

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ELECTRONIC ARTS INC.,
Petitioner,

v.

WHITE KNUCKLE GAMING, LLC,
Patent Owner.

Case IPR2016-00634
Patent 8,540,575 B2

Before MICHAEL W. KIM, CARL M. DEFRANCO, and
CHRISTA A. ZADO, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

DECISION TO INSTITUTE
37 C.F.R. § 42.108

I. INTRODUCTION

This is a preliminary proceeding to decide whether *inter partes* review of U.S. Patent No. 8,540,575 B2 (“the ’575 patent”) should be instituted under 35 U.S.C. § 314(a). White Knuckle Gaming, LLC (“White Knuckle”) is the owner of the ’575 patent. Electronic Arts Inc. (d/b/a “EA Sports”)

filed a Petition (“Pet.”) seeking *inter partes* review of claims 1–35 of the ’575 patent. White Knuckle passed on the option to file a Preliminary Response. Based on our review of the Petition, we determine that EA Sports has demonstrated a reasonable likelihood of showing at least independent claims 1, 23, and 32 to be unpatentable. Accordingly, we authorize *inter partes* review to proceed on *all* of the challenged claims.

II. BACKGROUND

A. *The Related District Court Action and IPR Proceeding*

The ’575 patent is involved in a co-pending district court action, *White Knuckle Gaming, LLC v. Electronic Arts Inc.*, No. 1:15-cv-00150 (D. Utah), which commenced on November 25, 2015.¹ Pet. 6. In addition, a patent related to the ’575 patent, U.S. Patent 8,529,350, is currently involved in an *inter partes* review proceeding, IPR2015-01595, which was instituted on January 14, 2016.

B. *The ’575 Patent*

The ’575 patent describes a system and method for updating the parameters of a sports video game being played on a video game machine. Ex. 1001, 2:11–21. As described, the updated parameters are recorded onto a server and include the real-life performance statistics of a real-life athlete being simulated in the video game. *Id.* at 2:60–63, 3:8–14, 3:55–4:6, 6:10–13. A user playing the video game may connect to the server to download the updated parameters. *Id.* When downloaded to the video game machine, the updated parameters have the ability to change various attributes of the game to increase the realism of the game. *Id.* at 2:19–21, 4:4–6. For

¹ Recently, the district court issued a decision holding the ’575 patent invalid under 35 U.S.C. § 101 as drawn to a patent-ineligible abstract idea.

example, if the video game is basketball, the real life parameter may be a player's field-goal percentage, free-throw percentage, or blocks-per-game. *Id.* at 5:19–24. As acknowledged by the '575 patent, “[o]ne skilled in the art will appreciate that the number and type of statistics stored will vary with the game and with the way the video game designer chooses to design the game.” *Id.* at 5:24–27.

C. The Challenged Claims

Of the challenged claims, three are independent—claims 1, 23, and 32. Claims 1 and 32 are directed to a “game medium” configured to cause a video game machine to perform a method for “updating” the video game character parameters, and claim 23 is directed to a “method” for updating the video game character parameters as performed by a network server. The remaining claims depend, directly or indirectly, from these claims.

Claim 1 is illustrative of the claims under challenge:

1. A game medium configured to provide a sports video game in conjunction with a video game machine, the sports video game including video game rules and video game character parameters, the video game character parameters including video game character performance parameters associated with individual video game characters, the game medium being configured to cause the video game machine to perform a method comprising:

loading video game data stored by the game medium into a random access memory of the video game machine for playing the video game, the video game data including the video game rules and a particular video game character performance parameter associated with a particular individual video game character associated with a particular real-life sports athlete, wherein the particular video game performance parameter is based at least in part on a real-life performance of the particular real-life sports athlete playing in one or more real-

life sporting events, the particular video game character performance parameter affecting the manner in which the particular individual video game character performs in the sports video game;

during a single sports season, receiving a series of update video game character performance parameters from a data server via a network including the Internet, wherein each of the updated video game character performance parameters in the series is based at least in part on one or more different real-life performances of the particular real-life sports athlete in one or more sporting events performed during the single sports season;

updating the sports video game with each of the updated video game character performance parameters received, wherein each update changes the manner in which the particular individual video game character performs in the sports video game such that the particular individual video game character more closely simulates real-life performance attributes of the particular real-life athlete in the sports video game; and

enabling a user to control the particular individual video game character in the sports video game using a video game controller connected to the video game machine.

Ex. 1001, 8:11–51 (emphases added).

D. The Asserted Grounds of Unpatentability

In the Petition, EA Sports specifies four grounds on which it purports the challenged claims are unpatentable for obviousness under 35 U.S.C. § 103, namely,

(1) claims 1–3, 5, 6, 8, 11–12, 14–17, 22–25, and 27–31 would have been obvious in view of Madden NFL 2000 Manual,²

² Electronic Arts, Inc., *EA Sports Madden NFL™ 2000 Reference Manual* (1999) (“Madden NFL 2000 Manual”) (Ex. 1018).

Madden NFL 2000 Reference Card,³ Madden 2000 Updates,⁴ Playoff Week 1 Update,⁵ and Super Bowl Update;

(2) claims 4, 7, 9, 10, and 21 would have been obvious in view of the same references as ground 1 plus FIFA 2001 News;⁶

(3) claims 1–3, 11, 12, and 23–31 would have been obvious in view of Swanberg;⁷ and

(4) claims 13, 18–20, and 32–35 would have been obvious in view of Swanberg and Hines.⁸

Pet. 21–22.

III. ANALYSIS

In this preliminary proceeding, we decide whether EA Sports has made a threshold showing, supported by sufficient evidence, of a reasonable likelihood that the challenged claims are unpatentable. Initially, we note that EA Sports proffers several declarations in support of the publication and authenticity of the “Madden NFL 2000” and “FIFA 2001” references in terms of qualifying as prior art. *See* Exs. 1010, 1023–1035. At this preliminary stage, the declarations submitted by EA Sports persuade us that

³ Electronic Arts, Inc., *EA Sports Madden NFLTM 2000 Reference Card* (1999) (“Madden 2000 Card”) (Ex. 1017).

⁴ Electronic Arts, Inc., *EASports.com Madden 2000 Downloads*, archived at Wayback Machine on March 2, 2000 (“Madden 2000 Updates”) (Ex. 1015).

⁵ Electronic Arts, Inc., *EA Sports Madden NFLTM 2000 Roster Update—Playoff Week 1* (01/07/00) (“Playoff Week 1 Update”) (Ex. 1016).

⁶ *FIFA 2001 Online—News Archive for September 2000, October 2000, November 2000, December 2000, January 2001, February 2001, March 2001, April 2001, May 2001, June 2001*, archived at Wayback Machine on June 17, 2001, Apr. 25, 2001, and July 26, 2001 (“FIFA 2001 News”) (Exs. 1007, 1008, 1009).

⁷ U.S. Pat. Pub. No. 2002/0155893, pub. Oct. 24, 2002 (“Swanberg”) (Ex. 1011).

⁸ U.S. Pat. Pub. No. 2003/0234787 A1, pub. Dec. 25, 2003 (“Hines”) (Ex. 1020).

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