

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

GREE, INC.,

*Plaintiff,*

v.

SUPERCELL OY,

*Defendant.*

Case No. 2:19-cv-00071-JRG-RSP  
Case No. 2:19-cv-00161-JRG-RSP  
Case No. 2:19-cv-00200-JRG-RSP  
Case No. 2:19-cv-00237-JRG-RSP

**CLAIM CONSTRUCTION MEMORANDUM OPINION AND ORDER**

This Order addresses the claim-construction disputes presented by the parties in four cases: No. 2:19-cv-00071-JRG-RSP (the “’071 Case”), No. 2:19-cv-00161-JRG-RSP (the “’161 Case”), No. 2:19-cv-00200-JRG-RSP (the “’200 Case”), and Case No. 2:19-cv-00237-JRG-RSP (the “’237 Case”). Before the Court are the opening claim construction briefs of GREE, Inc. (“Plaintiff”) (’071 Case Dkt. No. 110, ’161 Case Dkt. No. 75, ’200 Case Dkt. No. 75, ’237 Case Dkt. No. 54, all filed on Feb. 25, 2020),<sup>1</sup> the responses of Supercell Oy (“Defendant”) (’071 Case Dkt. No. 120, ’161 Case Dkt. No. 83, ’200 Case Dkt. No. 82, ’237 Case Dkt. No. 60, all filed on Mar. 10, 2020), and Plaintiff’s replies (’071 Case Dkt. No. 122, ’161 Case Dkt. No. 85, ’200 Case Dkt. No. 84, ’237 Case Dkt. No. 62, all filed on Mar. 17, 2020). The Court held a hearing on the issues of claim construction and claim definiteness on April 14, 2020. Having considered the arguments and evidence presented by the parties at the hearing and in their briefing, the Court issues this Order.

---

<sup>1</sup> Citations to the parties’ filings are to the filing’s number in the docket (Dkt. No.) and pin cites are to the page numbers assigned through ECF.

**Table of Contents**

**I. BACKGROUND ..... 4**

A. The '594, '385, '675, '676, '677, '678, '347, '682, '683, and '978 Patents..... 4

B. The '318 and '262 Patents ..... 5

C. The '346 Patent..... 6

D. The '689 Patent..... 7

**II. LEGAL PRINCIPLES ..... 8**

A. Claim Construction ..... 8

B. Departing from the Ordinary Meaning of a Claim Term..... 11

**III. CONSTRUCTION OF DISPUTED TERMS..... 12**

A. Case No. 2:19-cv-071 and Case No. 2:19-cv-200 ..... 12

A-1. “template” ..... 12

A-2. “moving” and “moves” ..... 17

A-3. The Area Terms ..... 21

A-4. “defining second positions” ..... 24

A-5. The Applying Terms ..... 25

A-6. “game space” ..... 29

A-7. “increase a first number of the game contents” and “increase a second number of the game contents” ..... 32

A-8. “create,” “creating,” and “being created” ..... 34

A-9. “active allocation” ..... 37

A-10. “compare a number of the plurality of game contents included in the template with a number of the game contents allocated in the game space” and “comparing a number of the plurality of game contents included in the template with a number of the game contents allocated in the game space” ..... 39

B. Case No. 2:19-cv-161 ..... 41

B-1. “advisory information” ..... 41

B-2. “facility” and “object” ..... 44

B-3. “virtual space” ..... 48

B-4. “at least two numerical parameters related to the first virtual space” and “at least two numerical parameters of the plurality of numerical parameters related to a first virtual space” ..... 50

B-5. “ranking information ranking the plurality of users according to a numerical value indicating a status of each user” ..... 52

C. Case No. 2:19-cv-237 ..... 54

C-1. “panel(s)” ..... 54

C-2. “divisions”..... 56  
C-3. “displaying the one or more moving characters according to the  
information of motion” ..... 60  
C-4. “varying an attack ...” and “vary an attack ...” ..... 62  
C-5. “third unit” ..... 66  
**IV. CONCLUSION ..... 67**

## **I. BACKGROUND**

In the four cases addressed in this Order, Plaintiff alleges infringement of 14 U.S. Patents. In the '071 Case, Plaintiff asserts U.S. Patent No. 9,597,594 (the "'594 Patent"). In the '161 Case, Plaintiff asserts two U.S. Patents: No. 10,286,318 (the "'318 Patent") and No. 10,279,262 (the "'262 Patent"). In the '200 Case, Plaintiff asserts 9 U.S. Patents: No. 10,300,385 (the "'385 Patent"), No. 10,307,675 (the "'675 Patent"), No. 10,307,676 (the "'676 Patent"), No. 10,307,677 (the "'677 Patent"), No. 10,307,678 (the "'678 Patent"), No. 10,328,347 (the "'347 Patent"), No. 10,335,682 (the "'682 Patent"), No. 10,335,683 (the "'683 Patent"), and No. 10,398,978 (the "'978 Patent"). In the '237 Case, Plaintiff asserts two U.S. Patents: No. 10,328,346 (the "'346 Patent") and No. 10,335,689 (the "'689 Patent"). The '594, '262, '318, '385, '675, '676, '677, '678, '346, '347, '682, '683, '689, and '978 Patents are collectively referred to herein as the "Asserted Patents."

### **A. The '594, '385, '675, '676, '677, '678, '347, '682, '683, and '978 Patents**

The '594, '385, '675, '676, '677, '678, '347, '682, '683, and '978 Patents (collectively, the "'594 Patent Family") are related through a series of continuation applications stemming from the '594 Patent. The patents each list an earliest priority claim to a foreign application filed on September 27, 2013.

The abstract of the '594 Patent provides:

Provided is a method for controlling a computer, etc., which makes it possible to improve the usability of city building games. The computer is provided with a storage unit configured to store game contents arranged within a game space, positions of the game contents, and a template defining positions of one or more of game contents, and progresses a game by arranging the game contents within the game space based on a command by a player. The method includes when the template is applied to a predetermined area within the game space based on the command by the player, moving, by the computer, the game contents arranged within the game space to the positions of the game contents defined by the template.

Claim 1 of the '594 Patent, an exemplary computer-control-method claim, recites as follows, with disputed claim language emphasized:

1. A method for controlling a computer that is provided with a storage unit configured to store game contents arranged within a game space, first positions of the game contents within the game space, and a *template defining second positions* of one or more of the game contents, and that progresses a game by arranging the game contents within the game space based on a command by a player, the method comprising:

when the *template* is applied to a *predetermined area* within the game space based on the command by the player, *moving*, by the computer, the game contents arranged at the first positions within the game space to the second positions of the game contents defined by the template within the predetermined area.

#### **B. The '318 and '262 Patents**

The '262 and the '318 Patents are related through priority claims. The '262 Patent purports to be a continuation of the application that issued as the '318 Patent. The patents each list an earliest priority claim to a foreign application filed on January 31, 2013.

The abstract of the '318 Patent provides:

In a communication system including a server (1) and a plurality of communication terminals (2) capable of communication with the server (1), based on a variety of parameters indicating the status of a space formed within a game playable by the user of each communication terminal (2) over the communication system, the server (1) transmits advisory information (132), which suggests the next action for the space, to the communication terminal (2). The communication terminal (2) displays a screen including the received advisory information (132).

The abstract of the '262 Patent provides:

In a communication system including a server and a plurality of communication terminals capable of communication with the server, based on a variety of parameters indicating the status of a space formed within a game playable by the user of each communication terminal over the communication system, the server transmits advisory information, which suggests the next action for the space, to the communication terminal. The communication terminal displays a screen including the received advisory information.

Claim 1 of the '262 Patent, an exemplary server claim, recites as follows, with disputed claim language emphasized:

# 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.