

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NINTENDO OF AMERICA, INC. and NINTENDO CO., LTD.,
Petitioner,

v.

BABBAGE HOLDINGS, LLC,
Patent Owner.

Case IPR2015-00568
Patent 5,561,811

Mailed: February 3, 2015

Before Breck A. Reitter, *Trial Paralegal*

NOTICE OF FILING DATE ACCORDED TO PETITION
AND
TIME FOR FILING PATENT OWNER PRELIMINARY RESPONSE

The petition for *inter partes* review in the above proceeding has been accorded the filing date of January 14, 2015.

A review of the petition identified the following defect(s):

Improper usages of claim charts: The rules require that a petition identify how the challenged claims are to be construed and how the claims are unpatentable under the statutory grounds raised. This information is to be provided pursuant to the page limit requirements, which require double spacing. Additionally, the rules require that the petition specify where each element of a challenged claim is to be found in the prior art. The element by element showing may be provided in a claim chart, which is permitted to be written with single spacing. *See* 37 C.F.R. § 42.6(a)(2)(iii). Placing one's argument and claim construction in a claim chart to circumvent the double spacing requirement is not permitted. The italicized text in the claim charts of the instant Petition constitutes argument.

Petitioner must correct the defect(s) within **FIVE BUSINESS DAYS** from this notice. Failure to correct the defect(s) may result in an order to show cause as to why the Board should institute the trial. No substantive changes (e.g., new grounds) may be made to the petition.

Patent Owner may file a preliminary response to the petition no later than three months from the date of this notice. The preliminary response is limited to setting forth the reasons why the requested review should not be instituted. Patent Owner may also file an election to waive the preliminary response to expedite the proceeding. For more information, please consult the Office Patent Trial Practice Guide, 77 Fed. Reg. 48756 (Aug. 14, 2012), which is available on the Board Web site at <http://www.uspto.gov/PTAB>.

Patent Owner is advised of the requirement to submit mandatory notice information under 37 C.F.R. § 42.8(a)(2) within 21 days of service of the petition.

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The parties are encouraged to use the heading on the first page of this Notice for all future filings in the proceeding.

The parties are advised that under 37 C.F.R. § 42.10(c), recognition of counsel *pro hac vice* requires a showing of good cause. The parties are authorized to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Such motions shall be filed in accordance with the “Order -- Authorizing Motion *for Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7, a copy of which is available on the Board Web site under “Representative Orders, Decisions, and Notices.”

The parties are reminded that unless otherwise permitted by 37 C.F.R. § 42.6(b)(2), all filings in this proceeding must be made electronically in the Patent Review Processing System (PRPS), accessible from the Board Web site at <http://www.uspto.gov/PTAB>.

If there are any questions pertaining to this notice, please contact Breck A. Reitter at 571-272-5866 or the Patent Trial and Appeal Board at 571-272-7822.

Case IPR2015-00568

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PETITIONER:

Joseph S. Presta

Robert W. Faris

Nixon & Vanderhye, P.C.

jsp@nixonvan.com

rwf@nixonvan.com

PATENT OWNER:

Rosen, Dainow & Jacobs

489 Fifth Avenue

New York, NY 10017

Anthony Garza

Charhon, Callahan, Robson & Garza, PLLC

3333 Lee Parkway, Suite 460

Dallas, TX 75219