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**Datasheet for the decision
of 14 May 2014**

Case Number: T 0667/10 - 3.4.03

Application Number: 05077698.8

Publication Number: 1629869

IPC: G07F17/32

Language of the proceedings: EN

Title of invention:
Automatic table game

Applicant:
Shuffle Master Australasia Pty Limited
Crown Limited

Headword:

Relevant legal provisions:
EPC 1973 Art. 54(1), 54(2), 56
EPC Art. 52(1)
EPC R. 103(1)(a)

Keyword:
Novelty - main request (no)
Inventive step - common general knowledge - auxiliary request
(no)
Reimbursement of appeal fee - (no)

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 0667/10 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 14 May 2014

Appellant: Shuffle Master Australasia Pty Limited
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Appellant: Crown Limited
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 30 October 2009
refusing European patent application No.
05077698.8 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman T. Bokor
Members: T. M. Häusser
S. Ward

Summary of Facts and Submissions

I. The appeal concerns the decision of the examining division refusing the European patent application No. 05077698 for lack of novelty (Article 54(1), (2) EPC 1973) in relation to the main request and for lack of inventive step (Article 56 EPC 1973) in relation to the main request and the first auxiliary request then on file.

II. At the oral proceedings before the board the appellant requested that the decision be set aside and that a patent be granted on the basis of the following:

Main request:

Claims 1 to 13 filed with the grounds of appeal.

First auxiliary request:

Claims 1 to 13 filed during the oral proceedings before the board.

The appellant also requested a refund of the appeal fee.

III. Reference is made to the following documents:

D1: EP 0 599 769 A2,

D1': original Spanish application documents of D1.

IV. The wording of independent claim 1 of the main and first auxiliary requests is as follows (board's labelling "(i)" and "(ii)"):

Main request:

"1. A gaming table system comprising a gaming table (1) having a gaming surface,
(i) a manual roulette wheel (3) responsive to physical action of an operator to determine a random outcome,
a plurality of electronic player terminals (2), each terminal comprising an interface for enabling a player to select at least one possible outcome produced by activation of the roulette wheel (3) and to place bets electronically on said at least one possible outcome, means (4) for recording game outcome data, and processing means (5) responsive to the bets and to game outcome data for calculating win/loss data in accordance with the outcome of the game and for electronically updating the player terminals (2) in accordance with the win/loss data, characterised in that the electronic player terminals (2) are at the gaming table (1) whereby players are enabled to select at least one possible outcome produced by activation of the roulette wheel (3) at the gaming table (1)."

First auxiliary request:

"1. A gaming table system comprising a gaming table (1) having a gaming surface, a manual roulette wheel (3) responsive to physical action of an operator to determine a random outcome, a plurality of electronic player terminals (2), each terminal comprising an interface for enabling a player to select at least one possible outcome produced by activation of the roulette wheel (3) and to place bets electronically on said at least one possible outcome, means (4) for recording game outcome data,
(ii) a dealer terminal adapted to receive input from a dealer to confirm the game outcome, the dealer

verifying that the actual winning number is the same as a system-read winning number and processing means (5) responsive to the bets and to game outcome data for calculating win/loss data in accordance with the outcome of the game and for electronically updating the player terminals (2) in accordance with the win/loss data, characterised in that the electronic player terminals (2) are at the gaming table (1) whereby players are enabled to select at least one possible outcome produced by activation of the roulette wheel (3) at the gaming table (1)."

V. The appellant argued essentially as follows:

a) Main request - novelty

Feature (i) of claim 1 of the main request implied that the roulette wheel was manually spun by the operator. In document D1 there was no clear and unambiguous disclosure of a manual roulette wheel in combination with the automated gaming system components recited in claim 1 of the main request. Rather, there were only the following three embodiments for generating the winning number: an electromechanical device, which provokes the rotation of the disk, the throwing of the ball and the determination of the ball, a number generator and an entirely electric roulette table (see claims 3 and 8; column 3, line 4 ff.). The passage in column 2, lines 17-32 implied that the manual roulette wheel was replaced by the electromechanical device or the number generator. Furthermore, the passage in column 6, lines 26-32, comprised a translation artifact in that "manually" related to the operation of pressing a keyboard but was separated by an intervening expression from the expression "punching a keyboard". Alternatively, in view of the conventional practice

according to which the roulette wheel was already turning when no more bets were allowed, *manual operation* could only be understood as relating to the *identification* of the winning outcome. The subject-matter of claim 1 of the main request was therefore new over document D1.

b) First auxiliary request - inventive step

It was the overriding object of the invention to improve the efficiency and reliability of the game which was achieved by feature (ii) of claim 1 of the first auxiliary request. Document D1 aimed at automating the gaming process rather than allowing input from the croupier. Furthermore, it was the conventional approach to void any round in case of improper results and there was no teaching, hint or suggestion in the cited prior art of the claimed invention. Therefore, the subject-matter of claim 1 of the first auxiliary request involved an inventive step.

c) Request for reimbursement of the appeal fee

The reasoning of the examining division in relation to the first auxiliary request then on file was not substantiated. In particular, there was no reference to a prior art document or to the common general knowledge in relation to the distinguishing feature (ii). This constituted a procedural violation justifying the reimbursement of the appeal fee.

Reasons for the Decision

1. The appeal is admissible.

2. Main request - novelty

2.1 In the appealed decision the examining division held that the subject-matter of claim 1 of the main request lacked novelty in view of document D1.

2.2 The appellant was of the opinion that document D1 did not disclose feature (i) in combination with the other features of that claim. However, the disclosure in document D1 of these other features of claim 1 of the main request was not contested by the appellant.

Indeed, document D1 discloses (see column 6, lines 3-47; Figure 1) a system for the controlled play and prosecution of the game of roulette comprising a gambling table with game posts. The player is located at a game post of the table and inserts into a reader/recorder device 1 a magnetic card that he had previously obtained, which is checked for authenticity and the existence of credit. Chips are then assigned to the player and displayed in a window 2 of the general screen 3. The player can then select the desired bets with keys 4 and put the chips in the desired places of the game cloth 6 displayed on the general screen 3 by means of the joystick 5. After the winning number has been determined it is automatically identified, e. g. by blinking, flashing, or voice, and the winning bets are displayed on the general screen 3 and the window 2. The prizes are paid and in the reader/recorder device 1 the corresponding credit is made on the magnetic card of the player. The player may by means of keyboard 4 leave the game recovering his card and may exchange for money the balance recorded on his magnetic card.

Using the wording of claim 1, document D1 discloses therefore a gaming table system comprising a gaming

table having a gaming surface, a plurality of electronic player terminals (game posts comprising reader/recorder devices 1 including respective magnetic cards, windows 2, keyboards 4 and joysticks 5), each terminal comprising an interface (keyboard 4 and joystick 5) for enabling a player to select at least one possible outcome produced by activation of the roulette wheel and to place bets electronically on said at least one possible outcome (on the game cloth 6 displayed on the general screen 3), means for recording game outcome data (implicit since the winning number is automatically identified), and processing means responsive to the bets and to game outcome data for calculating win/loss data in accordance with the outcome of the game and for electronically updating the player terminals (namely the reader/recorder devices 1 including respective magnetic cards) in accordance with the win/loss data, wherein the electronic player terminals are at the gaming table (see Figure 1) whereby players are enabled to select at least one possible outcome produced by activation of the roulette wheel at the gaming table (by means of keyboard 4 and joystick 5).

2.3 The board agrees with the appellant in that feature (i) of claim 1 of the main request (see point IV. above for the wording) implies that the roulette wheel is manually spun by the operator (i.e. the croupier). This follows from the wording of the feature and is also in line with the description of the application in which it is stated that the roulette wheel is operated "in the normal manner by a human operator" (page 4, first paragraph).

2.4 With respect to the disclosure in document D1 of feature (i) the examining division relied in the

decision under appeal in particular on two passages of that document, namely column 2, lines 22-29 and column 6, lines 26-36.

According to the appellant it followed from the passage in column 2, lines 17-32 of D1 that according to the invention of that document the manual roulette wheel was replaced by a number generator or an electro-mechanical device which provokes the rotation of the disk, the throwing of the ball and the determination of the ball. These were two of the three embodiments disclosed in D1 for generating the winning number and were recited in claims 3 and 8; the third embodiment was the entirely electric roulette table described in column 3, line 4 ff.

However, the board notes that in the cited passage in column 2 it is merely indicated that the roulette wheel as a mechanical device "might be changed" by an electromechanical device (column 2, lines 24-25). It is therefore considered to be disclosed only as an option that the roulette wheel as a mechanical device is changed in this way. Consequently, according to the invention of D1 the roulette wheel as a mechanical device could also be left unsubstituted. This understanding is also in agreement with the disclosure at the beginning of that passage, in which it is stated that the system according to the invention comprises "mainly" electronic means (column 2, lines 17-18), which implies that some parts of the system could well be mechanical.

The passage on page 3, line 4ff. of document D1 merely recites the features of claim 1 of that document and does not mention in which manner the winning number is generated. It is therefore not regarded to relate to a

specific third embodiment of generating the winning number but to a broad statement of the desired scope of protection. Furthermore, the two embodiments of the roulette device mentioned in D1, namely the electromechanical device and the random number generator, are only recited in claims 3 and 8, which are dependent on independent claims 1 and 6, respectively. It is therefore evident for the skilled person that it is not necessary to implement the device for generating the winning number in this manner and that the invention of D1 is envisaged in broader terms. These parts of the disclosure of D1 are therefore also in line with the above understanding of the cited passage in column 2.

2.5 The passage in column 6, lines 26-32 of document D1 reads as follows:

"When the betting time is over, the roulette device or the number generator (7) is operated, either manually or automatically in response to a temporization of the logic programme of operation of the CPU or by punching a keyboard (8) dependent on the casino, and the settling of the number and colour winning is expected."

The appellant argued that this passage comprised a translation artifact in that "manually" related to the operation of pressing a keyboard but was separated by an intervening expression from the expression "punching a keyboard". Alternatively, the manual operation could only be understood as relating to the identification of the winning outcome.

Document D1 is a European patent application, whose original application documents (D1') were filed in

Spanish. In those documents the corresponding expressions, namely "manualmente" and "el accionamiento de un teclado", are similarly separated by the corresponding intervening expression (D1', page 9, lines 13-18). Hence, the cited passage on page 6 of document D1 does not contain a translation artifact. Furthermore, the appellant's alternative understanding of the passage, namely that the operation of the roulette device related to the identification of the winning number, is not convincing as it is contrary to the normal use of the word "operated".

Rather, the board is of the opinion that the above passage would convey to the skilled person that the winning number may be generated in various alternative ways. One of these is that the roulette device is manually operated by the croupier.

2.6 In view of the above, the board comes to the conclusion that feature (i) has been directly and unambiguously disclosed in document D1. Consequently, the subject-matter of claim 1 according to the main request lacks novelty in view of document D1 (Article 52(1) EPC and Article 54(1), (2) EPC 1973).

3. First auxiliary request - inventive step

3.1 Closest state of the art, distinguishing features

Document D1 is considered to represent the closest state of the art from which the subject-matter of claim 1 of the first auxiliary request differs in comprising the following feature:

(ii) a dealer terminal adapted to receive input from a dealer to confirm the game outcome, the dealer

verifying that the actual winning number is the same as a system-read winning number.

3.2 Objective technical problem

The appellant argued that it was the object of the invention to improve the efficiency and reliability of the game.

Feature (ii) allows the croupier to confirm the system-read winning number. In case that number does not correspond to the actual winning number the croupier has therefore the possibility to deny his confirmation. On the other hand, if the two numbers correspond to each other, the croupier may provide input to the system confirming the game outcome. However, the technical system is thereby not necessarily rendered more reliable from a technical point of view because the actual reliability of the system in use depends on the input from the croupier. For example, if the croupier does not properly verify that the actual winning number is the same as the system-read winning number or if he does not properly provide the input to the system, the reliability of the system in use is in fact not improved.

The objective technical problem is therefore to implement the gaming table system in such a way as to allow it to be used in a more reliable way.

3.3 Obviousness

3.3.1 The relevant skilled person is a gaming systems engineer. There is no document of the state of the art on file, in which feature (ii) has been disclosed. It therefore remains to be decided whether it would be

obvious for the skilled person to solve the posed problem by providing feature (ii) in view of his common general knowledge.

3.3.2 The board is of the opinion that the skilled person is instructed by the casino operator about the non-technical aspects of the game of roulette. He is therefore aware of the stakes and of the fact that it would be unacceptable to the casino operator to award winnings to non-entitled players, i.e. to players who did not bet on the actual winning number. It would be equally unacceptable to players not to receive winnings to which they are entitled. The reliability of the gaming table system is therefore a constant concern for the skilled person. It is therefore obvious for the skilled person to identify the objective technical problem mentioned above, i.e. to implement the gaming table system in such a way as to allow it to be used in a more reliable way.

3.4 In the board's view the skilled person is conscious of the fact that the winning number could be misread by the system, e.g. due to the malfunction of a component or system impairment as a result of dust or dirt. In view of the non-technical aspects mentioned above it would be inconceivable *not* to allow the croupier to intervene in such a case. It would therefore be obvious for the skilled person to envisage the system to allow interference by the croupier for the purpose of solving the posed problem.

3.5 In order to implement such a system the skilled person may in the board's view arrange the system either in such a way as to allow the croupier to *stop* winnings to be paid out whenever the system-read winning number does not correspond to the actual winning number or so

as to allow the croupier to *confirm* each time the system-read number before the winnings are paid out.

In the first arrangement, the system would have to be arranged so as to allow the croupier to act within a certain time window. In the absence of any action by the croupier during that time the winnings would be paid out automatically. This bears the risk that the croupier might be distracted during the time window so that he could not properly fulfil his function of verifying the game outcome and stopping the winnings to be paid out if need be. The game could even be manipulated by distracting the croupier on purpose. Furthermore, the time window would have to be chosen long enough to give the croupier enough time to act even under the most adverse circumstances. The winnings would thus be paid out only after that time even though the croupier would normally have verified the game outcome more quickly. Time would therefore be used inefficiently. The appellant himself stated that time-efficiency was a constant concern for the skilled person as well.

In view of these shortcomings of the first arrangement the skilled person would be led to choose the second arrangement in which the croupier is always in charge of the procedure.

- 3.6 In document D1 it is already foreseen to provide a command keyboard for use of the croupier (see column 8, lines 4-5; Figure 1, reference sign 8). In the opinion of the board it would be a matter of normal design procedure to incorporate the arrangement allowing the croupier to confirm the system-read number in that command keyboard. The skilled person would thereby

arrive without exercising inventive skill at the claimed subject-matter.

Therefore, the subject-matter of claim 1 of the first auxiliary request does not involve an inventive step (Article 52(1) EPC and Article 56 EPC 1973).

4. Conclusion concerning the main and first auxiliary requests

Since neither the main request nor the first auxiliary request is allowable the appeal has to be dismissed.

5. Request for reimbursement of the appeal fee

Rule 103(1)(a) EPC stipulates as a precondition for the reimbursement of the appeal fee that the appeal be allowable. Since this precondition is not met in the present case, the request for reimbursement of the appeal fee must also fail. The question whether such reimbursement is equitable by reason of a substantial procedural violation can therefore be left open.

Order

For these reasons it is decided that:

1. The appeal is dismissed.
2. The request for reimbursement of the appeal fee is refused.

The Registrar:

The Chairman:



S. Sánchez Chiquero

T. Bokor

Decision electronically authenticated