

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GREE, INC.,

Plaintiff,

v.

SUPERCELL OY,

Defendant.

§ The Honorable Rodney Gilstrap
§
§
§ Civil Action No. 2:19-cv-00310-JRG-RSP
§
§
§ JURY TRIAL DEMANDED
§
§

EXPERT REPORT OF STACY FRIEDMAN

game with features relevant” to the ’708 patent and ’832 patent.⁵ It is my understanding that Supercell is currently seeking the depositions of several of GREE employees, including one inventor of the patents-in-suit, and Andrew Sheppard, the former COO and CEO of GREE’s United States subsidiary. I reserve the right to supplement my report, including as to GREE’s contentions that none of its games have features relevant to the patents-in-suit, based on information learned in those depositions.

D. GENERAL STATE OF THE PRIOR ART RELATING TO THE ’708 AND ’832 PATENTS

1. Management and Acquisition of In-Game Items in Video Games has Existed Long Before the ’708 and ’832 Patents

111. The use of virtual items in video games has been common since the early 1990s, and such games included interfaces for viewing, organizing, and acquiring items within the game. For example, in a March 11, 2009 blog post “What is a Role Playing Game?” on the website Gamasutra,⁶ Robert Corrina noted that “Inventory Management” as part of role playing games (RPGs), “is quite old, dating back to pen and paper character sheets.” Many early RPGs involved a medieval fantasy setting where the character took on the role of an adventurer with combat and sometimes magical skills, and where a common gameplay loop involved exploring an underground dungeon, killing monsters and finding loot, and then returning to a nearby village to sell the loot to an in-game shopowner for gold, and finally upgrading the adventurer’s weaponry or armor so they could tackle dungeons with more dangerous monsters. There were

⁵ *Id.*

⁶ Available at https://web.archive.org/web/20120511225246/https://www.gamasutra.com/blogs/RobertCorrina/20090311/83491/What_is_a_Role_Playing_Game.php

4. Provision of Random Items Has Been Used to Increase Player Engagement and Gameplay Variety

132. In line with the concept of providing items of different rarity values, discussed above, many games implement ways from players to acquire items in a random or chance-based way, in order to increase player engagement and gameplay variety. Many games contained mechanisms in which a player is presented a random assortment of items (which may be based upon some player attribute) from which they could select one or more items. For example, in *Borderlands*, when a player accesses a vending machine, the game's equivalent of a shop, they are presented with a "random, level-based stock of munitions" from which they could purchase for use within the game. See "Vending Machine", *Borderlands Wiki*, 13:39, February 25, 2012 Revision.¹⁷

133. In fact, the concept of providing the player of a game a random set of items from a known pool from which they could select far predates video games themselves. For example, in the board game *Scrabble*, first published in the 1940s, players would begin the game by drawing seven random letter tiles from a bag of letter tiles. See, e.g., M.J. Stephey, "A Brief History of Scrabble," *TIME*, Dec. 7, 2008.¹⁸ In a standard *Scrabble* game, there would be one hundred available letter tiles at the start of each game, each having a number indicating a point value of the letter, where more common letters were worth less points, and rarer letters worth more points. See, e.g., "Game Rules", *World English-Language Scrabble Players' Association (WESPA)*, Version 2.0, 17 November 2010¹⁹; "Scrabble/Rules," *Wikibooks*.²⁰ The board itself

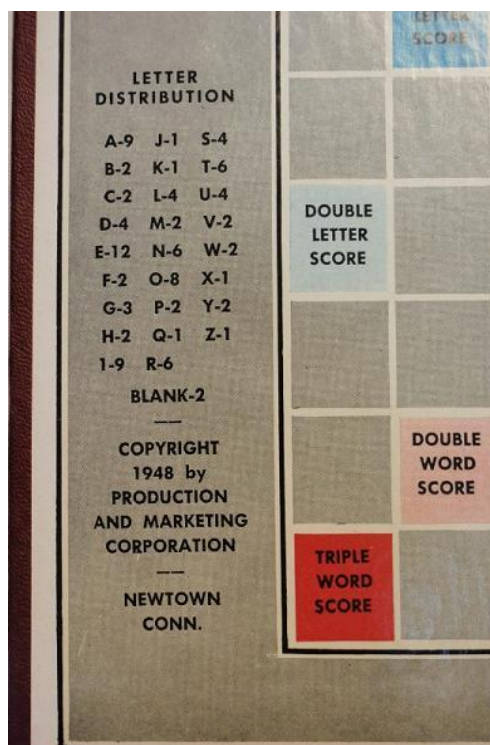
¹⁷ Available at https://borderlands.fandom.com/wiki/Vending_machine?oldid=222424

¹⁸ Available at <http://content.time.com/time/arts/article/0,8599,1867007,00.html>

¹⁹ Available at <https://www.wespa.org/rules/RulesV2.pdf>

²⁰ Available at <https://web.archive.org/web/20111228192222/https://en.wikibooks.org/wiki/Scrabble/Rules>

also indicated how many of each letter were present in the total bag of tiles. *See* Scrabble Dating, Donald Sauter²¹ (showing an image from a 1948 edition of Scrabble, reproduced below, in which letter distribution is shown on the game board). The player would select one or more of their tiles to be played onto the gameboard.



134. While initially a physical board game, Scrabble has been adapted into an electronic video game, allowing for the game to be played on a computer and for players from around the world to play together through the Internet. For example, in 2002, the developer Infogrames Interactive, Inc. published an electronic version of Scrabble called “Scrabble

²¹ Available at <http://www.donaldsauter.com/scrabble-dating.htm>.

Complete” playable on Windows computers.²² The rules of the game were consistent with those of the traditional physical board game. Other electronic versions of the Scrabble board game were also made by other developers. *See, e.g.*, “Hasbro Family Game Night: Scrabble Xbox Live Gameplay”, IGN, YouTube, available at https://www.youtube.com/watch?v=yE_9UnATots, published June 23, 2011.

135. Even earlier, the concept of randomly shuffling a deck of cards and dealing one or more cards from that randomized deck is an archetypical example of random selection of items from a set of items. Card games date back centuries, and the vast majority of card games begin with a shuffling step intended to randomize the cards distributed to each player. In fact, card shuffling is often taught in computer science courses as an introduction to the basic concepts of shuffling algorithms and the use of random number generators (RNGs). The Fisher-Yates shuffle, a well-known algorithm for shuffling a list of items using an RNG, was first described in 1938 and was published in D.E. Knuth’s seminal computer science text “The Art of Computer Programming (3rd ed.)” no later than 1997. A POSITA would have learned these concepts during college. Further, when a standard deck of cards is shuffled without first excluding the jokers – a setup used in many different games, including poker games – a POSITA would understand that some of the cards (jokers, with two per deck) have a different frequency (i.e., are rarer) than the other cards (aces through kings, with four each per deck). Further, the 78-card deck used in the French game “Tarot” dates back before the 19th century and has an unequal

²² *See* “Scrabble Complete PC Manual”, available at ftp://ftp.atari.com/manuals/pc/scrabble_complete/manual.pdf; *see also* Scrabble Complete (PC CD-ROM), Infogrames, https://web.archive.org/web/20021207111133/http://www.us.infogrames.com/games/scrabble_complete_pc_family/; “Amazon.com: Scrabble Complete: Video Games”, Amazon.com, <https://web.archive.org/web/20111207001520/https://www.amazon.com/Scrabble-Complete-PC/dp/B00006910J> (showing the Scrabble Complete game on sale prior to 2012).

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