

IPR2020-01633

Petitioner's Sur-Reply to Patent Owner's Response to Petitioner's Request for Rehearing

Filed on behalf of Supercell Oy

By:

RAJIV P. PATEL, Reg. No 39,327
BRIAN HOFFMAN, Reg. No. 39,713
JENNIFER R. BUSH, Reg. No. 50,784
KEVIN X. McGANN, Reg. No. 48,793
MICHAEL J. SACKSTEDER (*pro hac vice*)
GEOFFREY R. MILLER (*pro hac vice*)
EMILY J. BULLIS (*pro hac vice*)
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Telephone: 650.988.8500
Facsimile: 650.938.5200

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCCELL OY,
Petitioner

v.

GREE, INC.,
Patent Owner.

Case No. IPR2020-01633
Patent 9,079,107 B2

**PETITIONER'S SUR-REPLY TO PATENT OWNER'S RESPONSE TO
PETITIONER'S REQUEST FOR REHEARING UNDER 37 C.F.R. §42.71**

TABLE OF CONTENTS

	Page
EXHIBIT LIST (37 CFR § 42.63(e))	iii
I. Patent Owner's Improper Gamesmanship Is Clear	1
II. The Overlap factor favors institution	3

TABLE OF AUTHORITIES

Page(s)

CASES

Apple, Inc. v. Fintiv, Inc.,
IPR2020-00019, Paper 11 (P.T.A.B. March 20, 2020)3

Brain Life, LLC v. Elekta Inc.,
746 F.3d 1045 (Fed. Cir. 2014)3

Cuozzo Speed Techs. v. Lee,
136 S. Ct. 2131 (2016).....4

OTHER AUTHORITIES

37 C.F.R. § 42.11(a)..... 1

EXHIBIT LIST (37 CFR § 42.63(E))

Exhibit	Description
1001	U.S. Patent No. 9,079,107 to Oono
1002	Prosecution History of U.S. Patent No 9,079,107
1003	Declaration of Dr. Emmet J. Whitehead, Jr.
1004	U.S. Patent Application Publication No. 2011/0300926 A1 to Engلمان et al.
1005	U.S. Patent Application Publication No. 2013/0190094 A1 to Ronen et al.
1006	U.S. Patent No. 8,376,838 B2 to Schulhof et al.
1007	U.S. Patent No. 7,824,253 B2 to Thompson et al.
1008	World of Warcraft, <i>Guild Advancement and You</i> , (Jan. 21, 2011), https://worldofwarcraft.com/en-us/news/2113741/guild-advancement-and-you
1009	Arc Games, <i>Forsaken World – Overview – Guild Contribution</i> , (Mar. 29, 2011), https://www.arcgames.com/en/games/forsaken-world/news/detail/1077620-forsaken-world-___-free-mmorpg-___-overview-_-guild-contribution
1010	MMORPG, <i>Divina – Unique Guild System</i> , (May 12, 2012), https://www.mmorpg.com/divina/developer-journals/unique-guild-domain-system-2000093507
1011	U.S. Patent Application Publication No. 2014/0024462 A1 to Qiang et al.
1012	U.S. Patent Application Publication No. 2012/0157212 A1 to Kane et al.
1013	Curriculum Vitae for Dr. Emmet J. Whitehead, Jr.
1014	Scott McKeown, <i>District Court Trial Dates Tend to Slip After PTAB Discretionary Denials</i> , Patents Post-Grant (July 24, 2020), https://www.patentspostgrant.com/district-court-trial-dates-tend-to-slip-after-ptab-discretionary-denials/

Exhibit	Description
1015	Scott McKeown, <i>Congress Urged to Investigate PTAB Discretionary Denials</i> , Patents Post-Grant (June 30, 2020), https://www.patentspostgrant.com/congress-urged-to-investigate-ptab-discretionary-denials/
1016	Order (Granting Continuance of In-Person Jury Trials) (Dkt. 261), entered on November 20, 2020, <i>Infernal Technology, LLC, et al. v. Sony Interactive Entertainment LLC</i> , Case. No. 19-cv-00248 (E.D. Texas)
1017	Katie Buehler, <i>COVID-19 Outbreak Leads to Mistrial in EDTX</i> , Law360 (Nov. 17, 2020), https://www.law360.com/articles/1329617/covid-19-outbreak-leads-to-mistrial-in-edtx
1018	Sixth Amended Docket Control Order [Dkt 94], entered on October 23, 2020, Case No. 19-cv-00311 (E.D. Texas)
1019	GREE, Inc.'s Amended Disclosure of Asserted Claims and Infringement Contentions, served on August 3, 2020, Case No. 19-cv-00311 (E.D. Texas)
1020	Minute Order re Markman Hearing [Dkt 73], entered on September 1, 2020, Case No. 19-cv-00311 (E.D. Texas) (resulting in Claim Construction Memorandum Opinion and Order [Dkt 86], entered on October 13, 2020)
1021	E-mail from Lee Matalon, Law Clerk to Chief Judge Rodney Gilstrap, to Petitioner and Patent Owner counsel, Case No. 19-cv-00311 (E.D. Texas) (March 17, 2021)
1022	Updated Section D, Contentions of the Parties, to the Parties Joint Pretrial Order [Dkt 222], filed on March 12, 2021, Case No. 19:cv-00311 (E.D. Texas)
1023	GREE, Inc.'s Disclosure of Asserted Claims and Infringement Contentions, served on January 28, 2020, Case No. 19-cv-00311 (E.D. Texas)
1024	Patent Owner's Response to Petitioner's Additional Briefing Regarding Overlap Factor, filed on March 15, 2021, PGR2020-00043 (P.T.A.B.)

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.