

Patent No. 10,076,708 – Petitioner’s Motion to Seal and for Entry of Protective Order

Filed on behalf of Supercell Oy

By:

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCELL OY,
Petitioner

v.

GREE, INC.,
Patent Owner.

Inter Partes Review No. _____
Patent 10,076,708 B2

**PETITIONER’S MOTION TO SEAL EXHIBIT 1034
AND FOR ENTRY OF PROTECTIVE ORDER**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner Supercell Oy respectfully requests that Exhibit 1034, filed concurrently herewith, be filed under seal. Petitioner also respectfully requests that the Board enter the protective order attached as Appendix A to this Motion, which is the model protective order contained within the Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48769-770 (Aug. 14, 2012).

The exhibit at issue was served on Petitioner by Patent Owner GREE, Inc. (“GREE”) on February 18, 2020 2019 in the ongoing litigation between the parties in the action *GREE, Inc. v. Supercell Oy*, Case No. 2:19-cv-00310-JRG-RSP (E.D. Texas) (the “Civil Action”). GREE designated that document as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER.”

I. REASONS FOR RELIEF AND STATEMENT OF FACTS

A. Good Cause Exists for Sealing Exhibit 1034

The Office Patent Trial Practice Guide provides that “the rules aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.”

77 Fed. Reg. 48756, 48760 (Aug. 14, 2012). Petitioner submits that this Motion to Seal protects GREE’s truly sensitive information, while not significantly impacting the public’s interest in maintaining a complete and understandable file history and also protects a sensitive District Court Litigation document served by GREE, Inc.

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Furthermore, Patent Owner GREE is already in possession of Exhibit 1034, and created the document in the course of the Civil Action.

B. Exhibit 1034 Includes Confidential Information and Public Disclosure Would Result in Concrete Harm

Exhibit 1034 is GREE, Inc.’s Paragraph 1 and 3 Initial and Additional Disclosures, served on Supercell on February 18, 2020, and designated by GREE as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER.”

II. CERTIFICATION OF NON-PUBLICATION

Petitioner certifies that to the best of its knowledge, Exhibit 1034 has never been published or otherwise made public. The Patent Owner and Petitioner made efforts to maintain the confidentiality of this information in the Civil Action. In the Civil Action, the information Petitioner seeks to seal was produced pursuant to a Protective Order agreed upon by the Parties and was designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY” pursuant to that Protective Order.

III. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests the Board grant its motion to seal, and enter the proposed Protective Order.

Dated: August 28, 2020

Respectfully submitted,

FENWICK & WEST LLP

/Jennifer R. Bush /
Reg. No. 50,784
Attorneys for Petitioner Supercell Oy

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on August 28, 2020, a copy of the foregoing **Petitioner’s Motion to Seal Exhibit 1034 and For Entry of Protective Order** was served on Patent Owner’s correspondence address of record in its entirety by Federal Express – Priority Delivery upon the following:

Oliff PLC
P.O. Box 320850
Alexandria, VA 22320-4850

Dated: August 28, 2020

FENWICK & WEST LLP

/Jennifer R. Bush/

Jennifer R. Bush
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[PROPOSED] DEFAULT PROTECTIVE ORDER

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