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**Datasheet for the decision
of 15 May 2013**

Case Number: T 0600/10 - 3.4.03

Application Number: 00200656.7

Publication Number: 1004998

IPC: G07F 17/32

Language of the proceedings: EN

Title of invention:

Interactive wagering system and processes

Applicant:

ODS Properties, Inc.

Headword:

-

Relevant legal provisions:

EPC Art. 123(2)

Relevant legal provisions (EPC 1973):

EPC Art. 76(1)

Keyword:

"Amendments - added subject-matter (yes)"

Decisions cited:

T 0003/90

Catchword:

-



Case Number: T 0600/10 - 3.4.03

D E C I S I O N
of the Technical Board of Appeal 3.4.03
of 15 May 2013

Appellant: ODS Properties, Inc.
(Applicant) 6701 Center Drive West
Los Angeles
CA 90045 (US)

Representative: Hibbert, Juliet Jane Grace
Kilburn & Strode LLP
20 Red Lion Street
London WC1R 4PJ (GB)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted 3 November 2009
refusing European patent application
No. 00200656.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: G. Eliasson
Members: T. M. Häusser
T. Bokor

Summary of Facts and Submissions

- I. The appeal concerns the decision of the examining division to refuse European patent application No. 00 200 656 for lack of inventive step (Article 56 EPC 1973).
- II. The appellant requested in writing that the decision under appeal be set aside and that a patent be granted on the basis of the main request, first auxiliary request, second auxiliary request or third auxiliary request, all filed with the letter setting out the grounds of appeal.
- III. The appellant was summoned by the board to attend oral proceedings, which had been requested by the appellant. In an annex to the summons, objections were raised by the board, *inter alia*, under Article 123(2) EPC and Article 76(1) EPC 1973.
- IV. With letter dated 5 February 2013 the appellant informed the board that it would not attend the oral proceedings scheduled for 7 and 8 May 2013. Consequently, these oral proceedings were cancelled with communication of the board dated 19 April 2013.
- V. The wording of the claims 1 and 2 of the main request and of respective claims 1 of the first, second and third auxiliary requests reads as follows (labelling "(1)_m", "(2)_m", ..., "(2)₂", "(1)₃", "(2)₃" by the board):

Main request:

"1. An interactive wagering system (366) having a wagering data management facility (380) for providing racing data corresponding to preparation of, wagering on and running of races, and to current wagering odds for each runner and for maintaining wagering accounts for users of said system, said wagering data management facility arranged to receive racing data, the wagering data management facility incorporating at least one totalisator, responsive to wagers placed by persons local to and remote from said at least one totalisator and for generating current wagering odds in real time based on the wagers placed;

(1)_m a video and data distribution system (368) arranged to receive said racing data from the wagering data management facility (380) and arranged to receive racing video data; and

user terminals for receiving viewing and responding to the racing data, the terminals having means for display of the racing data and racing videos, and being operable to allow the placing of bets; characterised in that

the wagering data management facility is arranged to receive racing data from plural racetracks;

the video and data distribution system (368) is operable to providing signals comprising both said racing data and said racing videos over a link (376) for remote viewing;

(2)_m the user terminals (370) are operable to receive said signals and to display interactive menus on the display, a racing video from a track being displayed in real time in a first region (470) of the display and, simultaneously with display of the racing

video, racing data of the track selected are displayed in a second region of the display, the second region being interactive and enabling a user to select between displayed racing data;

the user terminal also having a user input interface (420) allowing interaction with the menus and with displayed data to enable a user to select a race and to place a wager on the selected race using the user terminal (370), and a communication link (390) between the user terminal and the wagering data management facility (380), on the basis of data selected on the display."

"2. An interactive wagering system as claimed in claim 1, wherein

(3)_m a region of the display enables selection between different racetracks, and the first region of the display displays a simulcast racing video in response to said selection that corresponds to said selection between different racetracks."

First auxiliary request:

"1. An interactive wagering system (366) having a wagering data management facility (380) for providing racing data corresponding to preparation of, wagering on and running of races, and to current wagering odds for each runner and for maintaining wagering accounts for users of said system, said wagering data management facility arranged to receive racing data, the wagering data management facility incorporating at least one totalisator responsive to wagers placed by persons

local to and remote from said at least one totalisator and for generating current wagering odds in real time based on the wagers placed;

(1)₁ a video and data distribution system (368) arranged to receive said racing data from the wagering data management facility (380) and arranged to receive racing video data; and

user terminals for receiving viewing and responding to the racing data, the terminals having means for display of the racing data and racing videos, and being operable to allow the placing of bets; characterised in that

said wagering data management facility is arranged to receive racing data from plural racetracks;

the video and data distribution system (368) is operable to providing signals comprising both said racing data and said racing videos on at least one television channel over a data and video link (376) for remote viewing;

(2)₁ the user terminals (370) are operable to receive said signals, and have circuitry for separating the racing data from the video signals, for storing the racing data in a memory (136), and for causing display of interactive menus on the display, the interactive menus including an option for selecting between racetracks whereby in response to selection of a racetrack, using said option a racing video from a track selected using said option is displayed in real time in a first region (470) of the display and racing data of the track selected are displayed in a second region of the display, the second region being interactive and enabling a user to select between displayed racing data;

the user terminal also having a user input interface (420) allowing interaction with the menus and with displayed data to enable a user to select a race and to place a wager on the selected race using the user terminal (370), and a communication link (390) between the user terminal and the wagering data management facility (380), on the basis of data selected on the display."

Second auxiliary request:

"1. An interactive wagering system (366) having a wagering data management facility (380) for providing racing data corresponding to preparation of, wagering on and running of races, and to current wagering odds for each runner and for maintaining wagering accounts for users of said system, said wagering data management facility arranged to receive racing data, the wagering data management facility incorporating at least one totalisator responsive to wagers placed by persons local to and remote from said at least one totalisator and for generating current wagering odds in real time based on the wagers placed;

(1)₂ a video and data distribution system (368) arranged to receive said racing data from the wagering data management facility (380) and arranged to receive racing video data; and

user terminals for receiving viewing and responding to the racing data, the terminals having means for display of the racing data and racing videos, and being operable to place bets; characterised in that

said wagering data management facility is arranged to receive racing data from plural racetracks;

the video and data distribution system (368) is operable to providing signals comprising both said racing data and said racing videos on at least one television channel over a data and video link (376) for remote viewing;

(2)₂ the user terminals (370) are operable to receive said signals, and have display and processing circuitry (416) for separating the racing data from the video signals, coordinating the display of the racing data and videos on a display (378) and for causing display of interactive menus on the display, the menus including an option for selecting between racetracks whereby in response to selection of a racetrack using said option a racing video from a track selected using said option is displayed in real time in a first region (470) of the display and racing data of the track selected are displayed in a second region of the display, the second region being interactive and enabling a user to select between displayed racing data;

the user terminal also having a user input interface (420) allowing interaction with the menus and with displayed data to enable a user to select a race and to place a wager on the selected race using the user terminal (370), and a communication link (390) between the user terminal and the wagering data management facility (380), on the basis of data selected on the display."

Third auxiliary request:

"1. An interactive wagering system having

(1)₃ a data concentrator (118) for providing racing data corresponding to preparation of, wagering

on and running of races, and to current wagering odds for each runner and for maintaining wagering accounts for users of said system, said data concentrator (118) arranged to receive racing data from plural racetracks and from at least one totalisator (102) installed at least one of the racetracks, responsive to wagers placed by persons local to and remote from said at least one totalisator (102) and for generating current wagering odds in real time based on the wagers placed;

(2)₃ a distribution facility (120) arranged to receive said racing data from the data concentrator (118) and arranged to provide racing videos, said distribution facility (120) providing signals comprising both said racing data and said racing videos on at least one television channel over a distribution network (124) for remote viewing;

a user terminal (122) for receiving said signals, the user terminal having:-

circuitry for separating the racing data from the video signals and a memory (136) for storing the received racing data,

circuitry (140) for causing display of interactive menus said menus including racing data from the memory (136) on a display and

circuitry (146) for enabling the simultaneous display of the menus and real-time video,

the user terminal also having a user input interface allowing interaction with the menus and with displayed racing data to enable a user to select a race and to place a wager on the selected race using the user terminal (122), and a communication link (128) between the user terminal and the totalisator (102), on the basis of racing data selected on the display."

VI. With respect to the basis of the amendments the appellant argued essentially as follows:

The skilled person would read the two embodiments of the application not as mutually exclusive but rather as complementary.

In claim 1 of the first auxiliary request it was specified that the signals from the video and data distribution system were provided on at least one television channel over a data video link, that the user terminals included circuitry for separating the racing data from the video signals, for storing the racing data in a memory, and that one of the options displayed on the display allowed selection between race tracks and that selecting a race track made available for display a racing video from that track and also racing data from that track. Support for these features could be found for example on page 7, line 15; page 18, line 4; and page 61, line 20 - page 62, line 3, respectively.

The third auxiliary request was based on the first embodiment.

Reasons for the Decision

1. Admissibility

The appeal is admissible.

2. Procedural matters

According to the established case law of the Boards of Appeal (T 3/90, OJ EPO 1992, 737, and "Case Law of the Boards of Appeal of the EPO", 6th edition 2010, VI.C.2.2) the appellant's statement in its letter of 5 February 2013 that it would not be represented at the oral proceedings is to be treated as equivalent to a withdrawal of the request for oral proceedings. Therefore, the board cancelled the oral proceedings and decided to continue the proceedings in writing and to issue a decision based on the written proceedings.

3. Main request - Article 123(2) EPC

3.1 Feature (1)_m of claim 1

3.1.1 In claim 1 of the main request it is specified that the interactive wagering system has a wagering data management facility and a video and data distribution system and that the video and data distribution system is arranged to receive racing data from the wagering data management facility (feature (1)_m).

3.1.2 Feature (1)_m has not been disclosed in the claims as originally filed.

- 3.1.3 With respect to the question whether there is a basis for feature (1)_m in the description and drawings as originally filed, a first consideration concerns the overall subject-matter of claim 1 of the main request. That claim relates to an interactive wagering system having a wagering data management facility and a video and data distribution system. The claimed system relates therefore to the second embodiment, which is described with reference to Figure 29 of the application and comprises a wagering data management facility 380 and a video and data distribution system 368. Figures 30-50 and the corresponding parts of the description relate to further aspects of that second embodiment (see the description of the application, page 11, lines 9-19).
- 3.1.4 In particular, it is described (see page 39, last paragraph - page 44, second paragraph) that the racing data from the wagering data management facility 380 are delivered to a racing data interface 372 via data link 384. The racing data interface 372 also receives racing data via supplemental input 386 and manual input 388. The video and data distribution system 368 receives the racing data from the racing data interface 372.
- 3.1.5 Reference sign 398 in Figure 29 does show a direct link between the wagering data management facility 380 and the video and data distribution system 368. However, the link 398 is not intended for delivering racing data from the wagering data management facility 380 to the video and data distribution system 368. Rather, it is part of the communication pathway between user terminals 370 and wagering data management facility 380 which is intended to relay transaction data (wagers

placed, account information, etc.) to and from user terminals 370 (see page 44, last paragraph - page 45, first paragraph).

- 3.1.6 In the description and drawings as filed it is therefore only disclosed that the video and data distribution system receives the racing data from the racing data interface.

The racing data from the wagering data management facility 380 are put together with those from the supplemental input 386 and manual input 388 in the racing data interface 372. All of the racing data are then transmitted together to the video and data distribution system 368.

Consequently, feature (1)_m of claim 1 of the main request is not directly and unambiguously derivable for the skilled person from the content of the application as filed.

- 3.2 Feature (2)_m of claim 1 and feature (3)_m of claim 2

- 3.2.1 In claim 1 of the main request it is also specified that a racing video from a track is displayed in real time in a first region of the display and simultaneously racing data of the track selected are displayed in a second region of the display, the second region being interactive and enabling a user to select between displayed racing data (feature (2)_m). Furthermore, in claim 2 of the main request, which is dependent on claim 1, it is stated that a region of the display enables selection between different racetracks and a first region of the display displays a simulcast

racetrack video in response to said selection (feature (3)_m).

3.2.2 Neither feature (2)_m nor feature (3)_m has been disclosed in the claims as originally filed.

3.2.3 In relation to the second embodiment it is disclosed in the description (page 52, second paragraph - page 53, first paragraph) that upon invoking the wagering system 366 the user is presented with an initial racetrack selection menu. One format is a list highlighted to show the current selection. Another suitable format is the map menu shown in Figure 35. The various available racetracks are displayed on a map, e.g. of the United States. The user can select a racetrack using cursor keys until the highlighted portion is positioned on the desired racetrack. The user may then press enter to select that track.

The map menu shown in Figure 35 enables thus a selection between different racetracks.

However, the only other button on the map menu of Figure 35 is a go back button 447 for returning to the previous menu. In particular, there is no region of the display in which a race video is shown.

3.2.4 On the other hand, when a racetrack has been selected the user is transferred to the interface shown in Figure 36 (see page 53, second paragraph - page 54, second paragraph), where the user may make one of several menu choices or select a bet amount by moving a highlighted portion 474 to a desired dollar amount. The current racetrack 460, the race number 462, the time

until post 464 and the current odds 468 are also displayed. Furthermore, the box 472 of the interface displays a real time racing video 470, which is a simulcast from the selected racetrack corresponding to the next scheduled race.

The interface of Figure 36 shows therefore the display of the simulcast racing video in a first region of the display, namely the box 472. In addition racing data (e.g. time until post 464, current odds 468, etc.) are shown in a second region of the display.

However, the interface of Figure 36 does not enable selection between different racetracks.

It is therefore not directly and unambiguously derivable for the skilled person to combine the interfaces shown in Figures 35 and 36.

3.2.5 In view of the above, the combination of feature (2)_m of claim 1 of the main request and feature (3)_m of claim 2 of the main request is not directly and unambiguously derivable for the skilled person from the content of the application as filed.

3.3 For these reasons claims 1 and 2 of the main request contain subject-matter which extends beyond the content of the application as filed contrary to the requirements of Article 123(2) EPC.

4. Main request - Article 76(1) EPC 1973

Features (1)_m, (2)_m and (3)_m have not been disclosed in the original claims of the parent application.

The description and drawings of the application are identical with those of the parent application. For the reasons given under point 3. above there is therefore no basis for the features (1)_m, (2)_m and (3)_m in the description and drawings of the parent application.

Consequently, claims 1 and 2 of the main request contain subject-matter which extends beyond the content of the parent application contrary to the requirements of Article 76(1) EPC 1973.

5. First and second auxiliary requests - Article 123(2) EPC and Article 76(1) EPC 1973

Feature (1)₁ of claim 1 of the first auxiliary request and feature (1)₂ of claim 1 of the second auxiliary request are identical to feature (1)_m of claim 1 of the main request.

Furthermore, feature (2)₁ of claim 1 of the first auxiliary request and feature (2)₂ of claim 1 of the second auxiliary request are - disregarding some additional features which are of no concern here - essentially equivalent to the combination of features (2)_m and (3)_m of claims 1 and 2 of the main request.

Consequently, for the reasons given under points 3. and 4. above, claim 1 of the first auxiliary request and claim 1 of the second auxiliary request contain subject-matter which extends beyond the content of the application as filed contrary to the requirements of Article 123(2) EPC and beyond the content of the parent

application contrary to the requirements of Article 76(1) EPC 1973.

6. Third auxiliary request - Article 123(2) EPC

6.1 Claim 1 of the third auxiliary request relates to an interactive wagering system having a data concentrator for providing racing data, etc. (feature (1)₃) and a distribution facility arranged to receive the racing data and to provide racing videos, etc. (feature (2)₃). The claimed system relates therefore to the first embodiment, which is described with reference to Figure 1 of the application and comprises a data concentrator 112 and a distribution facility 120. Figures 2-28 and the corresponding parts of the description relate to further aspects of the first embodiment (see page 10, line 29 - page 11, line 8).

6.2 In claim 1 of the third auxiliary request it is specified that the data concentrator is "for maintaining wagering accounts for users of said system" (feature (1)₃). However, it has neither been described in the original claims nor in the description and drawings that the data concentrator has this function. Rather, it is disclosed that such user accounts are established at a totalisator 102 (see page 16, second paragraph - page 17, first paragraph). The wagers are placed at the totalisator 102 by use of a two-way communications link between the totalisator 102 and a user terminal 102. Once the user has placed the wager, the user's account at the totalisator 102 is debited.

On the other hand, the purpose of the data concentrator 112 is to provide racing data to the racing fans in

their homes (page 12, third paragraph - page 15, paragraph 2), something completely different from the claimed function of establishing wagering accounts.

6.3 The racing data interface 372 of the second embodiment corresponds to some extent to the data concentrator 112 as both entities bundle the racing data information in order to make them available to the user. There is however no indication in the application documents that the user account could be established in the racing data interface 372. Rather, in relation to the second embodiment the user account is either established at a totalisator 382 or at the wagering data management facility 380 (page 44, third paragraph). Even if the skilled person regarded the two embodiments in a complementary fashion, feature (1)₃ could not be deduced from the application documents.

6.4 Consequently, feature (1)₃ of claim 1 of the third auxiliary request is not directly and unambiguously derivable for the skilled person from the content of the application as filed.

For these reasons claim 1 of the third auxiliary request contains subject-matter which extends beyond the content of the application as filed contrary to the requirements of Article 123(2) EPC.

7. Third auxiliary request - Article 76(1) EPC 1973

Feature (1)₃ has not been disclosed in the original claims of the parent application.

The description and drawings of the application are identical with those of the parent application. For the reasons given under point 6. above there is therefore no basis for features (1)₃ in the description and drawings of the parent application.

Consequently, claim 1 of the third auxiliary request contains subject-matter which extends beyond the content of the parent application contrary to the requirements of Article 76(1) EPC 1973.

8. Conclusion

Since none of the requests is allowable the appeal has to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

S. Sánchez Chiquero

G. Eliasson