

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EPIC GAMES, INC.,
Petitioner,

v.

INGENIOSHARE, LLC,
Patent Owner.

Case No. IPR2022-00294
Patent No. 10,492,038 B2

PETITIONER'S NOTICE OF APPEAL

Notice of Appeal: IPR2022-00294

Pursuant to 35 U.S.C. §§ 141(c) and 142 and 37 C.F.R. § 90.2(a), Petitioner Epic Games, Inc. (“Petitioner”) hereby appeals to the U.S. Court of Appeals for the Federal Circuit from the Patent Trial and Appeals Board’s (“Board”) Final Written Decision, entered May 19, 2023 (Paper 30) (a copy of the decision is attached), and from all underlying and related findings, orders, decisions, rulings, and opinions.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Petitioner further indicates that the issues on appeal may include, but are not limited to:

1. Whether the Board erred in its construing the term “network-based portal.”
2. Whether, under the proper construction of “network-based portal,” Petitioner demonstrated by a preponderance of the evidence that claims 7, 10–12, 22–24, 33–36, 38–41, 46, 49, 51–53, 55, 57, 58, and 64–66 of U.S. Patent No. 10,492,038 (the “’038 patent”) are unpatentable under 35 U.S.C. § 103(a) as obvious over U.S. Publication No. 2002/0116461 A1 (“Diacakis”).
3. Whether, under the proper construction of “network-based portal,” Petitioner demonstrated by a preponderance of the evidence that claims 8, 9, 43, 44, 47, 48, 50, and 54 of the ’038 patent are unpatentable under

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35 U.S.C. § 103(a) as obvious over Diacakis and U.S. Patent No. 7,287,056 B2 (“Loveland”).

4. Whether, under the proper construction of “network-based portal,” Petitioner demonstrated by a preponderance of the evidence that claims 37, 42, 56, 59–63, and 67 of the ’038 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over Diacakis and U.S. Publication No. 2002/0183114 A1 (“Takahashi”).
5. Whether, under the proper construction of “network-based portal,” Petitioner demonstrated by a preponderance of the evidence that claim 45 of the ’038 patent is unpatentable under 35 U.S.C. § 103(a) as obvious over Diacakis, Loveland, and Takahashi.

Petitioner further reserves the right to challenge any finding or determination supporting or relating to the issues above.

Pursuant to 37 C.F.R. § 90.2(a), Petitioner is filing one copy of this Notice of Appeal with the Director, and electronically filing a copy of this Notice Appeal with the U.S. Court of Appeals for the Federal Circuit with the requisite filing fee, in addition to filing this Notice of Appeal with the Board.

DATED: July 20, 2023

Respectfully submitted,

/s/ W. Todd Baker

W. Todd Baker (Reg. No. 42,625)

KIRKLAND & ELLIS LLP

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Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that on July 20, 2023, this document was served on the Director at this address, under 35 U.S.C. § 142 and 37 C.F.R. §§ 90.2(a)(1) and 90.3(a)(1):

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

I certify that on July 20, 2023, this document was electronically served on the United States Court of Appeals for the Federal Circuit, under 37 C.F.R. § 90.2(a)(2), Fed. Cir. R. 15(a), and Fed. R. App. P. 15(a).

I certify that on July 20, 2023, this document was electronically served on counsel for Patent Owner, under 37 C.F.R. § 42.6(e)(1)-(3):

Cortney Alexander (cortneyalexander@kentrisley.com)
Stephen R. Risley (steverisley@kentrisley.com)

A courtesy copy was also served via overnight delivery directed to the attorney/agent of record for the patent as identified on USPTO PAIR and associated with USPTO Customer No. 34,071 at the following address:

C. Thomas (No. 32,947)
Peter Tong (No. 35,757)
4010 Moorpark Ave., Ste. 211
San Jose, CA 95117

DATED: July 20, 2023

Respectfully submitted,

/s/ W. Todd Baker

W. Todd Baker (Reg. No. 45,625)

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