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**Datasheet for the decision
of 3 May 2018**

Case Number:	T 2372/12 - 3.5.07
Application Number:	10169768.8
Publication Number:	2280356
IPC:	G06F17/30
Language of the proceedings:	EN

Title of invention:
Mobile audio player with individualized radio program

Applicant:
Sony Corporation

Headword:
Individualized radio program/SONY

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - all requests (no)

Decisions cited:
T 0641/00, T 0154/04

Case Number: **T 2372/12 - 3.5.07**

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 3 May 2018

Appellant: (Applicant)	Sony Corporation 1-7-1 Konan Minato-ku Tokyo 108-0075 (JP)
Representative:	Witte, Weller & Partner Patentanwälte mbB Postfach 10 54 62 70047 Stuttgart (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 10 July 2012 refusing European patent application No. 10169768.8 pursuant to Article 97(2) EPC**

Composition of the Board:

Chairman	R. Moufang
Members:	M. Jaedicke
	P. San-Bento Furtado

Summary of Facts and Submissions

I.   The applicant (appellant) appealed against the decision
        of the Examining Division refusing European patent
        application No. 10169768.8, published as
        EP 2 280 356 A2. The application claims a priority date
        of 30 July 2009.

II.   The Examining Division decided that the subject-matter
        of independent claim 1 of the main request and of
        auxiliary request 1 lacked inventive step in view of
        well-known generic technical means for automating
        business and entertainment methods, which were so well-
        known at the date of filing that their existence did
        not require documentary evidence. It considered some of
        the claimed features to be related to non-technical
        user requirements.

        The Examining Division also decided not to admit the
        then pending auxiliary requests 2 to 5 into the
        proceedings under Rule 137(3) EPC, stating that they
        did not constitute a convergent development of the
        examination procedure (as expressed by the main request
        and auxiliary request 1). A further reason for the non-
        admission of these requests was that the then pending
        auxiliary requests 2 to 5 could prima facie not
        overcome the objection of lack of inventive step.

III.   In the written proceedings, the Examining Division
        cited the following prior-art documents:
        D1:   WO 01/35667 A1, published on 17 May 2001;
        D2:   US 2006/0167576 A1, published on 27 July 2006.

IV.   In its statement of grounds of appeal, the appellant
        requested that the decision be set aside and that a
        patent be granted on the basis of the main request or

auxiliary request 1 considered in the contested
decision and resubmitted with the grounds of appeal, or
of one of auxiliary requests 2 to 4 submitted with the
grounds of appeal.

V.   In a communication under Article 15(1) RPBA
      accompanying a summons to oral proceedings, the Board
      indicated that it tended to disagree with the
      inventive-step reasoning of the appealed decision and
      cited the following prior-art documents:
      D3:   US 7,499,630 B2, published on 3 March 2009;
      D4:   Krishnan, V. et al.: "Customized Internet radio",
            9th International World Wide Web Conference, 15
            to 19 May 2000, published in Computer Networks,
            vol. 33, June 2000, pages 609 to 618.

      The Board *inter alia* expressed its provisional opinion
      that the subject-matter of claim 1 of all requests
      lacked inventive step in view of either of documents D2
      or D3, which could be combined with other prior-art
      documents on file, and that means for detecting a
      location were well-known.

VI.   With a letter dated 31 March 2018, the appellant
      resubmitted the main request and auxiliary requests 1
      and 2 and submitted amended auxiliary requests 3 to 5.

VII. Oral proceedings were held as scheduled. At the end of
      the oral proceedings, the chairman pronounced the
      Board's decision.

VIII. The appellant's final request was that the contested
      decision be set aside and that a patent be granted on
      the basis of one of the main and five auxiliary
      requests as submitted with the letter dated

31 March 2018.

IX.   Claim 1 of the main request reads as follows:

"Mobile audio player (1), comprising
- memory means (3) adapted to store music data and
non-music data,
- input means (2) adapted to receive a user input with
user preferences,
- audio output means (8) adapted to output audio
signals representing a generated radio program,
characterized in that said mobile audio player further
comprises
- radio program generating means (4) adapted to
generate, without a connection to an external entity,
an individualized radio program for providing a user
with a radio station like listening experience from
stored music data and non-music data depending on user
preferences input via the input means, and
- content generating means (5) adapted to generate
audio content during the generation of the
individualized radio program."

X.   Claim 1 of auxiliary request 1 differs from claim 1 of
the main request in that the following text has been
added at the end of the claim:
"wherein said content generating means (5) comprises a
synthesizing means adapted to create audio data from
raw data stored in said memory means during the
generation of the individualized radio program."

XI.   Claim 1 of auxiliary request 2 differs from claim 1 of
auxiliary request 1 in that the following text has been
added before the words "and - content generating
means":
"wherein said radio program generating means (4)

comprises a commercials generating means adapted to
generate commercials during the generation of the
individual radio program on the basis of context
parameters,".

XII.   Claim 1 of auxiliary request 3 differs from claim 1 of
        auxiliary request 1 in that it deletes the word "and"
        before "- content generating means" and in that the
        following text has been added at the end of the claim:
        ", and
        - context detecting means (6) adapted to detect one or
        more context parameters regarding the context of the
        mobile audio player and/or the user, wherein said
        context detecting means (6) comprises a location
        detecting means adapted to detect a current location of
        the mobile audio player,
            wherein said radio program generating means (4)
        comprises a commercials generating means adapted to
        generate commercials during the generation of the
        individual radio program on the basis of said context
        parameters."

XIII.   Claim 1 of auxiliary request 4 differs from claim 1 of
        auxiliary request 3 in that the following text has been
        added at the end of the claim:
        "; wherein the commercials generating means is adapted
        to generate tailored commercials based on commercial
        templates containing raw material, said raw material
        including text, music and sounds; and tailoring
        directives for adapting the commercial towards the
        user, wherein the commercials generating means is
        adapted to mix the raw material and the user context
        parameters into a final commercial."

XIV.   Claim 1 of auxiliary request 5 differs from claim 1 of
        auxiliary request 4 in that the following text has been

added at the end of the claim:

", and

- a sweepstake manager (37) adapted to provide a sweepstake to the user, wherein a user input to the sweepstake is effected by the input means."

XV.   The arguments of the appellant which are relevant to the decision are discussed in detail below.

Reasons for the Decision

1.   The appeal complies with the provisions referred to in Rule 101 EPC and is therefore admissible.

The invention

2.   The application relates to a mobile audio player which provides a user with an individualised radio program generated from stored music data and other data such as audio and text (see paragraphs [0007] to [0009] and [0022] of the published application). The radio program is generated without a connection to and without receiving data from an external entity, i.e. without any kind of broadcast or communication connection to another entity or device (see paragraph [0019]). It is individualised depending on user preferences and context parameters (see paragraphs [0008] to [0011]). It provides a radio-like listening experience, as it contains not only music, but also transitions, commercials, news items and sweepstakes (see paragraph [0016]). The context parameters may relate to the current location of the mobile audio player, traffic information related to a current and/or future location of the mobile audio player, the moving speed and/or the

moving method of the mobile audio player (for example
walking, running, cycling, driving), one or more
physical states of a user of the mobile audio player,
weather information, time and date information and/or
any other suitable context parameters (see paragraphs
[0014] and [0020]).

Main request

1.   Claim 1 of the main request relates to a "mobile audio
        player" which comprises the following features,
        itemised by the Board (with reference signs removed):

        (a) memory means adapted to store music data and non-
            music data,
        (b) input means adapted to receive a user input with
            user preferences,
        (c) audio output means adapted to output audio signals
            representing a generated radio program,
        (d) radio program generating means adapted to generate,
            without a connection to an external entity, an
            individualized radio program for providing a user
            with a radio station like listening experience from
            stored music data and non-music data depending on
            user preferences input via the input means, and
        (e) content generating means adapted to generate audio
            content during the generation of the individualized
            radio program.

2.   **Inventive step**

2.1   **Interpretation of claim 1**

        The Board interprets claim 1 as specifying that the
        individualised radio program is generated from music

data, but also from other kinds of multimedia data such as text. Moreover, while the mobile player is in principle able to connect to networks or a radio station (see Figure 2, reference signs 9, 10, 15, 16, 17, 18), the radio program is generated from data stored in the mobile player's local memory, meaning that the radio program content is not downloaded or streamed during generation. The Board interprets feature (e) as proposed by the appellant in the light of the description as means for generating new audio content, for example by converting text to speech using synthesising means (see description, paragraph [0022]).

Moreover, as suggested by the appellant during the oral proceedings, the Board interprets the feature "without a connection to an external entity" as meaning without a connection to a radio station, which leaves open the possibility of determining the location of the mobile audio player using a Global Positioning System (GPS) device, for example.

The expression "radio station like listening experience" is interpreted as meaning that the generated individualised radio program comprises not only music content, but also other content such as transitions, commercials, news items or sweepstakes.

3.   **The contested decision**

According to the contested decision, the subject-matter of claim 1 lacked inventive step as it was obvious to use a well-known mobile player with memory, input and output means and equipped with non-audio to audio converters to automate the job of a radio disc jockey (DJ). Such a mobile player was notoriously known.

3.1   In its statement of grounds of appeal (see
        section 2.1), the appellant submitted that the
        Examining Division had not correctly applied the
        problem-and-solution approach. In particular, the
        contested decision had not identified the relevant
        features disclosed in the closest prior art and had not
        defined the objective technical problem to be solved.
        The Examining Division had misjudged some technical
        features as being non-technical (see statement of
        grounds of appeal, section 2.2.1). In particular, the
        generation of audio content according to features (d)
        and (e) involved technical considerations. The
        appellant contested that the allegedly notoriously
        known mobile player as defined in the contested
        decision was indeed well-known (statement of grounds of
        appeal, section 2.2.2). Hence, the decision that
        claim 1 lacked inventive step was unsubstantiated.

3.2   The Board considers that the Examining Division
        erroneously assumed that a mobile audio player
        comprising a text-to-speech audio converter was
        notoriously known at the priority date (see points 1.3
        to 1.6 of the contested decision). It is possible that
        such a player was well-known, but the appellant
        contested this, and there is no relevant evidence on
        file. Hence, the reasoning of the contested decision is
        not convincing.

4.   **Document D2 as starting point**

4.1   In its statement of grounds of appeal, the appellant
        argued that document D2 was the closest prior art on
        file. D2 disclosed a mobile audio player which selected
        audio files for a playlist randomly from a plurality of
        audio files that matched user preferences and current

ambient influence information (see D2, paragraphs [0026] and [0055]).

D2 did not disclose that the mobile player generated content, meaning that it was limited to playing back previously existing media files. On the other hand, according to features (d) and (e) of claim 1, the invention generated content, i.e. it created new content that was not present before.

The objective technical problem was how to provide a mobile audio player which could provide a user with a radio station-like listening experience and could be used anywhere and everywhere (see description, paragraph [0009], and statement of grounds of appeal, section 2.2.4). This problem was solved by distinguishing features (d) and (e) of claim 1 in a particularly beneficial way.

Starting from D2, a straightforward solution would be to play back audio files of pre-recorded radio programs. Here the mobile player of D2 would merely be used to play back different content. For a more interesting radio experience, the skilled person could modify the player of D2 so that the radio programs were segmented into individual audio files (music and speech data) and played back in a sequence that mimicked a radio station. However, D2 provided no motivation to arrive at this solution. Moreover, the invention was not limited to playing back existing content, but instead generated audio content during generation of the individualised radio program.

4.2   The Board considers that D2 is not a promising starting point for the assessment of inventive step, as it is concerned neither with the generation of a personalised

radio program that includes non-music content nor with
the compilation of a radio program in the absence of a
connection to a radio station. Consequently, the Board
in the following considers document D3, which was cited
only in the appeal proceedings.

5.   **Document D3 as starting point**

5.1   Document D3 discloses a mobile entertainment device for
        compiling a personalised radio program for playback
        from currently or previously received multimedia data
        as well as from locally stored multimedia data. Hence,
        it constitutes a promising starting point for the
        problem-and-solution approach.

5.2   Document D3 discloses a mobile audio player storing
        multimedia data and a user profile in a memory (D3,
        Figure 1, column 1, lines 15 to 22; column 1, line 64,
        to column 2, line 2; column 2, lines 35 to 40). The
        user enters his personal priorities for different
        classifications of the multimedia data in a user
        profile using an input device (D3, Figure 1 (10),
        column 2, lines 52 to 54; column 3, lines 27 to 30).
        For example, a user may choose that traffic reports
        have the highest priority, followed by normal news,
        then classical music and finally commentaries (D3,
        column 2, lines 56 to 58).

        The multimedia data may be audio, video, graphic or
        text data (D3, column 3, lines 1 to 3). The
        entertainment device is capable of compiling a
        personalised radio program for playback both from
        received multimedia data and from stored multimedia
        data (D3, column 1, lines 15 to 22 and 34 to 38; column
        4, lines 28 to 35). The user preferences expressed in
        the user profile are used to generate the radio program

(see column 1, lines 30 to 33; column 2, line 52, to
column 3, line 1; Figure 2, column 3, lines 27 to 42).
The radio program is played back using the speaker of
the device (D3, Figure 1 (6), column 2, lines 45 to 47
and 61 to 64, column 3, lines 14 to 19; claim 1). The
multimedia data may be presented as audio or text to
speech (D3, column 4, lines 11 to 15). Consequently, D3
discloses features (a), (b) and (c) of claim 1.

As radio program generation can be done without a
connection to a radio station based on the multimedia
data available on the mobile player (D3, column 3,
lines 32 to 42 and 63 to 67), D3 also discloses feature
(d) of claim 1.

Since the multimedia data comprises text, which is
presented as text to speech, the Board concludes that
D3 implicitly discloses that the entertainment device
comprises a text-to-speech synthesiser. However, it
agrees with the appellant that D3 does not disclose in
detail how text-to-speech conversion is actually used.

5.3   Consequently, the difference of the claimed mobile
        audio player over document D3 is that the claimed
        player is adapted to generate audio content during
        generation of the individualised radio program (see
        feature (e) of claim 1).

5.4   As stated above, document D3 discloses the use of a
        text-to-speech synthesising means to create audio data
        from text (see D3, column 3, lines 1 to 3, and column
        4, lines 11 to 15). Consequently, the difference has
        the effect that the synthesising means of the known
        audio player is used to create audio data during
        generation of the individualised radio program.

The decision which content should be presentable in the radio program is a non-technical choice which has to be taken by a non-technical person such as a radio DJ. Hence, it is not the skilled person tasked with the implementation of the audio player, but the radio DJ who will set the aim of presenting newly generated audio content in the radio program. According to the established case law of the boards of appeal, when assessing inventive step in accordance with the problem-and-solution approach, an aim to be achieved in a non-technical field may legitimately be added to the problem as a constraint to be met (COMVIK approach; see decisions T 641/00, OJ EPO 2003, 352; T 154/04, OJ EPO 2008, 46). Consequently, the aim of generating new audio content when the radio program is generated can be added to the problem to be solved.

5.5   A skilled person facing the problem of how to generate a personalised radio program comprising new audio content would consider generating such new audio data from the available stored text data using the text-to-speech synthesiser of the entertainment device implicitly disclosed in document D3.

5.6   As discussed during the oral proceedings, document D3 in column 3, lines 3 to 19, teaches that the entertainment device may also be used to present further expanded multimedia data during playback of the radio program. However, the Board is not convinced that this additional functionality disclosed in D3 would lead the skilled person away from the solution, as argued by the appellant during the oral proceedings. Rather, the option of showing an HTML page with additional information (such as a commercial web page) on a display fits very well with the inclusion of a

commercial in the radio program.

5.7   As to the appellant's argument that the invention
       solved the technical problem of providing radio when
       the audio player was out of reach of a transmitter of a
       radio station, this is not convincing, as the problem
       of how to generate a radio program when no transmission
       is available is already solved by document D3 (see, for
       example, column 1, lines 15 to 22, and column 4, lines
       28 to 35).

5.8   It follows that claim 1 of the main request lacks
       inventive step over D3 (Article 56 EPC).

Auxiliary request 1

6.   Claim 1 of auxiliary request 1 adds the following
       feature to claim 1 of the main request:
       "wherein said content generating means (5) comprises a
       synthesizing means adapted to create audio data from
       raw data stored in said memory means during the
       generation of the individualized radio program."

7.   **Inventive step**

7.1   As stated above in the reasoning for the main request,
       document D3 discloses the use of a text-to-speech
       synthesising means to create audio data from text (see
       D3, column 3, lines 1 to 3, and column 4, lines 11 to
       15). The difference of the claimed audio player over
       document D3 is thus only that the synthesising means is
       used to create audio data during generation of the
       individualised radio program. As the Board has already
       dealt with this issue in the above reasoning for the
       main request, it follows that claim 1 of auxiliary

request 1 lacks inventive step (Article 56 EPC).

Auxiliary request 2

8.   Claim 1 of auxiliary request 2 essentially adds the
        following feature to claim 1 of auxiliary request 1:
        "wherein said radio program generating means (4)
        comprises a commercials generating means adapted to
        generate commercials during the generation of the
        individual radio program on the basis of context
        parameters".

9.   **Inventive step**

9.1   D3 discloses that expanded multimedia data may offer
        e-commerce possibilities (D3, column 4, lines 6 to 9),
        but it does not disclose the commercials generating
        means added by auxiliary request 2. The generation of
        personalised commercials for inclusion in a
        personalised radio program serves the business purpose
        of personalised advertising. Hence, the purpose of
        generating personalised commercials is not technical.
        Moreover, the claimed commercials generating means does
        not specify implementation details. It specifies that
        "context parameters" are used, but this functionality
        is also based on a business decision and does not imply
        technical means beyond known means for automated
        processing, as the context may be defined merely by the
        played-back content (see also paragraph [0058] of the
        application: "a clothing commercial for an assumed
        fashion taste that is derived from the type of music
        the user is usually listening to"). Consequently, the
        claimed commercials generating means makes no
        contribution to the solution of a technical problem
        beyond the mere automation of a non-technical business

method. Consequently, claim 1 of auxiliary request 2
lacks inventive step (Article 56 EPC).

Admission of auxiliary requests 3 to 5

10.   Since these auxiliary requests were submitted as a
         legitimate reaction to the prior-art documents
         introduced at the appeal stage, the Board admits them
         into the proceedings.

Auxiliary request 3

11.   Claim 1 of auxiliary request 3 essentially adds the
         following features to claim 1 of auxiliary request 1:
         "-   context detecting means (6) adapted to detect one
         or more context parameters regarding the context of the
         mobile audio player and/or the user, wherein said
         context detecting means (6) comprises a location
         detecting means adapted to detect a current location of
         the mobile audio player,
            wherein said radio program generating means (4)
         comprises a commercials generating means adapted to
         generate commercials during the generation of the
         individual radio program on the basis of said context
         parameters."

12.   **Inventive step**

12.1   In substance, the subject-matter of claim 1 of
         auxiliary request 3 differs from the subject-matter of
         claim 1 of auxiliary request 2 in that it adds a
         location detecting means, which detects the current
         location of the mobile audio player, as a context
         detecting means and in that it uses the detected
         location of the mobile audio player to generate the

commercials.

12.2   The Board considers that the aim of providing location-
        based advertising such as an advert for a nearby
        restaurant (see paragraph [0058] of the application) on
        the mobile player is a business aim which is not
        determined by the technical expert. Following the
        above-mentioned COMVIK approach, this aim may
        legitimately be added to the problem to be solved.
        Consequently, what needs to be assessed is whether the
        skilled person, starting from document D3 and faced
        with the problem of how to implement location-based
        advertising in the radio program, would arrive at the
        claimed location detecting means in an obvious manner.

12.3   The claimed location detecting means could be
        interpreted merely as input means prompting the user to
        enter his location (for example, by entering a zip code
        as known from document D2, paragraph [0063]). However,
        even if the location detecting means is interpreted as
        a GPS device (as disclosed in paragraph [0051] of the
        application), the Board considers that the use of a
        location detecting means such as a GPS device in order
        to support location-aware services was, at the priority
        date, well-known in the context of multimedia devices
        (see D2, paragraphs [0012] and [0063]; see D4,
        page 618, right-hand column, second paragraph). Even if
        it were to be considered that GPS devices were not
        well-known, the skilled person searching for a solution
        could and would have consulted either of documents D2
        or D4 and would there have found the suggestion to
        determine the location by means of a GPS device, for
        example.

12.4   The appellant argued that the skilled person would not
        combine document D3 with D4, as D4 was based on

continuously available data streams and was thus not compatible with D3 from a technical point of view. However, as discussed during the oral proceedings, D3 explicitly refers to the reception of digital radio signals broadcast as streams (D3, column 1, lines 23 to 43). Hence, there is no reason why the skilled person starting from document D3 would not consider document D4.

12.5   As to document D2, the appellant argued that the skilled person would arrive at a different solution when combining D3 with D2, as D2 was about correlation of locations with content, but not about content generation.

This argument however is not convincing, as the aim of generating location-aware commercials is already given to the skilled person as part of the objective technical problem to be solved. Hence, the skilled person would arrive at the claimed solution in an obvious manner.

12.6   The appellant also argued that the skilled person would not have arrived at the claimed subject-matter in view of D2 or D4, as these prior-art documents did not disclose or suggest the use of context parameters such as location to generate commercials.

The Board agrees that there is no relevant document on file for the generation of commercials. However, since the generation of commercials involves non-technical aspects, in the present case the decisive point for the assessment of inventive step is that the use of GPS to provide a location was well-known (or at least known from D2 or D4). Consequently, the Board is not convinced by the appellant's arguments.

12.7   It follows that claim 1 of auxiliary request 3 lacks
        inventive step (Article 56 EPC).

Auxiliary request 4

13.   Claim 1 of auxiliary request 4 adds the following
        feature to claim 1 of auxiliary request 3:
        "wherein the commercials generating means is adapted to
        generate tailored commercials based on commercial
        templates containing raw material, said raw material
        including text, music and sounds; and tailoring
        directives for adapting the commercial towards the
        user, wherein the commercials generating means is
        adapted to mix the raw material and the user context
        parameters into a final commercial."

14.   **Inventive step**

14.1   The additional feature specifies that commercials are
        generated by mixing raw material including music, text
        and sound as described in a template and the user
        context parameters and by using tailoring directives to
        adapt the commercial towards the user. These features
        concern the selection or compilation of content. The
        task of designing the commercial is performed by the
        content creator, not by the technically skilled person,
        who comes into play only for its implementation on a
        computer system. Consequently, the use of templates to
        describe which raw materials to use and the creation of
        tailoring directives are not the task of the skilled
        person. Moreover, the added feature does not involve
        any considerations concerning the internal functioning
        of a computer which go beyond the mere automation of a
        business method. A skilled person tasked with the

automation of the generation process would be able to provide an implementation as a matter of routine design using the input provided by the content creator.

14.2   In the oral proceedings, the appellant argued that the skilled person would find no hint towards the solution in the prior art, and there was in fact no prior art on file that was relevant for the automated generation of commercials.

However, the Board considers that it was self-evident that the raw material for generating commercials needed to be stored in some form and that it was obvious how to implement templates for that purpose, since templates in general were well-known in program development at the priority date.

As to the tailoring directives, paragraph [0058] of the application explains the following:

"These templates contain raw material (such as texts, music, and sounds) that can be used for creating the commercials and some "tailoring directives" that allow this component to adapt the commercial towards the user using any information about the user and its situation that can be found in the system such as the currently played out song, song lists, the individual radio program setup, the current time and date, the current location, the current traffic situation, the mood of the user, the stress level of the user, etc,".

Consequently, the Board understands that the tailoring directives merely explain how to adapt the commercial to a particular user using the available information about the user context such as the "currently played out song", for example. In view of the non-technical

aim to be achieved, i.e. the generation of context-
aware commercials, the tailoring directives define
which context information to use and how to use it.
This information is evidently necessary to achieve the
aim of context-aware commercials and does not involve
any technical considerations. It follows that the
skilled person, at the priority date, could and would
have implemented the solution as a matter of routine
program development. Consequently, claim 1 of auxiliary
request 4 lacks inventive step (Article 56 EPC).

Auxiliary request 5

15.   Claim 1 of auxiliary request 5 adds the following
         feature to claim 1 of auxiliary request 4:
         "- a sweepstake manager (37) adapted to provide a
         sweepstake to the user, wherein a user input to the
         sweepstake is effected by the input means."

16.   **Inventive step**

16.1   The added feature of a sweepstake manager is another
         business-related feature. According to the application,
         paragraph [0060], sweepstakes are used as a means of
         compensation for listening to a number of commercials.
         The sweepstake manager is automated using well-known
         technical means: the claim refers only to unspecified
         input means, which are already known from document D3
         (see the above reasoning for the main request). As the
         aim of providing a sweepstake manager has to be
         regarded as a non-technical aim, and as its
         implementation does not go beyond the use of well-known
         technical means for automation, the added sweepstake
         manager cannot be the basis for the acknowledgement of
         an inventive step. Consequently, claim 1 of auxiliary

request 5 lacks inventive step (Article 56 EPC).

Conclusion

17.   As none of the appellant's requests can form the basis
        for the grant of a patent, the appeal is to be
        dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

I. Aperribay   R. Moufang

Decision electronically authenticated