

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., and UBISOFT, INC.,
Petitioners,

v.

BABBAGE HOLDINGS, INC.,
Patent Owner.

Case IPR2014-00954
Patent 5,561,811

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

CLEMENTS, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

A conference call was held on August 21, 2014, between respective counsel for the parties and Judges Petravick, Deshpande, and Clements. The following issues were discussed.

Petitioner's Powers of Attorneys

According to 37 C.F.R. § 42.2, "Petitioner" means "the party filing a petition requesting that a trial be instituted." In circumstances not involving a motion for joinder or consolidation of separate proceedings, for each "petition" there is but a single party filing the petition, no matter how many companies are listed as petitioner or petitioners and how many companies are identified as real parties-in-interest. Thus, before the Board, the separate companies constitute and stand in the shoes of a single "Petitioner." Because the eleven companies constitute, collectively, a single party, they must speak with a single voice, both in writing and oral representation.

We observed that the Petition, in accordance with our rules, identifies a single lead counsel, Mr. Eric A. Buresh, and identifies as backup counsel Mssrs. Patrick D. McPherson, Paul R. Hart, and Phillip D. Mancini. Pet. 51-52. We noted, however, that the powers of attorney were not consistent with that designation. Specifically, the power of attorney filed by Sony (Paper 9) does not include Mssrs. Buresh or Hart, and the powers of attorney filed by the other real parties in interest (Papers 2-8, 10-12) do not include Mssrs. McPherson or Mancini.

Mr. Paul Hart, counsel for Petitioner, indicated that he spoke on behalf of not only 505 Games, Activision, Capcom, Disney, Electronic Arts, Bandai Namco, Riot Games, Square Enix, Take-Two, and Ubisoft,¹ but also

¹ 505 Games (U.S.), Inc. ("505 Games"); Activision Blizzard, Inc. and

Sony Computer Entertainment America LLC (“Sony”). He also indicated that Mr. Mancini had changed employment, and would no longer serve as back-up counsel.

We instructed Petitioner to file updated powers of attorney consistent with the designation of lead and backup counsel in the Petition. Specifically, Sony’s power of attorney must include Mssrs. Buresh and Hart if Mr. Buresh is to be lead counsel and Mr. Hart is to serve as backup counsel in this proceeding. Similarly, the powers of attorney for 505 Games, Activision, Capcom, Disney, Electronic Arts, Bandai Namco, Riot Games, Square Enix, Take-Two, and Ubisoft must include Mr. McPherson if he is to serve as backup counsel in this proceeding.

Authorization for Motion to Withdraw

Patent Owner previously engaged Mr. John Kasha and Ms. Kelly Kasha as lead and backup counsel, respectively, in this proceeding. Paper 14. Subsequently, Patent Owner engaged Mr. David Judson and Mr. Anthony Garza as lead counsel and back-up counsel, respectively, for this proceeding (Paper 15), and filed a revised power of attorney appointing Mssrs. Judson and Garza (Paper 16). Patent Owner requested authorization

Blizzard Entertainment, Inc. (collectively, “Activision”); Capcom U.S.A., Inc. (“Capcom”); The Walt Disney Co., Disney Interactive Studios, Inc., and LucasArts, a division of Lucasfilm Entertainment Company Ltd. LLC (collectively, “Disney”); Electronic Arts Inc. (“Electronic Arts”); BANDAI NAMCO Games America, Inc. and BANDAI NAMCO Holdings USA Inc. (collectively, “Bandai Namco”); Riot Games, Inc. (“Riot Games”); Square Enix, Inc. and Square Enix of America Holdings, Inc. (collectively, “Square Enix”); Take-Two Interactive Software, Inc., Rockstar Games, Inc., 2KSports, Inc., and 2K Games, Inc. (collectively, “Take-Two”); and Ubisoft, Inc. (“Ubisoft”)

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to file a motion seeking the withdrawal of Mr. and Ms. Kasha as counsel.
Petitioner had no objection. We authorized the requested motion.

ORDER

It is hereby

ORDERED that Petitioner file updated powers of attorney consistent with the designation of lead and backup counsel no later than Friday, August 29, 2014;

FURTHER ORDERED that Patent Owner is authorized to file the requested Motion to Withdraw; and

FURTHER ORDERED that Patent Owner file a revised Mandatory Notice omitting Mr. Kasha and Ms. Kasha as back-up counsel.

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