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**Datasheet for the decision
of 16 November 2020**

Case Number: T 0886/14 - 3.5.01

Application Number: 04731698.9

Publication Number: 1623375

IPC: G06Q10/00

Language of the proceedings: EN

Title of invention:

LOTTERY SYSTEM AND METHOD WITH REAL-TIME PROGRESSIVE JACKPOT

Applicant:

Al-Ziyoud, Aiman H.

Headword:

Lottery game/Al-Ziyoud, Aiman H.

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - implementing progressive jackpot lottery game
(no - obvious implementation of non-technical game rules)

Decisions cited:

T 0641/00, T 0258/03, T 0172/03



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Case Number: T 0886/14 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 16 November 2020

Appellant: Al-Ziyoud, Aiman H.
(Applicant) P.O. Box 72627
Dubai (AE)

Representative: Potter, Julian Mark
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 6 November 2013
refusing European patent application No.
04731698.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairwoman A. Wahrenberg
Members: W. Zubrzycki
P. Schmitz

Summary of Facts and Submissions

- I. This is an appeal against the decision of the examining division to refuse the European patent application No. 04731698.9 for lack of inventive step (Article 56 EPC). The application was published as WO 2004/102444 A1.
- II. In the statement setting out the grounds of appeal, the appellant requested that the decision of the examining division be set aside and that a patent be granted on the basis of the refused main request. The appellant further requested that, if the Board was minded not to grant a patent on the basis of the main request, the case be remitted to the examining division for consideration of the arguments filed in the statement of grounds of appeal, or, alternatively, that the Board consider the refused auxiliary request.
- III. In the communication accompanying the summons to oral proceedings, the Board tended to agree with the examining division that the claimed subject-matter lacked an inventive step over notorious prior art. In this communication the Board discussed the more narrowly defined auxiliary request first and gave detailed reasons. In point 7 of the communication the Board concluded that the objections with regard to the auxiliary request applied also to the main request.
- IV. In a reply dated 29 May 2020, the appellant filed a new main request.
- V. In a communication dated 16 September 2020, the Board informed the appellant that, as agreed, the oral proceedings scheduled for 29 September 2020 would be

held by video conference.

VI. In a reply dated 28 September 2020, the appellant indicated that it would not be represented at the oral proceedings. The oral proceedings were thus cancelled.

VII. Claim 1 of the main request reads:

A data processing system for implementing a lottery, including:

an input terminal operable to receive data comprising a lottery sales amount corresponding to one or more customer lottery purchase orders from a remote communication device via a public telecommunications network;

a data storage means for storing received [sic]; and

a server operable to communicate with said remote communications device over said public telecommunications network

wherein said data processing system is configured to store a latest lottery prize amount value having a [sic] least partial dependence on said received data;

said data processing system configured to update automatically said latest lottery prize amount value responsive to and on at least partial dependence on update data received by said input terminal; and

configured to communicate said updated latest lottery prize amount value over said public telecommunications network to a presentation device automatically when the said latest lottery prize amount value has been updated.

Reasons for the Decision

1. *Background*

The invention concerns a system for playing a lottery game having a progressive accumulative jackpot. In this type of lottery, the jackpot grows with the sale of each lottery ticket, because a portion of the purchase price for a lottery ticket goes into the jackpot. The jackpot grows until the drawing date of the lottery when the jackpot is distributed to the winner or winners (see page 2, lines 4 to 12 of the published application).

The lottery system described in the application (see Figures 1B and 1C) comprises a central lottery system (32, 102) connected to a number of remote communication devices (38, 108) via a public telecommunications network (page 13, lines 1 to 14).

A player wishing to participate in the lottery game uses his communication device to request a lottery ticket from the central lottery system (page 15, lines 15 to 20). The central lottery system comprises an input terminal (116), e.g. a web server, for receiving the request from the remote communication device (page 13, lines 1 to 13 and lines 15 to 20), a central server (120), and a database (118) for storing the jackpot size (page 10, lines 23 to 28; page 12, lines 1 to 8; and page 13, lines 8 to 12).

Having received the ticket request, the central lottery system assigns the requested number of lottery tickets to the player and bills him. Next, the system updates the jackpot size in the database by adding to the jackpot (a portion of) the price of the purchased

tickets (page 12, lines 4 to 8 and page 13, line 27 to page 14, line 8). The updated jackpot amount is, then, provided to the central server, which transmits it to a presentation device for display (page 12, line 8 to 10).

2. *Article 56 EPC, claim 1 of the main request*

2.1 The examining division refused the application for lack of inventive step. They considered that claim 1 then on file addressed the problem of defining rules for playing a game, automation of administrative methods, and presenting information. They held that the implementation of these aspects included the use of a conventional networked computer system comprising a server which ran a game and updated a jackpot value, a remote communication device and a conventional database. The skilled person would have applied the game rules and carried out the administrative steps without the use of inventive skill.

2.2 The Board agrees with the examining division that a conventional client/server system is an appropriate starting point for assessing inventive step. In such a system, multiple client computers connect via a public telecommunications network to a central server computer to use its resources. The central server computer comprises storage means and runs a server process which communicates with client processes running on the client computers. Thus, the conventional server computer corresponds to the input terminal in claim 1; the server process running on the central server computer corresponds to the server in claim 1. The client computers accessing the server and presenting data received from it correspond to the remote communication devices and the presentation device in

claim 1.

The Board considers that the subject-matter of claim 1 of the main request differs from the conventional client/server system in that the server receives, from the remote client, one or more lottery purchase orders, stores the accumulated jackpot amount ("latest lottery prize amount" in claim 1), updates the jackpot amount automatically based at least partially on the received lottery purchase price, and provides the updated jackpot value to a presentation device automatically when the jackpot value has been updated.

The appellant argued that the claim defined an asymmetric information path between a user and the server. More specifically, the user inputting the lottery purchase order to the server did not receive the latest jackpot amount; the jackpot amount was instead broadcast to prospective users via television, radio, or a website. This was a difference over the conventional client/server system where data exchanged between a client and a server always followed a symmetrical path.

In the Board's view, however, the claim does not exclude that the remote communication device and the presentation device is one and the same device. Indeed, according to the application (see page 12, lines 21 to 22 and lines 25 to 26), the presentation device can be a computer device providing displaying capabilities. In any case, the presentation is not limited to television, radio, or a website. Furthermore, the claim wording covers not only broadcast but also unicast and multicast. Therefore, the Board does not agree that the alleged asymmetry is present in claim 1.

2.3 In any case, the Board considers that the requirement that the jackpot value be provided to all players, including prospective players, is a non-technical one.

Like the examining division, the Board takes the view that the claimed subject-matter aims at implementing a method for playing a lottery game, which, when taken as such, would be excluded from patentability pursuant to Article 52(2)(c) and (3) EPC.

The non-technical method of playing a lottery game comprises:

- One or more players request and purchase one or more lottery tickets.
- The lottery is organised by a lottery organiser.
- The lottery scheme includes adding a portion of the purchase price to an accumulative jackpot.
- Each time the jackpot value is increased, it is immediately notified to the requesting lottery player or all lottery players.

Under the COMVIK approach (see decision T 641/00) the non-technical features cannot contribute to inventive step.

2.4 The appellant argued that the claimed invention produced a number of technical effects:

The server transmitted only the updated jackpot value which avoided a wasteful and redundant transmission of values that have already been transmitted.

Furthermore, the server provided the updated jackpot value in real-time and not following some delay. As a result, the technical effect of reducing latency in

data transmission was provided.

- 2.5 The Board considers, however, that the effects advanced by the appellant are not (further) technical effects counting towards inventive step. The non-technical method includes that a jackpot value should be provided without delay when it is updated. It follows that the effects advanced by the appellant result from the lottery method *per se* rather than from its technical implementation. The technical implementation is only claimed in functional terms and there are no details of how it is actually achieved. Hence, at the level of detail of claim 1, the advanced effects of reducing latency and redundancy are not further technical effects which could give rise to an objective technical problem. Furthermore, any asymmetric information exchange would also be a direct result of the non-technical requirement that the jackpot value should be provided to all players.

The Board notes that this finding is in line with the established case law represented i.a. by decision T 258/03 (see points 5.6 to 5.7 of the reasons) and decision T 172/03 (see point 22 of the reasons).

- 2.6 In the appellant's opinion the objective technical problem is "how to provide a platform for the implementation of a lottery capable of providing both participants and prospective participants real-time data about the jackpot total".

The Board considers, however, that this problem is not correct as, contrary to the COMVIK-principle, it does not comprise all parts of the above non-technical method for playing a lottery game. In line with the COMVIK-principle, this method cannot contribute to

inventive step and is instead provided in its entirety to the technically skilled person as part of the framework of the objective technical problem. Hence, in the Board's judgement, the skilled person faces the objective technical problem of implementing the lottery method on the conventional client/server system.

2.7 The Board considers that the claimed implementation would have been obvious to the skilled person facing the above problem. In particular, it would have been obvious to implement the lottery game functionality including maintaining and updating a jackpot at the central server. Indeed, it is already given as part of the game rules that the lottery is organised centrally. It would also have been obvious to implement functionality for requesting tickets at client computers connected to the server; this could be done for example using web page forms provided from the server to the remote devices. Finally, providing the jackpot value to all participating players could be straightforwardly accomplished for example by sending automatically generated emails to all players' client computers and by displaying their content.

2.8 The appellant argued that it would not have been obvious at the priority date to present the exact value of the updated jackpot, because lottery systems known at that time rather presented an estimated jackpot amount.

However, the question whether the skilled person would consider notifying the exact value of the updated jackpot to players in real-time does not arise here, because that has already been decided in formulating the objective technical problem. Therefore, the skilled person would seek to provide such functionality because

the problem requires him to do so regardless of whether lottery schemes adopted this solution at the priority date or not. The only question is how it would be done, but, as outlined above, the Board considers the claimed implementation to be obvious.

2.9 For these reasons, the Board judges that the subject-matter of claim 1 of the main request lacks an inventive step (Article 56 EPC).

3. Since the main request corresponds, in essence, to the refused main request in the decision under appeal, there are no special reasons present necessitating a remittal to the examining division (Article 11 RPBA).

4. *Auxiliary request*

In its communication, the Board gave detailed reasons why the narrower auxiliary request did not involve an inventive step. In reply, the appellant filed a new main request and addressed the Board's objections. It thus seems that the new main request was to replace both the former main and auxiliary requests. This is however not perfectly clear. In any case, the subject matter of the auxiliary request does not involve an inventive step for the reasons given in the Board's communication.

5. The appellant's statement not to attend oral proceedings is to be considered as a withdrawal of the request for oral proceedings in accordance with decision T 3/90 (OJ EPO 1992, 737) and the subsequent case law (see Case Law of the Boards of Appeal, III C. 4.3.2). Therefore the decision could be taken in writing.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



T. Buschek

A. Wahrenberg

Decision electronically authenticated