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Datasheet for the decision of 21 March 2007

Case Number: T 1242/05 - 3.4.03

Application Number: 01301889.0

Publication Number: 1130555

IPC: G07F 17/32

Language of the proceedings: EN

Title of invention:
Remote, central monitoring system for game machines

Applicant:
Konami Corporation

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 56

Keyword:
"Main request - Inventive step (no)"
"Auxiliary request - Inventive step (yes)"

Decisions cited:
-

Catchword:
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Case Number: T 1242/05 - 3.4.03

D E C I S I O N
of the Technical Board of Appeal 3.4.03
of 21 March 2007

Appellant: Konami Corporation
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 18 May 2005 refusing European application No. 01301889.0 pursuant to Article 97(1) EPC.**

Composition of the Board:

Chairman: R. G. O'Connell
Members: V. L. P. Frank
T. Bokor

Summary of Facts and Submissions

I. This is an appeal from the refusal of European patent application 01 301 889.0 for lack of inventive step (Article 56 EPC).

II. On appeal the appellant applicant refiled as main claim request the refused claim request supplemented by a new auxiliary claim request.

III. Claim 1 of the main request reads:

> "A remote, central monitoring system for remotely and centrally monitoring a plurality of game machines (1), comprising:
> a common central monitoring apparatus (3); and
> a plurality of game machines located in a plurality of places, the plurality of game machines being remotely and centrally monitored by the common central monitoring apparatus,
> wherein each of the plurality of game machines is capable of starting a game by inserting a payment object, and comprises:
> a payment-object-insertion detecting means which detects insertion of a payment object,
> a payment-object counter which counts the number of times insertion of a payment object is detected,
> a free switch which starts the game without inserting a payment object,
> a situation-of-use information incorporating device which incorporates predetermined situation-of-use information of each of the game machines, the situation-of-use information including at least one of payment-object-insertion detected

number information of the payment-object-insertion detecting means of the game machine, count value information of the payment-object counter, switching-on information of the free switch, and power on/off information of each of the game machine,
a data storage device which stores the incorporated situation-of-use information, and
a communication device (2) which sends the information stored in the data storage device to the common central monitoring apparatus; and
characterized by:
a timepiece mechanism which divides a one day period into a plurality of predetermined time slots, so that the situation-of-use information is divided into a plurality of pieces respectively corresponding to the time slots wherein each of the situation-of-use information of each of the game machines is sent to the common central monitoring apparatus."

In claim 1 of the auxiliary request the paragraph commencing "a situation of use information incorporating device" of claim 1 of the main request was reproduced in slightly altered form as shown below (changes marked):

"a situation-of-use information incorporating device which incorporates predetermined situation-of-use information of each of the game machines, the situation-of-use information including a switching-on count of the free switch and at least one of payment-object-insertion detected number information of the payment-object-insertion

detecting means of the game machine, count value information of the payment-object counter, ~~switching-on information of the free switch~~, and power on/off information of each of the game machine,"

Claims 2 to 9 are the same for both requests and depend on claim 1.

IV. The following prior art documents *inter alia* were cited in the examination procedure:

D1: US 4 335 809 A

D4: GB 2 205 214 A

The following document, referred to in document D1, was introduced by the board into the proceedings.

D5: GB 1 542 284 A

V. The examining division had considered that the system of claim 1 was not inventive for the following reasons:

- The monitoring system of claim 1 differed from the system disclosed in D1 in that:
- a) each gaming machine comprised a free play switch, whose operation was monitored, and
  b) each gaming machine comprised a timepiece mechanism that divided a one day period into a plurality of predetermined time slots, so that the situation-of-use information was divided into a plurality of pieces respectively corresponding to the time slots.

– The incorporation of a free play switch and its monitoring addressed the problem of facilitating machine testing without compromising the security of the machine as regards fraud, whereas the division of a one day period into a plurality of time slots addressed the problem of obtaining an appropriate resolution of the monitored situation-of-use information. Consequently, the distinguishing features of claim 1 over the state of the art were unrelated and solved different problems.

– ad a): A free play switch for machine testing was a standard feature of gaming machines and the person skilled in the art was well aware of the implications of the presence of a free play switch: it created an avenue for fraud. Consequently, within a game machine monitoring system as disclosed in document D1, the incorporation of game machines with free switches would thus logically lead to the monitoring of the use of the free switches.

– ad b): The division of a one day period into a plurality of predetermined time-slots was merely an obvious design choice made by the person skilled in the art in order to obtain an adequate resolution of the monitored situation-of-use information.

VI. The appellant applicant argued essentially as follows:

– Document D4 disclosed time stamping every transaction of a game machine. If this principle were implemented in the system disclosed in document D1 a large amount of data would be generated and stored locally.

Claim 1 of the main request specified the division of the situation-of-use information into a plurality of data sets which corresponded to different time slots. This reduced greatly the amount of data that had to be transmitted to the control centre and simplified the analysis of these data. It furthermore allowed the detection of fraudulent use of the free switch depending on the specific time slot in which the use occurred.

– According to claim 1 of the auxiliary request, the situation-of-use-information of the game machine always included the switching-on count of the free switch. The free play switch allowed service personnel to test the game machine without having to pay for the games played. This was the intended use of this switch. However, there was also a potential fraudulent use of it which had to be monitored. Reporting all uses of the free switch would result in a number of false positives. By registering the time slot in which the use of the free switch had taken place it was possible to differentiate between legitimate and fraudulent uses.

– Document D4 disclosed time stamping all transactions of the game machine. Time stamping was thus reserved for accounting relevant events and did not include monitoring or time stamping the use of the free switch. A skilled person would only have considered the traditional approach of restricting physically the access to the free switch to prevent its fraudulent use.

VII. At the oral proceedings before the board the appellant applicant requested that the decision under appeal be set aside and that a patent be granted in the following version:

Claims 1 to 9 as filed in the form of a main request, or alternatively on the basis of claims 1 to 9, filed as first auxiliary request, both filed with letter of 15 September 2005.

Reasons for the Decision

1. The appeal is admissible.

2. *Amendments*

2.1 The main claim request is as refused. The department of first instance did not raise any objections based on lack of clarity or added subject-matter (Article 84 and 123(2) EPC); nor does the board see any deficiencies in these respects.

2.2 Claim 1 of the auxiliary request specifies that the switching-on count of the free switch is always part of the situation-of-use information. This feature specifically addresses the problem of detecting the illegal use of the free switch mentioned in the description ([0009] of the published application).

2.3 The description has been amended to accord with the claims.

2.4 The board is therefore satisfied that the main and auxiliary requests comply with Article 84 and 123(2) EPC.

3. *Documents D1 and D5*

3.1 Document D1 discloses a monitoring system comprising a plurality of game machines 1 and a common central monitoring device 3 where information on the game machines relating to, eg the operational state of the machine, the frequency of use thereof and the amount of money taken is stored locally in a storage device of the game machine. This information is transmitted to the central monitoring device in response to a demand issued by the central monitoring device. The monitoring of the machine operations, eg to check the rate of use, to check the takings or to monitor the correct operation, may be effected at the central control location. A game machine may be remotely deactivated and/or visual and/or audible warnings may be generated in the event that the machine is faulty or is being tampered with (column 3, line 62 to column 4, line 8; column 4, lines 45 to 49; column 4, line 64 to column 5, line 2; column 6, lines 63 to 67; Figure 1).

3.2 Document D5, a previous patent of the proprietors of D1, is incorporated by reference into document D1 to illustrate further details of the game machines (column 4, lines 17 to 24). Documents D1 and D5 can therefore be read together as a single document.

D5 discloses recording circuitry adapted to record eg the machine impulses, ie the number of games played, the time during which the recording means is

operational and information relating to the type and location of the game machine. Provision may be made for allowing disablement of the machine impulse counting function, for example for test and maintenance purposes, and a timer may be provided for recording the duration of any such periods of disablement. In particular, the opening of the rear door of the machine for test operations activates a switch which prevents such operations being recorded so that the real takings of the machine are not falsified. The total time during which the rear door is open, ie the down time, is also recorded (column 2, line 57 to column 2, line 73; column 7, lines 7 to 25).

4. *Main request – Inventive step (Article 56 EPC)*

4.1 The system of claim 1 of this request differs from the system disclosed in document D1/D5 by:

(a) a free switch which starts the game without inserting a payment object, and

(b) a timepiece mechanism which divides a one day period into a plurality of predetermined time slots, so that the situation-of-use information is divided into a plurality of pieces respectively corresponding to the time slots wherein each of the situation-of-use information of each of the game machines is sent to the common central monitoring apparatus.

4.2 According to claim 1 the situation-of-use information includes **at least one** of payment-object-insertion detected number information, count value information,

switching-on information of the free switch, and power on/off information of each of the game machines. It follows that the switching-on information of the free switch is not necessarily recorded and transmitted to the central monitoring device, but that it suffices if eg only the count value information, ie the cash collected by the machine, is recorded and transmitted. It is this particular embodiment falling within the scope of claim 1 which will be considered in the following analysis.

4.3 Since the situation-of-use information sent to the central monitoring device does not necessarily include the switching-on information of the free switch, features (a) and (b) mentioned above differentiating the system of claim 1 form the system of D1 are not linked to each other and the problems addressed by these two features can be treated separately.

4.4 It is common ground that a free switch for testing and maintenance purposes, ie feature (a), is provided in modern gaming machines (letter of the appellant applicant of 15 September 2005, page 3, 3rd paragraph).

The switch disclosed in document D5 is not a free switch in the sense of the present application, as it does not render unnecessary the insertion of a payment object, but merely deactivates the counting of such objects for a proper accounting. However, it shows that the skilled person was aware that games played for testing and maintenance purposes needed a special handling for proper accounting purposes.

The board judges therefore that the provision of a free switch in the gaming machines disclosed in document D1 was obvious to the skilled person to enable service personnel to test the game machine without having to insert payment objects.

4.5 According to document D1, the information stored in the recording means is sent on demand to the central control device. Although D1 does not disclose the frequency of these demands, it seems reasonable to assume that the information is sent on a daily basis at times when the gaming machines are less used or when the communication costs are cheaper. There is no indication in D1 that anything other than the totals of the monitored data are recorded. On this basis, the system of document D1 allows only a daily resolution of the monitored data.

4.6 The technical problem addressed by dividing the day into a plurality of predetermined time slots, ie feature (b), is therefore, in agreement with the findings of the examining division, to obtain an appropriate resolution of the monitored situation-of-use information.

4.7 Document D4 discloses time stamping and recording all transactions of the gaming machine. These records are, however, not transmitted to a central control, but stored locally. The transactions of the gaming machine are data relevant for accounting purposes, eg the cash collected by and the recorded takings of the machine (page 8, lines 1 to 6 and 18 to 23).

4.8 The skilled person would therefore incorporate a timepiece mechanism into the gaming machines of document D1 in order to time stamp all the relevant transactions in the same manner as disclosed in document D4. Doing this generates however a considerable mass of data. In order to reduce the amount of data transmitted to the control centre, while improving the time resolution with respect to the one of the gaming machine disclosed in document D1, ie a daily resolution, the skilled person would make a rough statistical analysis of the time stamped transactions and group them into predetermined time slots.

4.9 For these reasons, the board judges that the monitoring system of claim 1 of the main request does not involve an inventive step.

5. *Auxiliary request – Inventive step (Article 56 EPC)*

5.1 In contrast to the monitoring system of the main request, the situation-of-use information transmitted to the central monitoring apparatus always includes, in accordance with this request, the switching-on count of the free switch grouped into predetermined time slots.

5.2 In the system of document D1/D5 the rear door switch of the gaming machines is monitored so that the cash collected during the period the switch is activated is deducted from the collected total for proper accounting purposes and a timer is provided for recording the duration of these periods of disablement (D5, page 2, lines 68 to 73). Consequently, only the "for how long?" information is stored in the recording medium, but not the "when?" information. This allows the down time of

the machine to be taken into account for a proper evaluation of the machine's profitability. However, there is in D5 no reason to store the information as to the point in time at which the rear door was activated, since this has no relevance for the accounting purposes for which this switch is provided.

5.3 As the appellant applicant correctly pointed out, the recording of when the free switch was activated allows differentiating between allowed and fraudulent uses, since the time when the switch was activated can be compared to the time schedule of the service personnel in charge.

5.4 There is no suggestion in the prior art that the points in time at which the free switch is used should be recorded. The general reference to monitoring the operational state of the gaming machine disclosed in document D1 does not suggest doing so, since monitoring and recording the monitored information, which always involves additional costs, is not an end in itself, but is done with a specific objective. The skilled person is not a data collecting freak, but designs the system so that it fulfils the specifically desired purpose. They would not implement a system in which all information is simply monitored and stored.

The time stamping disclosed in document D4 is restricted to the machine transactions, ie only done for accounting purposes. Such a purpose would not motivate the skilled person to monitor the switching-on count of a free play switch.

5.5 For these reasons the board considers the monitoring system of claim 1 of the auxiliary request as involving an inventive step.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the department of first instance with the order to grant a patent in the following version:

Claims: 1 to 9 of the auxiliary request filed with letter of 15 September 2005.

Description: pages: 1, 2 filed 19 April 2005,
3 to 9, 30, 31 filed during oral proceedings,
10 to 29, 32 to 42 as originally filed

Drawings: sheets 1 to 5 as originally filed.

Registrar: Chair:

S. Sánchez Chiquero R. G. O'Connell