

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

KOG GAMES, INC.,

Defendant.

C.A. No. 13-178-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

NEXON AMERICA, INC.,

Defendant.

C.A. No. 13-179-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

ONNET USA, INC.,

Defendant.

C.A. No. 13-180-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

RIOT GAMES, INC.,

Defendant.

C.A. No. 13-183-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

TURBINE, INC.,

Defendant.

C.A. No. 13-184-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

SPOTIFY USA INC.,

Defendant.

C.A. No. 13-808-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

BLIZZARD ENTERTAINMENT, INC.,

Defendant.

C.A. No. 13-826-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

RELOADED GAMES, INC.,

Defendant.

C.A. No. 13-827-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

SG INTERACTIVE INC.,

Defendant.

C.A. No. 13-828-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

KONTIKI, INC.,

Defendant.

C.A. No. 13-914-RGA

PARALLEL NETWORKS, LLC,

Plaintiff,

v.

NC INTERACTIVE, LLC,

Defendant.

C.A. No. 13-1205-RGA

**PLAINTIFF PARALLEL NETWORKS, LLC'S
MOTION TO LIFT STAY**

Plaintiff Parallel Networks, LLC (“Parallel”) hereby moves the Court to lift the stay in each of the above-captioned cases as to claims 1, 5, 8-9, 11-15, 19, 22-23, and 25-28 of U.S. Patent No. 7,188,145 B2 because the Patent Trial and Appeal Board (the “PTAB”) has denied the petition for *inter partes* review of these claims. In further support of this motion, Parallel states as follows:

1. On November 11, 2013, Reloaded Games, Inc. (“Reloaded”), defendant in C.A. No. 13-827-RGA, filed two petitions in the PTO to institute *inter partes* review (“IPR”) of U.S. Patent Nos. 7,188,145 B2 (“the ’145 Patent”) and 7,730,262 B2 (“the ’262 Patent”).

2. On February 5, 2014, the Court stayed each of the above-captioned actions pending the outcome of the *inter partes* review.¹

3. Regarding the ’145 Patent, Reloaded petitioned for review of claims 1-36. On May 16, 2014, the PTAB granted Reloaded’s petition only as to claims 2-4, 6, 7, 10, 16-18, 20, 21, 24, and 29-36 on the alleged ground those claims are obvious under 35 U.S.C. § 103. *See* Ex. A, Case IPR2014-00136, Paper 15, at 39-40.

4. The PTAB denied Reloaded’s petition on the following sixteen (16) claims, despite having been challenged by Reloaded in its petition: 1, 5, 8-9, 11-15, 19, 22-23, and 25-28. *See id.*

5. Regarding the ’262 Patent, on May 16, 2014, the PTAB granted Reloaded’s petition and instituted *inter partes* review for claims 1-27. *See* Ex. B, Case IPR2014-00139, Paper 16, at 19-20.

6. Because the PTAB denied Reloaded’s petition with respect to claims 1, 5, 8-9, 11-15, 19, 22-23, and 25-28 of the ’145 Patent, and these claims are no longer subject to *inter partes* review, the stay should be lifted and Parallel allowed to proceed in litigation with respect to these sixteen claims. *Cf. Otto Bock Healthcare LP v. Össur HF, et al.*, No. 8:13-cv-00891-CJC-AN, slip. op. at 3 (C.D. Cal. Dec. 16, 2013) (denying stay, finding “petition for *inter partes* review encompass[ing] only two of the four asserted claims in [the] case” to weigh against stay) (Order attached as Ex. C). Indeed, the Court contemplated that the stay would be lifted in the event that

¹ The Court denied defendant’s motion to stay in related action *Parallel Networks, LLC v. Ignite Technologies, Inc.*, C.A. No. 13-1083-RGA. (D.I. 21.)

an IPR was not instituted. *See* C.A. No. 13-827-RGA, D.I. 25, 2/10/2014 Transcript at 65:11-20. Just as the case against Ignite Technologies, Inc. was allowed to move forward based on two patents, the '911 and '433 Patents, that were not subject to the Reloaded IPR petitions, so too should the now stayed cases be allowed to move forward based on the aforementioned claims of the '145 Patent as to which the IPR was not instituted. *See* 2/10/2014 Transcript at 67 (allowing the case against Ignite to move forward at least “through the initial stages”).

7. Reloaded and the other defendants claim that lifting the stay would somehow be “premature” given that Reloaded alleges it “will be filing a follow-on IPR challenging the claims that were not instituted, and moving to join the two proceedings.” *See* Ex. D, 5/29/14 Email from Reloaded’s Counsel to M. Squire. This claim is without merit. Reloaded’s intention to possibly at some unknown time in the future challenge the claims that were not instituted and, if so, whether the PTAB will or will not entertain such challenge is too speculative and does not justify continuing the stay.

8. On the contrary, continuing to stay these cases while Reloaded purportedly prepares and files some follow-on petition for *inter partes* review, and while the PTAB considers that petition, is fundamentally unfair and would only present a clear tactical advantage to defendants and unduly prejudice Parallel in its ability to proceed with claims that the PTAB has already decided are not subject to the *inter partes* review.

9. It is uncertain and highly speculative as to when, if ever, Reloaded’s follow-on petition will be filed. Even if that petition were filed today, Parallel and this Court would likely have to wait at least another six months for a decision from the PTAB regarding that petition. 35 U.S.C. § 314(b).

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