

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCELL OY,
Petitioner,

v.

GREE, INC.,
Patent Owner.

IPR2020-01619
Patent 10,413,832 B2

Before HYUN J. JUNG, AMANDA F. WIEKER, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

MARSCHALL, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review

35 U.S.C. § 314

Dismissing Petitioner's Motion to Limit Petition to Ground 2

37 C.F.R. § 42.71

Dismissing Petitioner's Motion to Seal

37 C.F.R. § 42.55

INTRODUCTION

Supercell Oy (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting institution of an *inter partes* review of claims 1–15 of U.S. Patent No. 10,413,832 B2 (Ex. 1003, “the ’832 patent”), along with a Motion to Seal Exhibit 1029 and for Entry of Protective Order (Paper 3). GREE, Inc. (“Patent Owner”) filed a Preliminary Response (Paper 7, “Prelim. Resp.”). With authorization, Petitioner filed a Reply to Patent Owner’s Preliminary Response Pursuant to 37 C.F.R. § 42.108(c) (Paper 8, “Pet. Reply”), and Patent Owner filed a Sur-Reply to Petitioner’s Reply (Paper 9, “PO Sur-Reply”). With authorization, Petitioner also filed a Motion to Limit Petition to Ground 2 (Paper 10, “Pet. Mot. Limit”), and Patent Owner filed an Opposition to Petitioner’s Motion (Paper 11, “PO Opp.”). Subsequent to that briefing, the parties briefed the *Fintiv* “Overlap Factor” (*Fintiv* Factor 4), again with authorization. *See* Paper 12 (“Pet. Overlap Br.”); Paper 13 (“PO Overlap Br.”).

After considering the parties’ briefs and the evidence of record, we exercise our discretion under 35 U.S.C. § 314(a) to deny *inter partes* review. We also dismiss as moot Petitioner’s Motion to Seal and Motion to Limit the Petition to Ground 2.

BACKGROUND

A. *Real Parties in Interest*

Petitioner identifies itself as the sole real party in interest. Pet. 1. Patent Owner also identifies itself as the sole real party in interest. Paper 5, 2.

B. Related Matters

The parties indicate that the '832 patent has been asserted in *GREE, Inc. v. Supercell Oy*, 2:19-cv-00310 (E.D. Tex.). Pet. 1; Paper 5, 3 (“the parallel district court proceeding”).

C. The '832 Patent

The '832 patent issued on September 17, 2019, and claims priority to foreign applications, the earliest of which was filed on June 21, 2012. Ex. 1003, codes (30), (45), 1:7–10.

The '832 patent “provides a game control method, a game server, and a program that can increase the variations on methods for acquiring battle cards . . . , increase the predictability of acquisition of a card . . . with a high rarity value . . . , and heighten interest in the game.” Ex. 1003, 1:48–53.

Figure 1 of the '832 patent is reproduced below.

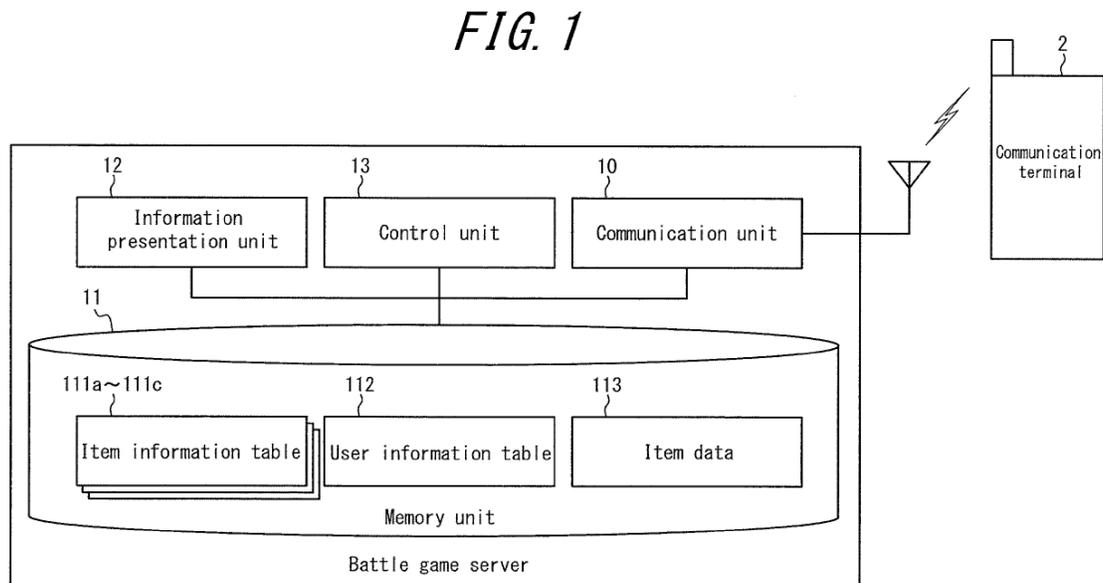


Figure 1 is a block diagram of battle game server 1. *Id.* at 3:38–39. Figure 1 also shows communication terminal 2 in wireless communication with battle game server 1. Battle game server 1 includes communication unit 10,

memory unit 11, information presentation unit 12, and control unit 13. *Id.* at 3:63–67. Memory unit 11 stores information “on items to provide, a total count of items, item type, and an acquisition count” for each user that operates a communication terminal 2 in tables. *Id.* at 4:5–8, 4:15–16. “An ‘item’ refers to any of a variety of objects used within a game, such as a battle card constituting a user’s deck, a character, a weapon, armor, an ornament, a plant, food, and the like.” *Id.* at 4:9–12. The tables that store item information include item information tables 111 (e.g., 111a–111c) and user information table 112. *Id.* at 4:16–18. Memory unit 11 also stores item data 113. *Id.*

According to the ’832 patent, “when a request to present information is received from the communication terminal 2 via the communication unit 10, then based on the item information tables 111a to 111c, the information presentation unit 12 tallies the total count of items for each item type.” Ex. 1003, 4:63–67. “The information presentation unit 12 also refers to the user information table 112 to calculate the acquisition count of items for each item type based on the identification information of provided items and the table identification information that correspond to the user identification information pertaining to the communication terminal 2.” *Id.* at 4:67–5:6. “The information presentation unit 12 then presents the communication terminal 2, via the communication unit 10, with the result of [the] calculation as the acquirable item information.” *Id.* at 5:6–9.

D. Illustrative Claim

The ’832 patent includes independent claims 1, 4, and 9. Claim 1 is reproduced below.

1. A game control method executed by a game server, the method comprising:

associating, in a memory of the game server, each of a plurality of cells with each of extracted items extracted from the memory;

sending information to a user terminal for displaying, in a virtual game, a sheet comprising the plurality of cells and obtainable item information, the obtainable item information comprising at least one of (i) a total number of items for each item type, (ii) a number of obtained items and (iii) a number of un-obtained items;

receiving, in the virtual game, a selection request from the user terminal to select one cell among the plurality of cells;

sending information for differentiating, in the virtual game, a display of the one cell from another cell of the plurality of cells in the sheet, wherein the differentiating of the display of the one cell is done in response to the selection request to select the one cell; and

providing, in the virtual game, an item of the extracted items that is associated with the one cell to a user of the user terminal.

Ex. 1003, 13:43–64.

E. Asserted Grounds and Proffered Testimonial Evidence

Petitioner asserts that claims 1–15 would have been unpatentable on the following grounds:

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