

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

505 GAMES, INC., ACTIVISION BLIZZARD, INC., BLIZZARD ENTERTAINMENT, INC., CAPCOM U.S.A. INC., THE WALT DISNEY CO., DISNEY INTERACTIVE STUDIOS, INC., LUCASARTS, ELECTRONIC ARTS INC., BANDAI NAMCO GAMES AMERICA, INC., BANDAI NAMCO HOLDINGS USA INC., RIOT GAMES, INC., SONY COMPUTER ENTERTAINMENT AMERICA LLC, SQUARE ENIX, INC., SQUARE ENIX OF AMERICA HOLDINGS, INC., TAKE-TOW INTERACTIVE SOFTWARE, INC., ROCKSTAR GAMES, INC., 2KSPORTS, INC., 2K GAMES, INC., UBISOFT, INC., NINTENDO OF AMERICA, INC., and NINTENDO CO., LTD.,
Petitioner,

v.

BABBAGE HOLDINGS, LLC,
Patent Owner.

Case IPR2014-00954¹
Patent 5,561,811

Before MEREDITH C. PETRAVICK, KALYAN K. DESHPANDE, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

CLEMENTS, *Administrative Patent Judge*.

DECISION
Motions to Terminate
37 C.F.R. § 42.05

¹ Case IPR2015-00568 has been joined with this proceeding.

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On March 10, 2015, 505 Games (U.S.), Inc. and Babbage Holdings, LLC (“Patent Owner”) filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2002) as business confidential information 35 U.S.C. § 317. Paper 28.

On March 11, 2015, Activision Blizzard Inc., Blizzard Entertainment, Inc., and Patent Owner filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2003) as business confidential information 35 U.S.C. § 317. Paper 29.

Capcom U.S.A., Inc. and Patent Owner also filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2004) as business confidential information 35 U.S.C. § 317. Paper 30.

The Walt Disney Co., Disney Interactive Studios, Inc., LucasArts, and Patent Owner also filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2005) as business confidential information 35 U.S.C. § 317. Paper 31.

Electronic Arts, Inc. and Patent Owner also filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2006) as business confidential information 35 U.S.C. § 317. Paper 32.

Bandai Namco Games America, Inc., Bandai Namco Holdings USA Inc., and Patent Owner also filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2007) as business confidential information 35 U.S.C. § 317. Paper 33.

Rio Games, Inc. and Patent Owner also filed a joint motion to terminate the trial proceedings and to treat the submitted settlement

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agreement (Ex. 2008) as business confidential information 35 U.S.C. § 317. Paper 34.

Square Enix Inc., Square Enix of America Holdings, Inc., and Patent Owner also filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2009) as business confidential information 35 U.S.C. § 317. Paper 35.

Take-Two Interactive Software, Inc., Rockstar Games, Inc., 2KSports, Inc., 2K Games, Inc., and Patent Owner also filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2010) as business confidential information 35 U.S.C. § 317. Paper 36.

Ubisoft, Inc. and Patent Owner also filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2011) as business confidential information 35 U.S.C. § 317. Paper 37.

On March 12, 2015, Sony Computer Entertainment America LLC and Patent Owner filed a joint motion to terminate the trial proceedings and to treat the submitted settlement agreement (Ex. 2012) as business confidential information 35 U.S.C. § 317. Paper 38.

Under 35 U.S.C. § 317(a), “[a]n inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” In their joint motions, the parties request termination of the instant proceeding because they have settled their respective disputes and have reached

agreements to terminate this *inter partes* review, and because the Office has not yet decided the merits of the proceeding. *See, e.g.*, Paper 38, 2–3.²

The parties also indicate that all but two district court actions in which the '811 patent has been asserted have been settled and, in those cases, joint stipulations for dismissal either are pending or have been granted. *Id.* at 3–5. The parties indicate that the two district court actions that remain pending involve Konami Digital Entertainment, Inc., and against Nintendo of America, Inc., respectively. *Id.* at 4.

The parties are reminded that the Board is not a party to the settlement and that, even if the parties agree to settle any issue in a proceeding, the Board may independently determine any question of patentability. 37 C.F.R. § 42.74(a). Because we have not yet decided the merits of the proceeding, it is appropriate to terminate this proceeding with respect to 505 Games, Inc., Activision Blizzard, Inc., Blizzard Entertainment, Inc., Capcom U.S.A. Inc., The Walt Disney Co., Disney Interactive Studios, Inc., LucasArts, Electronic Arts Inc., Bandai Namco Games America, Inc., Bandai Namco Holdings USA Inc., Riot Games, Inc., Sony Computer Entertainment America LLC, Square Enix, Inc., Square Enix of America Holdings, Inc., Take-Two Interactive Software, Inc., Rockstar Games, Inc., 2KSports, Inc., 2K Games, Inc., and Ubisoft, Inc. 37 C.F.R. § 42.72.

Although we terminate the involvement of the entities named above in this proceeding, the proceeding itself is not terminated because Nintendo of America, Inc. and Nintendo Co., Ltd. remain as Petitioner in this proceeding as a result of our granting the Motion for Joinder in IPR2015-

² Citations are to Paper 38. The other motions (Papers 28–37) contain substantially similar representations.

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00568. Paper 39; *see also Nintendo of America, Inc. v. Babbage Holdings, LLC*, IPR2015-00568, Paper 12.

ORDER

Accordingly, it is:

ORDERED that the involvement of each of 505 Games, Inc., Activision Blizzard, Inc., Blizzard Entertainment, Inc., Capcom U.S.A. Inc., The Walt Disney Co., Disney Interactive Studios, Inc., LucasArts, Electronic Arts Inc., Bandai Namco Games America, Inc., Bandai Namco Holdings USA Inc., Riot Games, Inc., Sony Computer Entertainment America LLC, Square Enix, Inc., Square Enix of America Holdings, Inc., Take-Two Interactive Software, Inc., Rockstar Games, Inc., 2KSports, Inc., 2K Games, Inc., and Ubisoft, Inc. is terminated; and

FURTHER ORDERED that the joint requests that the settlement agreements (Exs. 2001–2012) be treated as business confidential information, kept separate from the file of the involved patent, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), are *granted*.

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