

Patent No. 10,398,978 – Petition for Post-Grant Review

Filed on behalf of Supercell Oy

By:

JENNIFER R. BUSH, Reg. No. 50,784
BRIAN M. HOFFMAN, Reg. No. 39,713
MICHAEL J. SACKSTEDER (*pro hac vice*)
KEVIN X. McGANN, Reg. No. 48,793
GREGORY A. HOPEWELL, Reg. No. 66,012
GEOFFREY R. MILLER (*pro hac vice*)
ERIC Y. ZHOU, Reg. No. 68,842
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

SUPERCCELL OY,
Petitioner

v.

GREE, INC.,
Patent Owner.

Post Grant Review No. _____
Patent 10,398,978 B2

**PETITION FOR POST-GRANT REVIEW OF
U.S. PATENT 10,398,978**

TABLE OF CONTENTS

	Page
EXHIBIT LIST	xi
I. INTRODUCTION	1
II. MANDATORY NOTICES (37 CFR § 42.8(a)(1)).....	1
A. Real Party-In-Interest (37 CFR § 42.8(b)(1))	1
B. Notice of Related Matters (37 CFR § 42.8(b)(2)).....	1
C. Designation of Lead and Backup Counsel (37 CFR § 42.8(b)(3)).....	2
D. Service of Information (37 CFR § 42.8(b)(4)).....	3
III. ADDITIONAL REQUIREMENTS	3
A. Timing	3
B. Grounds for Standing (37 CFR § 42.204(a))	3
IV. DESCRIPTION OF THE '978 PATENT.....	3
A. Specification.....	3
B. Prosecution History	8
V. IDENTIFICATION OF CHALLENGE UNDER 37 CFR § 42.204(b) AND RELIEF REQUESTED	10
A. Effective Filing Date of the Challenged Claims	10
B. Claims for Which PGR Is Requested, Precise Relief Requested, and Specific Statutory Grounds on Which the Challenge Is Based (37 CFR § 42.204(b)(1) & 37 CFR § 42.204(b)(2)).....	11
C. Claim Construction (37 CFR § 42.204(b)(3)).....	11
1. The Claimed Invention.....	12
2. '594 PGR.....	14

3.	District Court Litigation.....	14
D.	Level of Ordinary Skill in the Art.....	14
VI.	IT IS MORE LIKELY THAN NOT THAT AT LEAST ONE OF THE CHALLENGED CLAIMS OF THE '978 PATENT IS UNPATENTABLE	15
A.	Ground 1: Claims 1-18 of the '978 Patent Are Invalid Under 35 U.S.C. § 101 for Failing to Be Directed Toward Patent-Eligible Subject Matter.	15
1.	Patentable Subject Matter Under 35 U.S.C. § 101	15
2.	The 2019 Eligibility Guidance Was Not Addressed During Prosecution	18
3.	Claims 1-18 of the '978 Patent Are Not Materially Different from the Claims Previously Invalidated in the '594 Patent.	21
4.	Prong One of Alice Step 1: Claims 1-18 of the '978 Patent Recite the Abstract Idea of Managing and Playing a Game Involving Creating And Applying a Template of Positions of a Plurality of Game Contents.	25
a.	Managing and Playing a Game Involving Creating and Applying a Template of Positions of a Plurality of Game Contents Is a Mental Process and a Longstanding Method of Organizing Human Activity	25
b.	Managing and Playing a Game Involving Creating and Applying a Template of Positions of a Plurality of Game Contents Is a Manually Achievable Purpose	29
5.	Prong Two of Alice Step 1: Claims 1-18 of the '978 Patent Do Not Recite a Practical Application of the Abstract Idea	31

a.	The Additional Elements Do No More than Implement the Abstract Idea on a Generic Computer	32
b.	The Claims Are Not Directed to an Improvement in Computer Functionality or Other Technology	32
6.	Alice Step 2: Claims 1-18 of the '978 Patent Provide No "Inventive Concept"	35
a.	The Claims Recite Purely Conventional and Functional Components	36
b.	The Claims Do Not Capture Any Purported Technical Improvement	38
c.	Beyond the Abstract Idea, the Claims Are Well Understood, Routine, and Conventional	41
7.	The Dependent Claims Add Nothing Inventive	42
B.	Ground 2: Claims 1-18 of the '978 Patent Are Invalid Under 35 U.S.C. §112(a) for Lack of Written Description	43
C.	Ground 3: Claims 1-18 of the '978 Patent Are Invalid Under 35 U.S.C. §112(b) for Indefiniteness.	45
D.	Ground 4: Claims 1-18 of the '978 Patent Are Invalid Under 35 U.S.C. § 103 as Obvious Over Clash of Clans in View of Mastermind in Further View of Kim.	46
1.	Independent Claim 1 and Dependent Claims 2-6.	48
a.	Clash and Kim disclose a method performed by a portable electronic device of Claim 1.	48
b.	Clash discloses executing a game by arranging, based on a command received from a first player, a plurality of game contents within a game space, the game contents including at least game contents for defending from an attack initiated by a second player of Claim 1	49

c.	Mastermind discloses receiving a command to create a template from the first player of Claim 1.....	50
d.	Mastermind discloses creating, responsive to the received command to create the template, a plurality of templates defining the plurality of game contents and respective positions of the plurality of game contents within the game space of Claim 1.....	51
e.	Mastermind discloses creating a plurality of images that each correspond to one of the plurality of templates of Claim 1.....	53
f.	Mastermind discloses displaying a screen including the plurality of images of Claim 1.....	55
g.	Mastermind discloses receiving a selection corresponding to one of the displayed images of Claim 1.....	55
h.	The combination of references disclose applying a template corresponding to the received selection to a predetermined area within the game space of Claim 1.	56
i.	Clash discloses that the respective positions of the plurality of game contents within the game space are defined by coordinates in the game space of Claim 2.....	58
j.	Clash discloses displaying an interface including the game space and images corresponding to a plurality of game contents, receiving a command to allocate at least one of the plurality of game contents in an area of the game space and allocating the at least one of the plurality of game contents to the area of the game space based on the received command of Claim 3.....	60

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.