PGR2020-00052 Petitioner's Reply to Patent Owner's Preliminary Response

Filed on behalf of Supercell Oy

By:

DOCKET

JENNIFER R. BUSH, Reg. No 50,784 MICHAEL J. SACKSTEDER (*pro hac vice*) BRIAN HOFFMAN, Reg. No. 39,713 KEVIN X. MCGANN, Reg. No. 48,793 GREGORY HOPEWELL, Reg. No. 66,012 GEOFFREY MILLER (*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

SUPERCELL OY, Petitioner

v.

GREE, INC., Patent Owner.

Case No. PGR2020-00052 Patent 10,335,682 B2

PETITIONER'S REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE PURSUANT TO 37 C.F.R. §42.208(c)

TABLE OF CONTENTS

Page

I.	The <i>Fintiv</i> Factors Favor Institution	l
II.	GSB Was Publicly Accessible	5
CON	CLUSION	3

TABLE OF AUTHORITIES

Page	(s)
CASES	
Apple v.Fintiv, IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020)1, 2, 4	, 5
Belden Inc. v. Berk-Tek LLC, 805 F.3d 1064 (Fed. Cir. 2015)	7
<i>Cuozzo Speed Techs. v. Lee</i> , 136 S. Ct. 2131 (2016)	1
General Plastic Industrial Co., Ltd. v. Canon Kabushiki Kaisha, IPR2016-01357, Paper 19 (P.T.A.B. Sept. 6, 2017)	1
Hulu, LLC v. Sound View Innovations, LLC, IPR2018-01039, Paper 29 (P.T.A.B. Dec. 20, 2019)6	, 7
Sand Revolution II, LLC v. Continental Intermodal Group, IPR2019-01393, Paper 24 (P.T.A.B. Jun. 16, 2020)4	, 5
Sandov v. Abbie Biotechs., IPR2018-00156, Paper 11 (P.T.A.B. Jun. 5, 2018)	6
Teva Pharmaceuticals USA, Inc., v. Corcept Therapeutics, Inc., PGR2019-00048, Paper 19 (P.T.A.B. Nov. 20, 2019)	2
Uniloc United States v. Avaya Inc., 2017 U.S. Dist. LEXIS 168855 (E.D. Tex. April 19, 2017)	3
Voter Verified, Inc. v. Premier Election Solns., Inc., 698 F.3d 1374 (Fed. Cir. 2012)6	, 7
STATUTES AND RULES	
35 U.S.C. § 321(c)	2
35 U.S.C. § 324(a)1	, 8
OTHER AUTHORITIES	
Consolidated Trial Practice Guide at 73–74, <i>available at</i> https://www.uspto.gov/TrialPracticeGuideConsolidated;	7
H. R. Rep. No. 112–98, pt. 1 (2011)	1

A L A R M Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

DOCKET

PGR2020-00052 Petitioner's Reply to Patent Owner's Preliminary Response

EXHIBIT LIST (37 CFR § 42.63(e))

Exhibit	Description
1001	U.S. Patent No. 10,335,682 to Eda
1002	File History of U.S. Patent No. 10,335,682
1003	U.S. Patent No. 9,597,594 to Eda
1004	File History of U.S. Patent No. 9,597,594
1005	Declaration of Mark L. Claypool, Ph.D.
1006	Correspondence Chess in America, Bryce C. Avery (2000)(selected pages)
1007	The History of Chess, From the Time of the Early Inventions of the Game in India, till the Period of its Establishment in Western and Central Europe, Duncan Forbes, LL.D. (Wm. H. Allen & Co. 1860)(selected pages)
1008	Microsoft Computer Dictionary, 4th Ed. (1999)
1009	U.S. Patent Pub. No. 2007/0105626 to Cho et al. ("Cho")
1010	Gratuitous Space Battles Manual, Version 1.1, and related links ("GSB")
1011	U.S. Patent No. 9,079,105 to Kim et al. ("Kim")
1012	Curriculum Vitae of Mark L. Claypool, Ph.D.
1013	Declaration of Christopher Butler and associated Internet Archive materials
1014	Standing Order Regarding the Novel Coronavirus (COVID-19), E.D. Texas
1015	General Order 20-3, E.D. Texas

DOCKET

PGR2020-00052 Petitioner's Reply to Patent Owner's Preliminary Response

Exhibit	Description
1016	Claim Construction Memorandum Opinion and Order, entered on May 14, 2020, Case Nos. 19-cv-00071, 19-cv-000161, 19-cv-00200, and 19-cv-000237 (E.D. Texas)
1017	Scott McKeown, Congress Urged to Investigate PTAB Discretionary Denials, Patents Post-Grant (June 30, 2020)
1018	Scott McKeown, District Court Trial Dates Tend to Slip After PTAB Discretionary Denials, Patents Post-Grant (July 24, 2020)
1019	Third Docket Control Order, entered July 28, 2020, Case Nos. 19-cv-000161, 19-cv-00172, 19-cv-00200, and 19-cv-000237 (E.D. Texas)
1020	Plaintiff's Opposition to Defendant's Motion for Relief re Governmental Restrictions re COVID-19 (19-00161), Dkt. 102
1021	Declaration of Cliff Harris
1022	Declaration of Tomoki Umeya

DOCKET A L A R M



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.