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**Datasheet for the decision  
of 4 November 2008**

**Case Number:** T 0495/06 - 3.4.03

**Application Number:** 01402524.1

**Publication Number:** 1199690

**IPC:** G07F 17/32

**Language of the proceedings:** EN

**Title of invention:**

Method of transferring gaming data on a global computer network

**Applicant:**

WMS Gaming Inc

**Opponent:**

-

**Headword:**

-

**Relevant legal provisions:**

EPC Art. 123(2)

**Relevant legal provisions (EPC 1973):**

EPC Art. 56

**Keyword:**

"Inventive step (no)" - requests 1, 3 and 4

"Added subject-matter (yes)" - requests 2, 5 and 6

"Claim request admissible (no)" - request 2

**Decisions cited:**

-

**Catchword:**

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Case Number: T 0495/06 - 3.4.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.4.03  
of 4 November 2008

**Appellant:** WMS Gaming Inc  
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Waukegan  
Illinois 60085 (US)

**Representative:** Maury, Richard Philip  
Marks & Clerk  
90 Long Acre  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 17 October 2005  
refusing European application No. 01402524.1  
pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** R. G. O'Connell  
**Members:** G. Eliasson  
T. Bokor

## Summary of Facts and Submissions

I. This is an appeal against the refusal of application 01 412 524 for lack of inventive step over the prior art document

D2: US 5 762 552 A.

II. In response to the board's communication accompanying a summons to oral proceedings, the appellant applicant sent new claims in September 2008.

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

Claims 1 to 18 of appeal request 1, sent September 2008, or alternatively on the basis of appeal request 2 filed during the oral proceedings, or on the basis of appeal requests 3 to 6 all sent September 2008.

IV. Claim 1 of appeal request 1 reads as follows (board's labelling of the paragraphs):

"1. A method for transferring gaming data between one or more gaming machines in a gaming establishment and a remote terminal (110) located outside said gaming establishment, the method comprising:

(a) transmitting to said remote gaming terminal information from a gaming site on a global computer network uniquely identifying individual gaming machines (160) at said gaming establishment,

said gaming machines being actual machines, and not virtual machines;

- (b) transmitting data, from said remote terminal, selecting at least one of said individual gaming machines for remote information transfer, and wager information relating to said at least one of said individual gaming machines;
- (c) transmitting, from said selected at least one of said individual gaming machines, to said remote terminal, data defining a text or graphical outcome resulting from a play of said at least one of said individual gaming machines; and
- (d) generating a payout if said outcome meets predetermined criteria."

Independent claim 10 is directed to a corresponding system.

V. Claim 1 of appeal request 2 differs from that of appeal request 1 in that paragraphs (a) and (c) read as follows (board's marking):

- (a) "transmitting to said remote gaming terminal information from a gaming site on a global computer network uniquely identifying individual gaming machines (160) at said gaming establishment, said gaming machines being actual machines, and not virtual machines; **each of the gaming machines having computer means for playing a game when activated selectively either: simultaneously by a player physically present at the machine and by a**

**player remotely, or by a player physically present at the machine, or by a player remotely; and in each case randomly generating an outcome of that game;"**

(c) "transmitting, from said selected at least one of said individual gaming machines, to said remote terminal, data defining a text or graphical outcome resulting from a play of said at least one of said individual gaming machines **whether or not that play was made by a player physically present a the machine;** and"

VI. Claim 1 of appeal request 3 differs from that of appeal request 1 in that paragraphs (a) and (c) read as follows (board's marking):

(a) "transmitting to said remote gaming terminal information from a gaming site on a global computer network uniquely identifying individual gaming machines (160) at said gaming establishment, **each of said gaming machines being either a slot machine, a video blackjack machine, a video poker machine, a video roulette machine, a video keno machine or a video bingo machine, and each of said gaming machines having computer means for playing a game when activated selectively either by a player physically present at the machine or remotely, and randomly generating an outcome of that game;**

(c) "transmitting, from said selected at least one of said individual gaming machines, to said remote terminal, data defining a text or graphical

outcome resulting from a play of said at least one of said individual gaming machines **whether or not that play was made by a player physically present at the gaming machine;** and"

VII. Claim 1 of appeal request 4 differs from that of appeal request 3 in that paragraph (b) reads as follows (board's marking):

(b) "transmitting data, from said remote terminal, selecting at least one of said individual gaming machines for remote information transfer, and **data affecting game play on** said at least one of said individual gaming machines;

VIII. Claim 1 of appeal request 5 reads as follows (board's marking with respect to appeal request 1):

"1. A method for transferring gaming data between one or more gaming machines in a gaming establishment and a remote terminal (110) located outside said gaming establishment, **the gaming establishment having a plurality of slot machines each of which randomly generates an outcome of a game when activated and a server networking the slot machines with a gaming site, the slot machines being located within the gaming establishment,** the method comprising:

(a) transmitting to said remote gaming terminal information from the gaming site on a global computer network uniquely identifying individual **slot** machines (160) at said gaming establishment, said **slot** machines being actual machines, and not

virtual machines;

- (b) transmitting data, from said remote terminal, selecting at least one of said individual **slot** machines for remote information transfer, and wager information relating to said at least one of said individual **slot** machines;
- (c) transmitting, from said selected at least one of said individual **slot** machines, to said remote terminal, data defining a text or graphical outcome resulting from a play of said at least one of said individual **slot** machines; and
- (d) generating a payout if said outcome meets predetermined criteria;
- (e) **whereby the outcome of a game played by a player at the selected slot machine (160) may be wagered upon by a player using the remote terminal (110), with the text or graphical outcome being provided by the system to both players."**

IX. Claim 1 of appeal request 6 differs from that of appeal request 5 in that the preamble reads as follows (board's marking):

- "1. A method for transferring gaming data between one or more gaming machines in a gaming establishment and a remote terminal (110) located outside said gaming establishment, the gaming establishment having a plurality of slot machines, **each slot machine being arranged to visually display the outcome of a play of a game on that machine only**

**in the event that a live player is physically present at that machine, and** each of which randomly generates an outcome of a game when activated and a server networking the slot machines with the gaming site, the slot machines being located within the gaming establishment, the method comprising:"

- X. The arguments of the appellant applicant can be summarised as follows:
- (a) The claimed invention solved the problem of allowing remote players access to real gaming machines. This gave remote players the same feeling of choice and involvement as they got when visiting a casino. In particular, a player could select a specific machine which might bring them luck.
  - (b) The present invention differed from the system of document D2 in that the games were conducted on real gaming machines. The gaming tables of document D2 could not automatically generate the outcome of a game: A gaming employee had to conduct the game and establish the outcome of the game. The "gaming machines 14" mentioned in document D2 were mere terminals for playing a game executed elsewhere. It was also not possible for a player to choose a gaming table freely, as this was chosen by the server (column 3, lines 9 to 14). It would not have been apparent to the skilled person reading document D2 that there would be any way of usefully applying the technology to casinos having dedicated gaming machines.



- (c) The additional features of appeal requests 2, 5 and 6 were based on paragraphs 0025 to 0027 and 0042 to 0044 of the application as filed. Although the amended features were not explicitly disclosed in the application documents, they were not inconsistent with the description.
  
- (d) The additional features of appeal request 6 masked the operation of remote players from the people in the casino. This made the operation of the gaming machines appear more natural and realistic.

## **Reasons for the Decision**

- 1. The appeal is admissible.
  
- 2. *Appeal Request 1 - Inventive Step*
  - 2.1 Document D2 was considered closest prior art in the decision under appeal. It discloses a method for transferring gaming data between one or more gaming machines 14 located within a gaming establishment and a remote terminal 15 (Figure 1; column 6, lines 9 to 28; column 5, lines 21 to 23). The information between the remote terminal 15 and the gaming machine 14 at the gaming establishment is transmitted over a network 20 (column 5, lines 21 to 45).
  
  - 2.2 Document D2 describes two modes of gaming: In a first mode the gaming machines 14 and the remote terminals 15 are connected via network 16, 20 to gaming tables 12 where classical casino games such as roulette, craps or

baccarat are conducted by a croupier (column 5, lines 46 to 54). Video and audio signals from the selected gaming table 12 are transmitted to the gaming machines 14 located in the gaming establishment and remote terminals 15 located outside the gaming establishment and wagering information is transmitted from the participating gaming machines and remote terminals to the gaming table. The network 20 used to connect the remote terminals 15 may be a global network (column 5, lines 36 to 44).

In a second mode of gaming, one gaming machine 14 at the gaming establishment is used as a game server in a stand-alone mode (column 6, lines 9 to 27; column 10, lines 26 to 47). Players at other gaming machines 14 in the same gaming establishment can select an available gaming machine 14 in game-server-mode and play remotely on this game server (column 9, lines 5 to 13).

In both modes of gaming, the player at a gaming machine 14 or remote terminal 15 is asked to place a wager, whereupon a play is carried out either at the gaming table (first mode) or at another gaming machine acting as gaming server (second mode), and the outcome of the play is transmitted to the player. A payout is generated if the outcome of the play meets predetermined criteria (column 6, lines 23 to 28; column 14, lines 56 to 60).

- 2.3 The gaming machines 14 each comprise a gaming CPU 62, user interface 70, and display and wager collection/return means and are thus to be considered dedicated gaming machines as opposed to general-purpose computers (column 8, lines 28 to 51). Therefore, the

board judges that the gaming machines 14 of document D2 are to be considered "real machines" within the meaning of claim 1. Furthermore, since all machines are connected through a network, it follows that each machine necessarily must be uniquely identified in the network.

2.4 The appellant applicant argued that in the method of document D2, the gaming tables or gaming machines acting as gaming servers were chosen by the casino server and not by the remote player (item X(b) above). The board notes however that the method of claim 1 is not limited to the case where *the player* picks a gaming machine. Secondly, document D2 indeed discloses that the player selects a gaming table or gaming machine (acting as a gaming server) from a menu of available units (column 9, lines 5 to 8).

2.5 The board agrees on the other hand with the appellant applicant that the possibility of participating in gaming from a remote terminal 15 located outside the gaming establishment is disclosed in document D2 only in connection with the first mode, ie where the play is carried out at a gaming table 12.

2.6 The method of claim 1 thus differs from that of document D2 (second mode) in that data is transferred between a remote terminal located outside the gaming establishment and a gaming machine in the gaming establishment, whereas in the method of document D2 (second mode), data is transferred between gaming machines 14 within the same gaming establishment. Document D2 also discloses a first mode where data from a gaming table in a gaming establishment is transmitted

- to gaming machines within the same gaming establishment as well as to remote terminals outside the gaming establishment, thus making it possible to play remotely at the gaming table.
- 2.7 The technical problem with respect to document D2 relates to increasing the number of games available to off-site players.
- 2.8 A skilled person faced with the above problem would as a matter of routine modify the method of document D2 to enable players at the remote terminals 15 to access the gaming machines 14 currently acting as gaming servers in addition to the possibility of accessing the gaming tables. Since the remote terminals 15 are already connected to the gaming establishment via a global network, the issues of secure transfer of data to and from the remote terminal must have been dealt with beforehand. Therefore, the board is unable to see any technical complications likely to deter the person skilled in the art from making this modification of the method of document D2.
- 2.9 For the above reasons, in the board's judgement, the subject matter of claim 1 of appeal request 1 does not involve an inventive step within the meaning of Article 56 EPC 1973.
3. *Appeal Request 2*
- 3.1 Claim 1 of appeal request 2, which was submitted at the oral proceedings before the board, contains the additional feature that the gaming machines could be played simultaneously by a player physically present at

the machine and by a remote player, or by a player physically present at the machine, or by a remote player (paragraph (c)). The board is not persuaded that the alternative of a game being played *simultaneously* by a player physically present at the machine and by a remote player is directly and unambiguously derivable from the application as filed. Although paragraph 0042 states that the casino server may select slot machines that are currently in use by live players for randomly generating outcome data for transmission to the casino server, it does not disclose that the same play is played simultaneously by a player at the machine ("resident player") and a remote player. As the above-mentioned passage in the description relates to slot machines, it is furthermore difficult to conceive, absent any hints in the application, how a slot machine play could be carried out between a "resident" player and remote players.

3.2 The appellant applicant's argument that the amendments were "not inconsistent" with the original disclosure fail to persuade the board, since the applicant thereby invokes a less stringent criterion for compliance with Article 123(2) EPC than that developed in the jurisprudence of the boards of appeal, namely the question whether the amendment is "directly and unambiguously derivable" from the application documents as originally filed (see item X(c) above). In other words, the fact that an amendment is "not inconsistent" with the description is not a sufficient requirement for complying with Article 123(2) EPC.

3.3 For the above reasons, appeal request 2 filed at the oral proceedings contravenes Article 123(2) EPC. Since

the claims of this request were belatedly and still impermissibly amended the request is ruled inadmissible.

4. *Appeal Request 3*

4.1 With respect to appeal request 1, claim 1 of appeal request 3 specifies that (i) each of the gaming machines is "either a slot machine, a video blackjack machine, a video poker machine, a video roulette machine, a video keno machine or a video bingo machine, and each of said gaming machines having computer means for playing a game when activated selectively either by a player physically present at the machine or remotely, and randomly generating an outcome of that game"; and that (ii) the data defining a text or graphical outcome of a play is transmitted "whether or not that play was made by a player physically present at the gaming machine".

4.2 Feature (i) is known from document D2 since the gaming machines 14 can be video roulette machines (column 10, lines 27 to 47). Feature (ii) is also known from document D2 as it discloses operation of the gaming machine 14 in a "stand-alone mode", hence implying the possibility of playing directly at the machine, with the possibility for other players to join remotely (column 6, lines 9 to 27). Hence the subject matter of claim 1 of appeal request 3 does not involve an inventive step for the same reasons as given above for appeal request 1.

5. *Appeal Request 4*

5.1 Claim 1 of appeal request 4 further contains the amendment that "wager information" in paragraph (b) has been replaced by "data affecting game play". As this amendment does not restrict the claim, the subject matter of claim 1 of appeal request 4 does not involve an inventive step for the same reasons as for appeal requests 1 and 3.

6. *Appeal Requests 5 and 6*

6.1 Claim 1 of appeal requests 5 and 6 both contain the feature that the outcome of a game played by a player at the selected slot machine may be wagered upon by a player using the remote terminal, with the text or graphical outcome being provided by the system to both players (paragraph (e)). As with appeal request 2, the board is not persuaded that this feature is directly and unambiguously derivable from the application documents as originally filed.

6.2 For the above reasons, in the board's judgement, appeal requests 5 and 6 contravene Article 123(2) EPC.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

Registrar

Chair

S. Sánchez Chiquero

R. G. O'Connell