UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WORLDS, INC., **Plaintiff** **v.** **ACTIVISION BLIZZARD, INC., BLIZZARD ENTERTAINMENT, INC. and ACTIVISION PUBLISHING, INC.,** **Defendants.**	**Civil Action No. 12-10576-DJC**

MEMORANDUM AND ORDER

CASPER, J. **April 30, 2021**

I. Introduction

Plaintiff Worlds, Inc., ("Worlds") alleges that Defendants Activision Blizzard, Inc., Blizzard Entertainment, Inc. and Activision Publishing, Inc. (collectively, "Activision") infringe United States Patents Nos. 7,181,690 ("'690"), 7,493,558 ("'558"), 7,945,856 ("'856"), 8,082,501 ("'501") and 8,145,998 ("'998") (collectively, the "Patents-In-Suit"). Activision has moved for summary judgment seeking a ruling that the remaining claims of the Patents-In-Suit at issue are invalid as a matter of law. D. 272. For the following reasons, the Court ALLOWS Activision's motion.

II. Factual Background

The following material facts are based upon Activision's Statement of Material Facts, D. 177, Worlds' Statement of Material Facts, D. 185, and/or the documents referenced in same and are undisputed.

A. Patents-In-Suit

At this juncture, Worlds presses that Activision infringes the following twenty-one claims of the Patents-In-Suit: '690 claims 4, 8, 13 and 16; '558 claims 5 and 7; '856 claim 1; '501 claims 1-8, 10, 12 and 14-16; and '998 claim 18. D. 269 at 2; D. 283 at 10. As Worlds has explained, the Patents-In-Suit resolve bandwidth issues with multiplayer games through "multi-criteria filtering of avatar position and state information, but at the client side and the server side," i.e., "crowd control." D. 183 at 5. The remaining claims at issue achieve crowd control by some form of filtering of information, D. 183 at 8, but in slightly different ways: i.e., by "fewer than all" in the '856 patent; a "maximum number" in the '690 patent and '558 patent; and by "condition" in the '501 patent and the '998 patent. D. 273 at 6.

U.S. Patent No. 7,181,690 ("the'690 patent")

The '690 patent, "a system and method for enabling users to interact in a virtual space," was filed on August 3, 2000 and issued on February 20, 2007. D. 275 ¶ 1; D. 274-1 at 2. It provides a "highly scalable architecture for a three-dimensional, graphical, multi-user, interactive virtual world system." Id. So that a user's view "can be updated to reflect the motion of the remote user's avatars, motion, information is transmitted to a central server process which provides positions updates to client processes for neighbors of the user at that client process." Id. "The client process also uses an environment database to determine which background objects to render as well as to limit the movement of the user's avatar." Id.

Claims 4, 8, 13 and 16 of the '690 patent are currently at issue. Claim 4 (incorporating the method of claim 1 which is a "method for enabling a first user to interact with other users in a virtual space") involves determining the maximum number of the other users' avatars to be displayed by comparing the actual number to the maximum number of other users' avatars to be

displayed. D. 274-01 at 13. Claim 8 (incorporating the method of claim 6 which is a "method for enabling a plurality of users to interact in a virtual space") also involves a maximum number of avatars by comparing the actual number of avatars that are not associated with the client process based on the positions transmitted by the server process to the maximum number of avatars that can be displayed. D. 274-1 at 13. Claim 13 (incorporating the software program of claim 11) provides instructions for determining the other users' avatars to be displayed by comparing the actual number of the other users' avatars (from the received positions) to the maximum number of the other users' avatars to be displayed. D. 274-1 at 14. Claim 16 (incorporating the software program of claim 15) provides instructions for determining which avatars to be displayed from comparing the determination of the actual number of avatars that are not associated with the client process based on the positions transmitted by the server process to the maximum number of avatars that can be displayed. D. 274-1 at 14.

U.S. Patent No. 7,493,558 ("the '558 patent")

The '558 patent, a "system and method for enabling users to interact in a virtual space," was filed on November 2, 2006 and issued on February 17, 2009. D. 275 ¶ 22; D. 274-2 at 1. Worlds continues to assert claims 5 and 7 of the '558 patent in this litigation. Similar to the claims in the '690 patent, these claims achieve crowd control by filtering through a maximum number. Claim 5 (incorporates the machine-readable medium of claim 40) provides that the avatars to be displayed is determined by comparing "an actual number of avatars in the set associated said each client process based on the positions transmitted by the server process" to "a maximum number of avatars that can be displayed to the user associated with said each client process." D. 274-2 at 14. Claim 7 (incorporates the computer readable medium of claim 6) determines the avatars to be displayed by comparing "an actual number of avatars that are not associated with the client process

based on the positions transmitted by the server process" with "a maximum number of avatars that can be displayed." D. 274-2 at 14.

U.S. Patent No. 7,945,856 ("the '856 patent")

The '856 patent, a "system and method for enabling users to interact in a virtual space." was filed on January 13, 2009 and issued on May 17, 2011. D. 275 ¶ 36; D. 274-3 at 1. This patent serves to achieve crowd control by filtering information by "fewer than all" methods. Worlds presses claim 1 of the '856 patent. Claim 1 is a "method for enabling a first user to interact with second users in a virtual space . . . , the method comprising: (a) receiving by the first client process from the server process received positions of selected second avatars; and (b) determining, from the received positions, a set of the second avatars that are to be displayed to the first user, wherein the first client process receives positions of fewer than all of the second avatars. D. 274-3 at 24.

U.S. Patent No. 8,082, 501 ("the '501 patent")

The '501 patent, a "system and method for enabling users to interact in a virtual space," was filed on March 19, 2009 and issued on December 20, 2011. D. 275 ¶ 52; D. 274-4 at 1. This patent also achieves crowd control through filtering information by a condition or conditions. Worlds asserts claims 1-8, 10, 12, and 14-16 of the '501 patent.

Claim 1-8 concern a "method for enabling a first user to interact with other users in a virtual space, . . ., the method comprising the steps" that vary with each claim. D. 274-4 at 23. In claim one, the steps involve customizing "an avatar in response to input by the first user," receiving "position information associated with fewer than all of the other user avatars in an interaction room of the virtual space, from a server process, wherein the client device does not receive position information of at least some avatars that fail to satisfy a participant condition imposed on avatars

displayable on a client device display of the client device; determining, . . . a displayable set of the other user avatars associated with the client device displayed; and displaying, . . . the displayable set of the other user avatars associated with the client device display." Id. Claims 2-8 and 10 add or alter the conditions of the method in Claim 1. Id.

Claim 12 is a "client device for enabling a first user to interact with other users in a virtual space" and is comprised of "a memory storing instructions" and "a processor programmed using the instructions" for various conditions for "determin[ing] a set of the other users' avatars displayable on a screen associated with the client device." Id. at 23. Claim 14 is an "article of manufacture comprising at least one memory storing computer code for enabling a first user to interact with other users in a virtual space, . . . the computer code comprising instructions for conditions for customizing, receiving, determining and then displaying the other user avatars." Id. Claims 15 and 16 incorporate the article of manufacture in Claim 14 and add or alter the conditions for displaying the other user avatars. Id.

U.S. Patent No. 8,145,998 ("the '998 patent")

The '998 patent, a "system and method for enabling users to interact in a virtual space, was filed on March 19, 2009 and issued on March 27, 2012. D. 275 ¶ 92; D. 274-5 at 1. Similar to claims in the '501 patent, the claims in this patent achieve crowd control through filtering information by conditions. Worlds asserts Claim 18 here. D. 283 at 10. Claim 18 is a "system for displaying interactions in a virtual world among a local user and a plurality of remote users, comprising a database . . .; a memory storing instructions and a processor programmed using instructions to receive position information [based on certain conditions], receive orientation information [based on certain conditions], generate on a graphic display a rendering of a perspective view of the virtual world in three dimensions [based on certain conditions], and change

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