**Preliminary Ineligibility Contentions - U.S. Patent No. 10,518,177 to Suzuki**

The following chart contains Supercell's Preliminary Ineligibility Contentions demonstrating that the asserted claims of U.S. Patent No. 10,518,177 (the "'177 patent") are patent-ineligible under 35 U.S.C. § 101 pursuant to Judge Gilstrap's Standing Order Regarding Subject Matter Eligibility Contentions. Because the Court has yet to issue a claim construction in this case and, to the extent GREE contends that there are factual disputes that relate to eligibility of the asserted claims of the '177 patent, fact and expert discovery is ongoing, these contentions are preliminary only and Supercell reserves the right to supplement or modify these contentions in accordance with the agreed patent-disclosure procedures and the Docket Control Order in this case. Additionally, and in further consideration of the preliminary stages of the case, Supercell notes that the pinpoint citations referenced in this chart are not exhaustive, and Supercell reserves the right to rely on additional citations within the asserted patent and any cited reference. Furthermore, citations to any figure, table, or chart are meant to encompass the language describing the respective figure, table, or chart, and vice versa. To the extent applicable, Supercell incorporates by reference its citations in its ineligibility contentions for the other patents-in-suit, which are related to the '177 patent.

Further, these charts incorporate GREE's apparent interpretation of the breakdown of elements within the asserted claims, as reflected in GREE's infringement contentions to date. Supercell does not concede that such interpretation is correct, and reserves its right to supplement these contentions accordingly.

Supercell reserves its right to supplement these contentions based on further discovery, including any supplemental infringement contentions or any interrogatory response provided by GREE purporting to rebut these ineligibility contentions.

| '177 Claim Element | Exception to Eligibility |
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| **Claims 1, 3, 5, 7, 8, 10, 12, 13, 14, 15, 16, 17 of the '177 Patent** | Claims 1, 3, 5, 7, 8, 10, 12, 13, 14, 15, 16, 17 ("the asserted claims") of the '177 patent were well understood, routine and conventional in the game industry no later than February 25, 2014.[1] On or around February 25, 2014, games with different rules for different phases of the game were well understood, routine and conventional. For example, Jeopardy! organizes itself into three game phases with different rules: Jeopardy!, Double Jeopardy!, and Final Jeopardy! (https://web.archive.org/web/20140222052504/https://en.wikipedia.org/wiki/Jeopardy!) Similarly, National Football League games have different rules for the first 28 minutes of each half, the two-minute warning, and overtime (http://static.nfl.com/static/content/public/image/rulebook/pdfs/2013%20-%20Rule%20Book.pdf), FIFA World Cup soccer games in the knock-out rounds had different rules for regular time, extra time, and penalty kicks (https://www.fifa.com/worldcup/news/golden-goal-rule-applied-for-the-first-time-the-world-cup-finals-71652), and Olympic hockey had 5-v-5 regular time, 4-v-4 overtime, and shoot-out terms (http://www.nhl.com/ice/m_news.htm?id=513766). Video "battles games" also includes this ubiquitous, abstract concept. Games such as "Wartune" (https://www.youtube.com/watch?v=8AmJJ6SdPqs ), "Arena of Heroes" (https://www.youtube.com/watch?v=6mzqKZGbSHA), Bloodline Champions (MMOHuts) https://www.youtube.com/watch?v=3vu70sWL2pA) use the same concepts. For example, gameplay, in "Wartune," is organized into time periods using a timer and rules change (e.g., damage increases by 50%) when a new time period begins. Further, a three round card tournament, for example Eucre, where the winner of each round advances to a new "table" to play against new opponents (with new partners), would be organized into three phases with different conditions (https://www.printyourbrackets.com/how-to-run-euchre-tournament.html). Thus, the asserted claims of the '177 patent amount to nothing more than well understood, routine and conventional aspects of managing a game. Aspects of managing a game have been held abstract, at least because the steps for managing a game can be "done mentally" and/or "using pen and |

[1] Supercell reserves the right to dispute that the asserted claims of the '177 patent are entitled to a priority date of February 25, 2014. However, for purposes of its ineligibility contentions, Supercell contends that the asserted claims were well understood, routine and conventional as of (and following) this date.

| '177 Claim Element | Exception to Eligibility |
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| | paper." *Planet Bingo, LLC v. VKGS LLC*, 576 F. App'x 1005, 1006 (Fed. Cir. 2014); *see generally Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208 (2014).<br><br>In addition, the asserted claims of the '177 patent recite only conventional components (e.g., non-transitory computer-readable medium, computer, and display) without disclosing an improvement to computers or mobile gaming technology. The '177 patent simply takes the abstract idea of "dividing" he time slot of the battle game into a plurality of time slots and setting a battle condition for each time slot," and implements it on generic computer technology, including a "server" and "general purpose communication terminal device." *See* '177 patent, Fig. 1, 1:20-23, 2:65-3:2, 3:58-60, 4:4-7. Thus, there is nothing in the claims that would make the abstract idea patent eligible as the claims require nothing other than "off-the-shelf, conventional computer and display technology for playing a game", the claims are directed to an abstract idea. *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016). *See Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1241 (Fed. Cir. 2016).<br><br>In fact, the independent claims of the '177 patent do not recite even conventional computer steps, but instead recite a conventional framework for playing a game. *See* '177 patent at claim 1 ("*A non-transitory computer-readable recording medium storing instructions to be executed by one or a plurality of computers capable of being used by a player conducting a battle game, the instructions causing the one or a plurality of computers to execute steps of: during a first term of the battle game, conducting a battle to a first opponent character based on a parameter set on a card selected by a player's operation under a first battle condition, wherein the first battle condition is not changed during the first term; at a conclusion of the first term of the battle game, automatically initiating a second term of the battle game, and during the second term of the battle game continued from the first term, conducting the battle to a second opponent character based on the parameter set on the card selected by the player's operation under a second battle condition, wherein the second battle condition is different from the first battle condition and is predetermined independent from a battle result of the first term, and the first opponent character and the second opponent character are same or different, and wherein the second battle condition is not changed during the second term; and during a third term of the battle game continued from the second term, conducting the battle to a third opponent character based on the parameter set on the card selected by the player's operation under a third battle condition, wherein the third* |

| '177 Claim Element | Exception to Eligibility |
|---|---|
| | *battle condition is different from the second battle condition and is dependent on a battle result of the second term, and the second opponent character and the third opponent character are same or different, and wherein the third battle condition is not changed during the third term."*) Claim 1 is representative of the asserted claims.<br><br>Furthermore, managing a game, which is an abstract idea itself, is a concept similar to other concepts found to be abstract. *See, e.g., In re Smith*, 815 F.3d 816, 818 (Fed. Cir. 2016) (concluding that '[a]pplicants' claims, directed to rules for conducting a wagering game' are abstract); *In re Marco Guldenaar Holding B.V.*, 911 F.3d 1157 (Fed. Cir. 2018) ("method of playing a dice game" is patent ineligible); *Planet Bingo LLC v. VKGS LLC*, 576 F. App'x 1005 (Fed. Cir. 2014) (managing a gamem the steps of which can be "done mentally" is patent ineligible); *see also* 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Guidance") ("managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions)" constitutes abstract idea). |

Pursuant to Judge Gilstrap's Standing Order Regarding Subject Matter Eligibility Contentions, Supercell provides the following chart identifying a description of the industry, at the relevant time, in which the Challenged Claims are alleged to be well understood, routine, and conventional, and the factual and legal basis therefor; and a description of how each element of each Challenged Claim, both individually and in combination with the other elements of that claim, was well understood, routine, and conventional, in the relevant industry at the relevant time, and the legal and factual basis therefor.[2]

| **'177 Claim Element** | **Exception to Eligibility** |
|---|---|
| **[Element 1-Pre]**<br>A non-transitory computer-readable recording medium storing instructions to be executed by one or a plurality of computers capable of being used by a player conducting a battle game, the instructions causing the one or a plurality of computers to execute steps of: | The asserted claims of the '177 patent were well understood, routine and conventional in the games industry no later than February 25, 2014. On or around February 25, 2014, battle games on electronic apparatuses, such as computers, smart phones and tablets, were well understood, routine and conventional. *See, e.g.*, U.S. Pat. '177 patent (Background Art, Patent Literature). Supercell incorporates by reference the prior art games and other prior art identified in the '177 and '362 patents, the prosecution history of the '177 and '362 patents, and/or related prosecution and patent office proceedings. Supercell further incorporates by reference any games and other prior art identified or to be identified in its invalidity contentions and/or expert reports that will be provided according to the schedule provided by the Court's Docket Control Order.<br><br>To the extent the preamble is limiting: a non-transitory computer-readable recording medium storing instructions to be executed by one or a plurality of computers capable of being used by a player conducting a battle game, the instructions causing the one or a plurality of computers to execute steps, was well understood, routine and conventional in the relevant industry at the relevant time period.<br><br>For example, the intrinsic record, including the specification of the '177 patent, establishes that the preamble was well understood, routine and conventional. *See, e.g.*, '177 patent at 1:21-24 |

[2] Supercell notes that under Supreme Court and Federal Circuit precedent, the Court need not, and should not, consider whether each and every element of each Challenged Claim was well understood, routine, and conventional. Rather, the only elements which should be considered under *Alice* step 2 are the elements that fall outside the scope of the abstract idea. *See Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 221-224 (2014); *BSG Tech LLC v. BuySeasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018) ("It has been clear since Alice that a claimed invention's use of the ineligible concept to which it is directed cannot supply the inventive concept that renders the invention 'significantly more' than that ineligible concept.").

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