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**Datasheet for the decision
of 26 June 2025**

Case Number: T 0710/22 - 3.5.01

Application Number: 09835790.8

Publication Number: 2353137

IPC: G06Q40/00, G06Q10/00, G06Q50/00

Language of the proceedings: EN

Title of invention:

SYSTEMS AND METHODS FOR RISK MANAGEMENT OF SPORTS-ASSOCIATED
BUSINESSES

Applicant:

Crystal World Holdings, Inc.

Headword:

Risk management of sports-associated businesses/CRYSTAL WORLD

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - (no) - main request and auxiliary request -
mixture of technical and non-technical features

Decisions cited:

T 1194/97, T 0641/00, T 0258/03, T 1670/07, T 1928/14



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0

Case Number: T 0710/22 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 26 June 2025

Appellant:
(Applicant)

Crystal World Holdings, Inc.
1701 Pennsylvania Avenue, N.W.
Suite 300
Washington, DC 20006 (US)

Representative:

Hutchinson, Thomas Owen
Hutchinson IP Ltd
57 Hoghton Street
Southport, Merseyside PR9 0PG (GB)

Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted on 5 November 2021
refusing European patent application No.
09835790.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman W. Chandler
Members: M. Höhn
L. Basterreix

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division refusing European patent application No. 09835790.8 pursuant to Article 97(2) EPC on the ground of lack of inventive step (Article 56 EPC) with regard to prior-art publication D1 (US 2008/147535 A1).

II. In the statement setting out the grounds of appeal, the appellant requested the following:

Main Request: "The Decision under Appeal be set aside and that European Patent Application No. 09835790.8 be granted as a European Patent on the basis of Main Request as presented in the Oral Proceedings of 6 October 2021, and optionally, an Order for a refund of the Appeal fee".

1st Auxiliary Request: "The Decision under Appeal be set aside and that European Patent Application No. 09835790.8 be granted as a European Patent on the basis of 1st Auxiliary Request as presented in the Oral Proceedings of 6 October 2021, and optionally, an Order for a refund of the Appeal fee".

2nd Auxiliary Request: "The Decision under Appeal be set aside and that the Boards of Appeal direct the Examining Division to issue the Rule 71(3) EPC communication incorporating any necessary corrections/ amendments that may be necessary into the Druckexemplar text, and optionally, an Order for a refund of the Appeal fee".

3rd Auxiliary Request: Oral Proceedings

III. In its annex to the summons to oral proceedings, the Board noted that the second auxiliary request was not a proper request in the appeal proceedings, because it did not specify the set of claims on which a grant should be based and Rule 71(3) EPC was in the sphere of the examining division in any kind of granting procedure. Since no requests had been presented during oral proceedings on 6 October 2021, the Board interpreted the appellant's requests as referring to the sets of claims submitted in electronic form on 6 September 2021 and took the appellant's requests to be that the appealed decision be set aside and that a patent be granted on the basis of the main request or first auxiliary request on which the decision under appeal was based. A refund of the appeal fee was requested, because of a substantial procedural violation. Oral proceedings were requested as an auxiliary measure.

The Board furthermore expressed its preliminary opinion that all requests appeared to lack inventive step (Article 56 EPC).

IV. In a reply dated 16 June 2025, the appellant informed the Board that nobody would be attending the oral proceedings and requested a decision according to the state of the file.

V. The oral proceedings were cancelled.

VI. Independent claim 1 according to the main request reads as follows:

"1. An index-determining system for facilitating management of sports-associated economic risk by determining an index reflecting economic values and/or associated risks of a sports activity, the system comprising:
one or more processing components, one or more data-storage components, and one or more communication interfaces, characterised by:
the processor, data-storage and communication interface components being configured for:
receiving and storing in a database of the data storage information comprising one or more sports variables describing economic values; associated risks of a sports activity; and a plurality of further sports variables determining or explaining such values or risks of the sports activity;
selecting an appropriate one or more of the information comprising: one or more sports variables describing economic values; associated risks of a sports activity; and a plurality of further sports variables determining or explaining such values or risks of the sports activity;
deriving from the selected received information a sports risk index (SRI) model for the sports activity, the derived model being configured for computing an SRI reflected the selected economic values and/or associated risks of the sports activity from subsequently received variables determining or explaining such values or risks of the sports activity:
receiving subsequently from time-to-time the determining or predicting variables, and computing subsequent values of the SRI by applying the derived SRI model to the subsequently-received variables determining or explaining such values or risks of the sports activity, and being further characterised by:

a user terminal providing a structured and hierarchical arrangement of successive display screens whereby, in use, a user is able to select certain sports activities and futures or options contracts related to the selected sports activities, and wherein the selecting an appropriate one or more of the information comprising: one or more sports variables describing economic values; associated risks of a sports activity; and a plurality of further sports variables determining or explaining such values or risks of the sports activity is based on the said user selections mode using the terminal and is thus a reduced selection from the full range of available, information comprising one or more sports variables describing economic values; associated risks of a sports activity; and a plurality of further sports variables determining or explaining such values or risks of the sports activity."

VII. Claim 1 according to the first auxiliary request adds the following feature:

"the SRI model is constructed at least in part by statistical methods so as to relate in a selected statistically-optimum manner the received economic values and/or associated risks of the sports activity to the concurrently-received variables determining or explaining such values or risks of the sports activity".

Reasons for the Decision

1. Procedural issues

1.1 In first appeal proceedings concerning the present application (T 1928/14), the Board decided to remit the case to the department of first instance for further prosecution including a search for pertinent prior art. No decision was given on inventive step of the claimed subject-matter. There is no *res judicata* in this regard. In a communication issued in the first appeal proceedings, the Board merely expressed a preliminary non-binding opinion on inventive step of the subject-matter of claim 1 according to the then main request.

1.2 Following the remittal of the case, the examining division performed a top-up-search and introduced prior art publication D1. In an annex to the summons for oral proceedings dated 18 February 2021 the examining division assessed inventive step of claim 1 of the same former main request based on D1 as closest prior art and gave a first negative opinion. Since it was the same claim 1 on which the Board gave its preliminary opinion, the examining division could make references thereto.

Following the summons and before the oral proceedings took place, the appellant changed the subject-matter by submitting a new main request, which was then the basis for discussion during oral proceedings, because the examining division allowed this amendment.

The Board does not see any procedural deficiency in the examining division's behaviour. There had been many

communications exchanged before the second oral proceedings before the examining division. Basing the assessment of inventive step on D1 was correct, particularly as the Board decided that written prior art was required. The examining division was not prevented from following the Board's interpretation of the claimed subject-matter as relating to an implementation of a non-technical administrative abstract concept, which the Board in its non-binding preliminary opinion had considered to be not inventive. In view of paragraph 4 of the minutes of the oral proceedings of 6 October 2021, there was no *res judicata* (see above) and the examining division by assessing claim 1 on the basis of D1 and considering the additional feature of "a terminal with structured and hierarchical arrangement of successive display screens for making user selections" clearly showed that it did not strictly rely on the Board's preliminary assessment, but the examining division dealt with claim 1 according to the correct amended main request and elaborated its own chain of argumentation taking into consideration what the Board had expressed before. By discussing the correct request during oral proceedings of 6 October 2021, the appellant's right to be heard was met. By filing amendments after summons for oral proceedings, the appellant created a situation where the examining division could present arguments for such amended request only during oral proceedings. The Board does not see a substantial procedural violation in this regard, in particular not an irrebuttable presumption as alleged by the appellant.

Main request

2. Article 56 EPC - Inventive step

The Board agrees with the decision under appeal that the subject-matter of independent claim 1 lacks an inventive step.

2.1 The claim is directed to a mix of technical and non-technical features. The Board does not dispute that the system of claim 1 appears in a technical context. Accordingly, the claimed subject-matter is an invention in the sense of Article 52(1) EPC (see T 258/03 - *Auction method/HITACHI*).

2.2 However, the question of inventive step requires an assessment of whether the invention makes a technical contribution over the prior art. Features which do not make such a contribution cannot support the presence of an inventive step (see T 641/00 - *Two identities/COMVIK*, Headnote I).

2.3 The Board agrees with the contested decision that the technical features of claim 1 consist of a system comprising one or more processing components, one or more data-storage components, and one or more communication interfaces, the processor, data-storage, and communication interface components being configured for receiving and storing information in a database of the data storage and a user terminal providing a structured and hierarchical arrangement of successive display screens whereby a user is able to make selections.

However, the Board is not convinced that the

information based on the user selections made using the terminal being a reduced selection from the full range of available information actually contributes to the technical character of the claim.

- 2.4 The Board agrees that the features outlined in point 16.5 of the decision were known from the closest prior art D1. Document D1 discloses a system (see [85] and Figure 1, host computer 1) comprising one or more processing components (implicit in any general purpose computer such as the host computer of D1), one or more data-storage components (see [97], databases 60), and one or more communication interfaces (see [85], network 15), the processor, data-storage, and communication interface components being configured for receiving and storing information in a database of the data storage (which is what databases of the data storage are used for, namely receiving and storing information) and a user terminal (see [85], remote client device 20), the user terminal providing a structured and hierarchical arrangement of successive display screens (see Figures 3C to 3L) whereby, in use, a user is able to make selections and the information based on the user selections made using the terminal is a reduced selection from the full range of available information (see [109] to [114] and Figures 3C to 3L).

- 2.5 The subject-matter of claim 1 differs from D1 in the claimed steps for deriving a sports risk index (SRI) model, which are regarded as business related administrative aspects.

The aim of claim 1 is to calculate a value (sports risk index, SRI) using a model (SRI model) derived from received data (sports variables describing economic values and/or associated risks of a sports activity and

a plurality of further sports variables determining or explaining such values or risks of the sports activity). The SRI model can calculate values of the SRI of subsequently received data.

These steps, however, do not make an inventive technical contribution, since they are based on mathematical and administrative calculations on economic and sports related data. In the Board's view, such data is not technical, since it is cognitive data, not functional data (see T 1194/97 - *Data structure product/PHILIPS*, OJ EPO 2000, 525). Storage, selection and processing of such data are administrative measures when creating a sports risk index (SRI) model. Additionally making use of general purpose computer functions (e.g. storing and retrieving information and sports variables in electronic form) does not create a further technical effect.

The fact that the steps of retrieving, selecting and creating are performed automatically is an obvious consequence of using a computer system.

- 2.6 The appellant argued that the feature of a terminal with structured and hierarchical arrangement of successive display screens for making user selections interacted with the remaining features. The interaction between the features considered technical and non-technical by the examining division consisted of the user selection feeding back into the derivation of the model. For example, when a user selects, using the claimed terminal with structured and hierarchical arrangement of successive display screens, a sports activity from the entirety of available sports activities, the derivation of the index will only be performed for the selected activity and not for the

entirety of sports activities, thereby using only the information which is necessary to calculate the index for the selected activity thus achieving the technical effect of reducing processing power and system bandwidth. Accordingly, the specific selection implementation claimed rendered the claimed steps for deriving the model technical. When referring to the table presented with the grounds of appeal on pages 5 to 8, integers 6, 8 and 10 were alleged to provide a further technical effect in this regard.

- 2.7 The Board does not agree. Although a terminal with structured and hierarchical arrangement of successive display screens for making user selections is a technical feature, it is known from D1 (see above). In the Board's analysis of claim 1, it does not interact with the other features so that it involves a further technical effect. The act of selecting by a user (integer 6) a sports activity from the entirety of available sports activities is in the sphere of human decision making and does not appear to involve technical considerations, since it is driven by subjective constraints within the non-technical concept for calculating the SRI model and the data selected is non-technical cognitive data (see above). The same is true for the step of deriving/calculating the SRI model (integers 8 and 10), because the receiving and calculating in a technical sense are known from D1 and no specific way of implementing such calculations is claimed or disclosed in sufficient technical detail. The Board does not see a synergy in this regard. Receiving data "from time-to-time" is not technically specifying the claim. Also the way the successive displays are structured and arranged is not specified in the claim. Differences in the way of selecting by the user therefore do not appear to distinguish the

claimed subject-matter from D1 in a technical sense. Following a user selection, the claimed system uses the processing components, the data storage components and the communications interfaces to derive (obtain from another source) data in a way that is not technically different from D1.

- 2.8 As far as the arguments referring to the "technical leakage fallacy" are concerned, the Board does not dispute that the concept for facilitating management of sports-associated economic risk is implemented on technical infrastructure. However, the mere fact that this non-technical concept is implemented using technical means is not sufficient to confer technical character upon the concept itself (cf. T 1670/07 - *Shopping with mobile device/NOKIA*, reason 9). This would only be the case if the method interacted with the technical features so as to produce a (further) technical effect, which does not appear to be the case for the afore-mentioned reasons.

Thus, any effect on the efficacy of operations is not a direct effect of the claimed features, but would depend on the user's interpretation and selection of the data. Such indirect effects cannot be taken into account in the assessment of inventive step (see e.g. T 1670/07, *supra*, point 11).

- 2.9 The Board has doubts that a simplification of calculation in the invention by sacrificing a tiny amount of accuracy in order to save time and computing power is achieved by technical means. It rather appears that the appellant has come up with a new concept for facilitating management of sports-associated economic risk, in particular of calculating an SRI index, i.e. non-technical data (see above), which is in the sphere

of the non-technical business person and, hence, would be part of the requirement specification given to the technical person, the programmer, for implementation. It does not therefore involve an inventive technical contribution, since there are no details given as to how such an implementation is achieved. There are no technical hurdles which would require non-obvious programming skills.

2.10 The appellant further argued that where the base data was missing, outdated, or needed to be inferred from other base data, existing systems simply fell over because it was not possible, *ab initio*, to perform a calculation. However, the invention performed a calculation, even where the base data was partially missing, because the calculation was based on the SRIs, which were purposively designed to reflect trends in, or relationships between, the underlying data, even where parts of the data were missing. The unexpected effects, therefore, that arose from the invention were:

- 1) because the calculations were performed using the SRIs rather than the base data, the calculations themselves became much simpler, meaning that they could now be executed on consumer-grade devices; and
- 2) the SRIs could still adequately reflect the underlying base data, even where some of it was missing.

Again the Board is not convinced that such alleged unexpected effects are achieved by technical means. Those alleged effects would in any way be an inherent part of the concept of calculating an SRI index (see Figure 3 and formulae on pages 19 and 20 of the description), i.e. non-technical data (see above), which is in the sphere of the non-technical business

person and, hence, would be part of the requirement specification given to the technical person, the programmer, for implementation.

2.11 The Board therefore agrees with the decision under appeal that:

- the closest prior art can be considered to be D1;
- the problem to be solved is the implementation of the claimed business related administrative concept for facilitating management of sports-associated economic risk (see above) on the system known from D1;
- the person skilled in the art within the meaning of Article 56 EPC, a computer expert provided with the complete description of the non-technical abstract administrative concept, would have considered the claimed implementation obvious in view of the normal skills and the general knowledge of computer programming.

3. The appellant's arguments to the contrary provided with the statement setting out the grounds of appeal do not convince for the aforementioned reasons.

4. In the absence of any technical contribution beyond the straight-forward computer implementation, the subject-matter of claim 1 does not involve an inventive step (Article 56 EPC).

Auxiliary request

4.1 Insofar as claim 1 of the first auxiliary request is directed to similar subject-matter as the main request, the afore-mentioned reasoning still applies *mutatis mutandis*. The additional feature merely further

specifies the non-technical concept and, hence, does not provide an inventive technical contribution.

The subject-matter of claim 1 of the first auxiliary request therefore does not involve an inventive step either.

5. The same arguments apply, *mutatis mutandis*, against corresponding independent claim 11 of the main request and independent claim 10 of the first auxiliary request.

6. Hence, none of the appellant's requests is allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated