

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

GREE, INC.,

Plaintiff,

v.

SUPERCELL OY,

Defendant.

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Case No.: 2:19-cv-00200-JRG-RSP

JURY TRIAL DEMANDED

STIPULATION OF PARTIAL DISMISSAL OF COUNTS V, VIII, AND IX

Pursuant to FED. R. CIV. P. 41(a)(1)(A)(ii), Plaintiff GREE, Inc. (“GREE” or “Plaintiff”) and Defendant Supercell Oy (“Supercell” or “Defendant”) (together, the “Parties”) hereby submit the following Partial Stipulation of Dismissal as to Counts V, VIII, and IX of the Fifth Amended Complaint (Dkt. 67), whereby Plaintiff agrees to dismiss with prejudice its claims of infringement only of U.S. Patent Nos. 10,335,682; 10,307,678; 10,398,978 (the “Dismissed Patents”), and Defendant agrees to dismiss its claims, counterclaims and defenses with respect to only the Dismissed Patents without prejudice, with each party to bear its own fees and costs as to the Dismissed Patents, based on the following express conditions to the dismissal:

1. In consideration of GREE’s agreement to dismiss the Dismissed Patents from this action with prejudice, Supercell agrees to request termination of its Patent Trial and Appeal Board proceedings challenging the Dismissed Patents: PGR2020-00052; PGR2020-00042; PGR2020-00067 (the “PTAB Proceedings”) within two (2) business days of the filing of this stipulation. Supercell further agrees not to participate in the PTAB Proceedings should they be instituted by the Patent Trial and Appeal Board.

2. GREE and Supercell enter into this Stipulation of Dismissal only as to GREE's assertion of the Dismissed Patents. The parties agree that this Stipulation does not intend to waive, dismiss, extinguish, or otherwise affect, nor does it waive, dismiss, extinguish, or otherwise affect, any rights, claims, causes of action, assertions, defenses, or proceedings between the parties related to any other patents asserted in this action or as to any other patents, regardless of whether those patents are parents, children (whether continuations, continuations-in-part, divisionals, or any other form), foreign equivalents, or otherwise are related in any way to the Dismissed Patents. For avoidance of doubt, this stipulation does not intend to waive or dismiss, nor does it waive or dismiss any rights, claims, causes of action, assertions, defenses in any of Civil Actions: 2:19-cv-000070, 2:19-cv-000071, 2:19-cv-000072, 2:19-cv-000161, 2:19-cv-000172, 2:19-cv-000237, 2:19-cv-000310, 2:19-cv-000311, 2:19-cv-000413, and 2:20-cv-000113 (collectively, the "Other Civil Actions"), nor does it grant any rights to practice any patent or patent claim asserted in those proceedings, or any other patents, including the other patents asserted in this proceeding.

3. Supercell specifically agrees that none of the claims of infringement GREE has asserted in this proceeding for patents other than the Dismissed Patents, the Other Civil Actions, nor any other claim of infringement of any patent that GREE may assert in the future is barred or extinguished by virtue of the dismissal of the Dismissed Patents under the doctrines of claim preclusion (*res judicata*), issue preclusion (collateral estoppel), license, waiver, estoppel, exhaustion, or the *Kessler* doctrine, and further agrees not to so argue in this or any other Court, administrative agency, or forum. Supercell's agreement in the previous sentence applies to any patents related to the Dismissed Patents, regardless of whether those patents are parents, children (whether continuations, continuations-in-part, divisionals, or any other form), foreign equivalents, or otherwise are related in any way to the Dismissed Patents.

4. GREE and Supercell agree that neither party will seek to have this Stipulation for Dismissal or any papers requesting termination of the PTAB Proceedings entered into evidence, referred to in expert reports, or raised in discovery or in any hearing or trial in any proceeding between the parties, including but not limited to in this action or the Other Civil Actions.

5. GREE and Supercell agree that neither party will seek to have this Stipulation for Dismissal or any papers requesting termination of the PTAB Proceedings entered into evidence or otherwise referenced or used in any Patent Trial and Appeal Board proceeding between the parties, except as needed to seek termination of the PTAB Proceedings.

NOW THEREFORE, in reliance upon the representations and warranties made above, it is hereby stipulated by the parties, subject to the approval of the Court, that:

1. Plaintiff GREE, Inc. hereby dismisses the Dismissed Patents with prejudice;
2. Defendant Supercell Oy hereby agrees to dismiss all claims, counterclaims and defenses with respect to the Dismissed Patents without prejudice; and
3. Each party agrees to bear its own costs and expenses.

Dated: September 4, 2020

Respectfully submitted,

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