following paragraph refer to document D1, the features presented in strike-through not being disclosed in D1):

A gambling game system providing additional awards which comprises a game result generation device (13) generating one of a plurality of game results (40); a betting table (20) marking with a plurality of payout odds corresponding to the plurality of game results (40) respectively and receiving player's betting, wherein the betting table (20) includes an electronic interface displayed on an electronic screen ([0014]), and a plurality of betting zones ([0005]) of the betting table (20) which are displayed on the electronic screen.

The gambling game system further comprises an electronic display board ([0014]) including a plurality of display zones corresponding to the game results respectively ([0014]; Figures 3, 5 and 7), wherein the electronic display board is integrated and displayed on the electronic screen (Figures 3, 5 and 7), ~~and the electronic screen is a touch screen.~~

The gambling game system further comprises a payout element (14; [0005]) paying out to the players who win the betting in the round of a game according to the payout odds; and a central control unit (Figure 2; 14) including a signal input end (Figure 2) and a signal output end (Figure 2), the signal input end (Figure 2) receiving the game result generated by the game result generation device (Figure 2) and the players' betting received by the betting table (10) and the signal output end (Figure 2) transmitting the game result and the players' betting to the payout element

(Figure 2; 14); the gambling game system further comprises a dynamic raised odds calculation element (60) ~~to select a specific number of the plurality of game results randomly in each round of the game,~~ the dynamic raised odds calculation element ([0012]) generates dynamic raised odds corresponding to each of the selected game results ([0012]), wherein the value of the dynamic raised odds is greater than the value of the payout odds (this is implicit, because a "raised odd" is always greater than the odd itself); and wherein when betting on the betting table has finished in one round of the game, the at least one dynamic raised odds ([0012]) ~~randomly selected by the dynamic raised odds calculation element~~ is transmitted to the signal input end (Figure 1) and outputted from the signal output end (Figure 1) to the electronic display board ([0014]; Figure 1) and the payout element ([0014]; Figure 1), and then the electronic display board ([0014]; Figure 1) displays the dynamic raised odds corresponding to the selected game results instantly on the plurality of display zones ([0014]), and the payout element pays out the awarding to the players according to the dynamic raised odds instead of the payout odds ([0014]).

2.2 Distinguishing features

The subject-matter defined in claim 1 differs from the gambling game system known from document D1 by the following two distinguishing features:

- the use of a touch screen and
- the random selection of a specific number of game results for which dynamic raised odds are respectively generated / selected.

These two distinguishing features are completely separate, independent features which are not linked to each other. Therefore, the combination of both features does not lead to a synergistic effect, so that each feature is to be treated separately with regard to inventive step.

2.3 Technical effects and problems to be solved

2.3.1 The first distinguishing feature solves the problem of how to efficiently realise the input panel. It concerns a well-known, straightforward design choice which cannot provide an inventive contribution. Document D1 even hints at this realisation in figures 3, 5 and 7, all of which show versions of the game table display on the electronic screen on which interaction with the players or bankers is possible. The shown screens include user-interaction buttons inside/on the display, i.e., the cash out, redo bet, cancel, help buttons in the lower line or lower right corner of each of these figures. The realisation of these buttons is not further specified in document D1. However, the skilled person would have been aware of the two most obvious realisations: either in form of physical buttons or in form of a touch screen. Hence, the implementation using a touch screen represents one obvious choice out of the limited number of two possible choices. This feature does not provide any inventive contribution over the prior art.

2.3.2 The second distinguishing feature concerns rules for playing a game and as such does not contribute to an inventive step within the meaning of Articles 52(1) EPC in combination with Article 52(2)(c) EPC, because it relates to a non-technical feature. The claim's overall technicality is not questioned, but the technical

contribution of the second distinguishing feature resides only in the standard automation and implementation of a non-technical rule, namely a specific gaming rule in the gambling game system. The specific gaming rule concerns the choice of how the dynamic raised odds are to be calculated or determined. It is consequently a non-technical rule selected by the game designer. It also offers no further technical advantage nor produces a further technical effect, as it is merely implemented into the gambling system in a straightforward manner by the software programmer. Hence, the second distinguishing feature cannot provide an inventive step, either, due to its missing technicality.

- 2.3.3 As to the appellant's argument concerning the second distinguishing feature, the Board is of the opinion that before the question of an inventive contribution of any feature may be raised, it must be determined whether it produces a technical effect and is therefore a technical feature. In the present case, the second distinguishing feature is a non-technical feature, since it clearly represents a gaming rule which, as such, is excluded from patentability according to Article 52(2)c) EPC. The problem it is intended to solve, maintaining the excitement of the players, is also a non-technical problem. Therefore, it can only contribute to inventive step if its technical implementation relates to a special technical solution or if its computer implementation provides a further technical effect. As neither situation applies in the present case, the second distinguishing feature cannot contribute to an inventive step. Therefore, the appellant's arguments concerning the respective subjective problems to be solved in D1 and by the invention and why the skilled person would not change

the system of D1 to arrive at the system claimed are not decisive. It is irrelevant that the suggested modified game rule is "not obvious" or even may be qualified as "ingenious" in the everyday sense of the word. Given that it can be legitimately included in the definition of the problem to be solved (following the COMVIK approach), it must be disregarded for the assessment of the inventive step for the purposes of Article 56 EPC.

3. The subject-matter defined in claim 1 of the sole request on file does not fulfil the requirements of Article 52(1) EPC in combination with Article 56 EPC. Thus, the appeal must fail.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

M. Stenger

Decision electronically authenticated