

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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Aristocrat Technologies, Inc.,

Petitioner,

v.

NEXRF Corp.,

Patent Owner.

Case No. IPR2022-00408

U.S. Patent No. 8,747,229

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**MOTION FOR JOINDER TO *INTER PARTES* REVIEW IPR2021-00951**

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## I. INTRODUCTION

Pursuant to 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 and 42.122(b), Aristocrat Technologies, Inc. (“Petitioner” or “Aristocrat”) respectfully submits this Motion for Joinder, concurrently with a Petition (“Aristocrat’s Petition”) for *inter partes* review of U.S. Patent No. 8,747,229 (“the ’229 Patent”). An *inter partes* review was instituted against the ’229 Patent on December 6, 2021, in *Playtika Ltd. and Playtika Holding Corp. v. NEXRF Corp.*, IPR2021-00951 (“the 951 Proceeding”).

Aristocrat’s Petition is substantively identical to the petition that Playtika Ltd. and Playtika Holding Corp. (collectively, “Playtika”) filed in the 951 Proceeding. It challenges the same claims, on the same grounds, and relies on the same prior art and evidence, including a declaration from the same expert that is identical to the declaration filed in the 951 Proceeding. Aristocrat’s Petition and Motion for Joinder are being filed to ensure that a petitioner remains to complete the trial if Playtika reaches a settlement with the Patent Owner or is otherwise terminated from the proceeding. In the event that Aristocrat is permitted to join the proceedings, it will act in a limited “silent understudy” role and will not assume an active role unless Playtika ceases to participate.

Allowing Aristocrat to join the proceedings will promote judicial efficiency in determining the patentability of the ’229 Patent and will not prejudice Patent Owner. Joinder will have no impact on the current schedule, will not add any new

substantive issues, will not increase the burden on any deponents, and will avoid the need for duplicative proceedings.

Aristocrat notified counsel for Playtika and counsel for Patent Owner regarding the subject of this motion. Counsel for Playtika indicated that Playtika will not oppose this motion. Counsel for Patent Owner responded that “we will need to see the final petitions and motions before we can confer with our client to reach an informed decision about whether to oppose.”

Given the similarities in the proceedings, the lack of undue prejudice to Patent Owner, and the potential benefit to the public and the Board that would accrue by Aristocrat’s participation in the 951 Proceeding in the event that Playtika’s participation terminates, the Board should institute Aristocrat’s IPR and grant the Motion for Joinder.

## II. BACKGROUND AND RELATED PROCEEDINGS

The ’229 Patent is involved in at least each of the following litigations:

<b>Name</b>	<b>Court and Case No.</b>	<b>Filed</b>
<i>NEXRF Corp. v. Playtika Ltd., Playtika Holding Corp., and Caesars Interactive Entertainment LLC</i>	D. Nev. 3:20-cv-00603	Oct. 26, 2020
<i>NEXRF Corp. v. DoubleU Games Co., Ltd., DoubleDown Interactive Co., Ltd., and DoubleDown Interactive, LLC</i>	W.D. Wash. 2:20-cv-01875	Dec. 31, 2020
<i>NEXRF Corp. v. Aristocrat Int’l Pty Ltd., Product Madness, Inc., and Big Fish Games, Inc.</i>	W.D. Wash. 2:21-cv-00798	June 11, 2021

Name	Court and Case No.	Filed
<i>NEXRF Corp. v. Paytika Ltd., Playtika Holding Corp., and Caesars Interactive Entertainment</i>	Fed. Cir. 21-2147	July 19, 2021
<i>NEXRF Corp. v. Aristocrat Int'l Pty Ltd., Product Madness, Inc., and Big Fish Games, Inc.</i>	Fed. Cir. 21-2219	Aug. 17, 2021

According to the face of the '229 Patent, it is assigned to NexRF Corporation.

Aristocrat has not previously filed an *inter partes* review petition with respect to the '229 Patent.

### III. STATEMENT OF REASONS FOR RELIEF REQUESTED

#### A. Legal Standard

The Board has discretion to join a petition for *inter partes* review to another *inter partes* review proceeding. *See* 35 U.S.C. § 315(c). Joinder is evaluated “on a case-by-case basis, taking into account the particular facts of each case, substantive and procedural issues, and other considerations.” *Dell Inc. v. Network-1 Sec. Solutions, Inc.*, IPR2103-00385, Paper 19, at 3 (July 29, 2013). The Board considers: (1) reasons why joinder is appropriate; (2) any new grounds of unpatentability asserted in the petition; (3) the impact (if any) joinder would have on the trial schedule for the existing review; and (4) specifically how briefing and discovery may be simplified. *See id.*

#### B. Aristocrat’s Motion for Joinder Is Timely

A petitioner may request joinder, without prior authorization, up to one month

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