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**Datasheet for the decision
of 28 July 2020**

Case Number: T 0892/18 - 3.2.04

Application Number: 06786488.4

Publication Number: 1917078

IPC: A63F13/06, G07F17/32

Language of the proceedings: EN

Title of invention:

SYSTEM FOR WIRELESS GAMING WITH LOCATION DETERMINATION

Applicant:

CFPH, L.L.C.

Headword:

Relevant legal provisions:

EPC Art. 123(2), 56

Keyword:

Amendments - allowable (yes)

Inventive step - non-obvious alternative

Decisions cited:

Catchword:



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Case Number: T 0892/18 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 28 July 2020

Appellant: CFPH, L.L.C.
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Representative: Gill Jennings & Every LLP
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 20 November
2017 refusing European patent application No.
06786488.4 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman J. Wright
Members: S. Hillebrand
W. Van der Eijk

Summary of Facts and Submissions

- I. The appeal was filed by the Applicant against the decision of the Examining Division to refuse the patent application in suit (hereinafter "the application").
- II. The Examining Division decided, with reference to its communication of 16 June 2017 that the subject-matter of claim 1 extended beyond the content of the application as originally filed (Article 123(2) EPC) and did not involve an inventive step (Article 56 EPC).
- III. In a communication pursuant to Rule 15(1) RPBA 2007, the Board expressed the preliminary opinion that the subject-matter of claim 1 filed with the grounds of appeal extended beyond the content of the application as originally filed and did not involve an inventive step.

In a telephone conversation the Rapporteur informed the Applicant about the negative preliminary opinion of the Board with regard to the original disclosure of the subject-matter of claim 1 filed with letter of 24 June 2020.
- IV. The Board decided to continue in written proceedings as requested by the Appellant in its letter of 21 July 2020.
- V. The Appellant requests that the decision under appeal be set aside and that a patent be granted on the basis of the main request filed on 21 July 2020.
- VI. Claim 1 of the main request reads as follows:
"A wireless gaming system, comprising:

a computer (18, 28, 36) including software resident thereon;

a wireless network at least partially covering a property, the wireless network comprising a plurality of signal detection devices (16, 23, 34, 41, 602); and a gaming communication device (13, 24, 604) operable to transmit and receive signals to and from the computer via the wireless network;

wherein the property comprises a plurality of zones, each zone being associated with at least one allowed activity, wherein each zone comprises one or more sub-zones and each sub-zone being associated with a reference set of signal strengths or a reference set of times of travel of signals received by the plurality of signal detection devices from a gaming communication device in the sub-zone;

wherein the software is configured to:

- i) determine the sub-zone in which the gaming communication device (13, 24, 604) is located based upon a comparison of a set of signal strengths or a set of times of travel of signals received by the plurality of signal detection devices from the gaming communication device with the reference set of signal strengths or the reference set of times of travel for each sub-zone, and
- ii) enable or disable a predetermined functionality of the gaming communication device (13, 24, 604) based upon the determined location of the gaming communication device;

wherein the predetermined functionality includes conducting the at least one allowed activity."

VII. In the present decision, reference is made to the following documents:

- D1: WO 2004/013820 A2
- D2: XPO010376167

"RADAR: an in-building RF-based user location and tracking system",
Bahl and Padmanabhan, IEEE INFOCOM 2000,
26 March 2000, ISBN:978-0-7803-5880,
vol. 2, pages 775-784

VIII. The Appellant's arguments can be summarised as follows:
The amendments made in the claims of the main request are fully supported by the original disclosure. Features i) and ii) of claim 1 are novel over D1 and involve an inventive step in the light of D1 in combination with D2.

Reasons for the Decision

1. The appeal is admissible.
2. The application deals with a wireless gaming system comprising a central server or computer and a plurality of gaming communication devices (e.g. cell phones of users), which communicate with each other via a wireless network. In particular, within a property, such as a casino, activities (e.g. gambling) are enabled depending on the presence of a gaming device within a dedicated sub-zone of a zone of the property. The presence is determined by comparing actual signal strength or time of travel of a gaming device with reference sets of signal strength or time of travel associated with sub-zones, which have been established beforehand.
3. **Admission of the latest main request of 21 July 2020**

The present main request was filed after the summons to oral proceedings had been issued. Its admission lies

therefore within the discretion of the Board, Article 13(1), (3) RPBA 2007.

The claims of this request have been amended to address all objections mentioned in the foregoing telephone conversation without giving rise to new ones. The description has been adapted to the amended set of claims. The main request is thus prima facie allowable. Therefore, the Board decided to exercise its discretion under Article 13(1), (3) RPBA 2007 by admitting the main request.

4. **Allowability of amendments**

- 4.1 Claim 1 of the actual main request overcomes the added subject matter objections of the Examining Division raised under point 3 of their communication of 16 June 2017. It is based on original claims 1 to 7 with the following minor changes and completions:
- "Server" is replaced by "computer (18, 28, 36) including software resident thereon", completed by "wherein the software is configured to" (international publication page 5, lines 3 - 28).
 - "Gaming information" is replaced by "signals" in order to clarify and harmonise the terminology of the claim. The predetermined functionalities/functions, allowed activities and thus exchanged informations do not necessarily relate to gaming, see original claims 9 - 17.
 - "Elapsed times from transmission to receipt of signals" is replaced by "times of travel of signals", which is considered to be equivalent and more concise.
 - "Enabled" is completed by "or disabled" (international publication page 16, lines 7 - 23, page 18, lines 26/27).

4.2 The additional features of claim 2 stem from page 14, lines 8 - 11, those of claim 3 from page 13, lines 3 - 7, page 19, lines 5 - 15, Fig. 7 of the international publication.

4.3 Since none of the amendments in the main request leads to an extension of the subject-matter beyond the content of the application as originally filed, the amendments are allowable under Article 123(2) EPC.

5. **Novelty**

5.1 D1 discloses a gaming system comprising a plurality of wireless gaming (communication) devices, a plurality of wireless signal receivers (a wireless network) and a location server (computer) for determining the location of a gaming (communication) device based on signal strength or time of travel. A loyalty program session (gaming functionality) is enabled based upon the determined location (see D1, page 11, lines 6 - 32). The location manager 1010 (computer) may also disable initiation of the loyalty program session (the gaming functionality) of gaming (communication) devices 1014, 1016, 1018 in case they are too close to each other, i.e. based on their respectively determined locations (page 66, line 28 to page 67, line 6, Fig. 13).

5.2 The subject-matter of claim 1 differs from the gaming system according to D1 in that

- the property comprises a plurality of zones, each zone being associated with at least one allowed activity, wherein each zone comprises one or more sub-zones and each sub-zone being associated with a reference set of signal strengths or a reference set of times of travel of signals received by the plurality of signal detection devices from a gaming communication

device in the sub-zone;

- the software is configured to:

i) determine the sub-zone in which the gaming communication device (13, 24, 604) is located based upon a comparison of a set of signal strengths or a set of times of travel of signals received by the plurality of signal detection devices from the gaming communication device with the reference set of signal strengths or the reference set of times of travel for each sub-zone.

Whereas claim 1 relates thus to detecting the presence of gaming devices within sub-zones of zones of a property by means of pre-determined reference sets of signal characteristics, D1 relies on triangulation for determining the absolute positions of gaming devices within a property (albeit to varying degrees of accuracy) and concludes on their presence in areas surrounding gaming machines from these absolute positions (page 11, second and third paragraph).

5.3 The subject-matter of claim 1 is thus new in the sense of Article 54(1), (2) EPC.

6. **Inventive step**

6.1 In the light of the above identified difference, the problem to be solved can be considered as providing an alternative and efficient way of controlling location based functionality of the gaming communication devices of D1.

6.2 The problem is solved by the system of claim 1, since the concept of using reference sets of signal strength or times of travel, which are calibrated for and associated with certain areas or sub-zones, allows for

determining presence of a gaming device in a sub-zone without an intermediate triangulation step.

The claimed solution is not suggested by any of the prior art cited by the Examining Division.

6.3 In particular, D2 proposes to use empirically-determined and theoretically-computed signal strength information (page 775, bridging paragraphs of the columns), which is representative for distinct physical locations on the floor of a building (page 777, last paragraph of section "3.2. Data Collection"). These reference sets of signal strength are, however, respectively associated with the distinct locations, not with areas or sub-zones, and are used in a further step of triangulation. Therefore, the straight-forward application of the method of D2 in the system of D1, which is also based on triangulation, would not result in the subject-matter of claim 1.

6.4 Since the subject-matter of claim 1 can thus not be obtained in an obvious manner from the cited prior art, it involves an inventive step in the sense of Article 56 EPC.

7. **Further requirements of the EPC**

The main request also meets further requirements of the EPC.

In particular, claim 1 has been amended to be clear and concise in the sense of Article 84 EPC, see point 4.1, above.

The description has been adapted to the amended set of claims.

8. **Conclusion**

The Board is therefore satisfied that the application according to the main request as filed with letter of 21 July 2020 complies with the requirements of the EPC and is now in order for grant.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the Examining Division with order to grant a patent in the following version:

Description:

Pages 1, 2, 4, 5, 10, 12-16, 18, 19, 24-29, 33-35 of the main request, filed with letter of 21 July 2020
Pages 3, 6 - 9, 11, 17, 20-23, 30-32 of the international publication of the application

Claims:

No. 1 - 3 of the main request, filed with letter of 21 July 2020

Drawings:

Sheets 1/5 to 5/5 of the international publication of the application.

The Registrar:

The Chairman:



T. Buschek

J. Wright

Decision electronically authenticated