UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ACTIVISION BLIZZARD, INC. and RIOT GAMES, INC.,
Petitioner,

v.

GAME AND TECHNOLOGY CO., LTD,
Patent Owner.

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Case IPR2016-01880
Patent 8,035,649 B2

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Before MICHAEL R. ZECHER, JENNIFER S. BISK, and
JESSICA C. KAISER, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314(a) and 37 C.F.R. § 42.108

Activision Blizzard, Inc. and Riot Games, Inc. (collectively "Petitioner") filed a Petition pursuant to 35 U.S.C. §§ 311–19 requesting an *inter partes* review of claims 1–16 of U.S. Patent No. 8,035,649 B2, issued on October 11, 2011 (Ex. 1001, "the '649 patent"). Paper 2 ("Pet."). Game and Technology Co., Ltd. ("Patent Owner") filed a Preliminary Response. Paper 15 ("Prelim. Resp."). Applying the standard set forth in 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim, we deny Petitioner's request and do not institute an *inter partes* review of any challenged claim.

I. BACKGROUND

A.   *The '649 Patent (Ex. 1001)*

The '649 patent relates to systems and methods for updating images on a screen. Ex. 1001, Abstract. In particular, the '649 patent explains that two different images, which can be generated in different amounts of time, may need to be displayed. *See id.* at 3:12–25. Figure 2 of the '649 patent is reproduced below.

FIG. 2

```
        <GAMER>              |            <SYSTEM>
                             |
  ┌──────────────────────┐   |
  │ GENERATING FIRST IMAGE│  |
  │   UPDATE EVENT        │──┼───────────┐
  └──────────────────────┘   |           ▼
        ⌇                    |  ┌──────────────────────────┐
                    202  ⌇───┤  │  IDENTIFY IMAGE RESOURCE  │
       201                   |  │ DATA ASSOCIATED WITH FIRST│
                             |  │   IMAGE UPDATE EVENT      │
                             |  └──────────────────────────┘
                             |           ▼
                    203  ⌇───┤  ┌──────────────────────────┐
                             |  │ LOAD IMAGE RESOURCE DATA  │
                             |  │     IN BUFFER SPACE       │
                             |  └──────────────────────────┘
                             |           ▼
                    204  ⌇───┤  ┌──────────────────────────┐
                             |  │ GENERATE FIRST IMAGE BY   │
                             |  │ SEQUENTIALLY RENDERING    │
                             |  │   FOR EACH BUFFER         │
                             |  └──────────────────────────┘
  ┌──────────────────────┐   |
  │ GENERATE SECOND IMAGE │  |
  │   UPDATE EVENT        │──┼───────────┐
  └──────────────────────┘   |           ▼
        ⌇                    |  ┌──────────────────────────┐
                    206  ⌇───┤  │ GENERATE SECOND IMAGE     │
       205                   |  │ ASSOCIATED WITH SECOND    │
                             |  │   IMAGE UPDATE EVENT      │
                             |  └──────────────────────────┘
                             |           ▼
                    207  ⌇───┤  ┌──────────────────────────┐
                             |  │ GENERATE FULL IMAGE BY    │
                             |  │ COMBINING FIRST IMAGE     │
                             |  │   AND SECOND IMAGE        │
                             |  └──────────────────────────┘
                             |           ▼
                    208  ⌇───┤  ┌──────────────────────────┐
                             |  │ DISPLAY FULL IMAGE IN     │
                             |  │   DISPLAY MEANS           │
                             |  └──────────────────────────┘
                             |
```
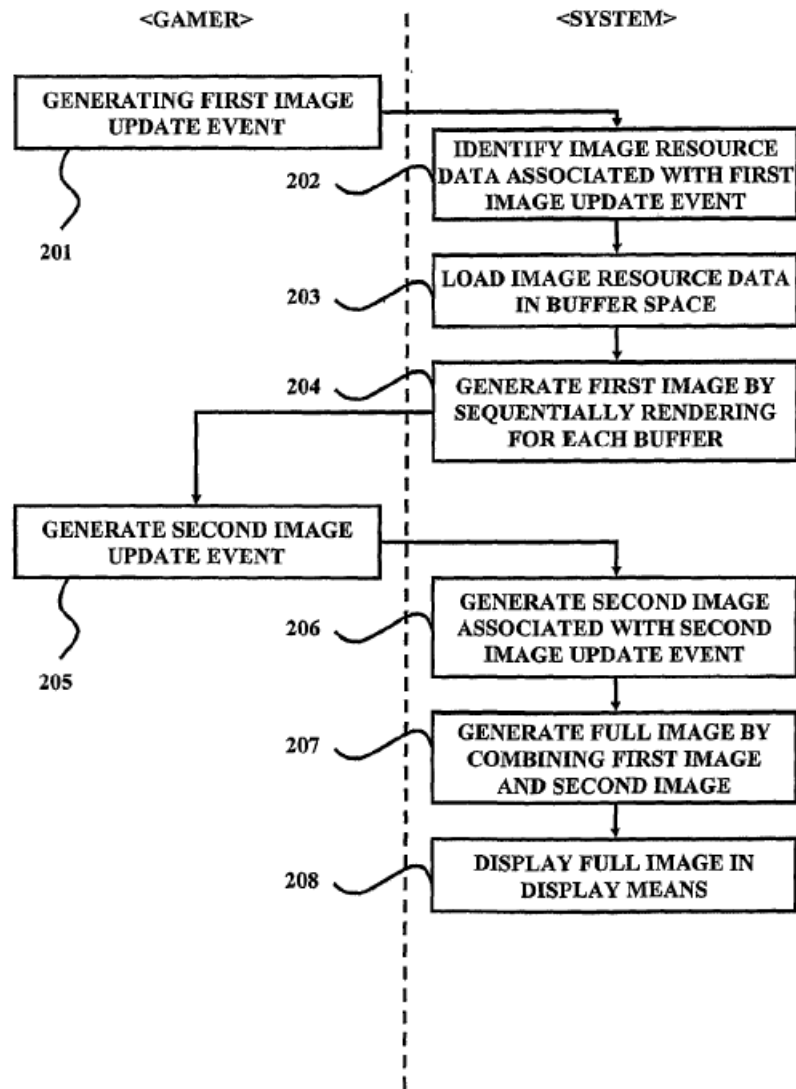
Figure 2 is a flow chart illustrating one embodiment of the screen update method of the '649 patent. *Id.* at 5:1–3. In one example, the first image is a three dimensional image in a game, such as a player character or a dynamic scene. *Id.* at 5:12–14. An image update event for the first image can be generated when, for example, a player character changes position. *Id.* at 5:20–36. The '649 patent discloses that image resource data is identified for

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that image update event and loaded into buffer space with a plurality of buffers. *Id.* at 5:29–62. The first image is then generated by rendering the data loaded in the buffer space. *Id.* at 6:1–4.

The screen update method also updates a second image, which can be as one example, chat text in a chat window. *Id.* at 6:37–52. The second image is generated without its update data being loaded into the buffer space and, thus, the second image can be generated at a higher speed than the first image. *Id.* at 7:4–7. The '649 patent discloses: "[s]ince the second image does not need to be rendered, or if, rendering is required, the amount of computation is not large, the second image may be real-time updated at relatively higher frame rate than the first image." *Id.* at 7:7–11. The screen update method then generates a full image by combining the first image and the second image and displays the combined image on the screen. *Id.* at 7:17–25, 7:54–56.

B. *Illustrative Claim*

Of the challenged claims, claims 1, 13, and 15 are independent. Claim 1 is illustrative of the challenged claims, and is reproduced below:

> 1. A method of updating images displayed on a display device, the method comprising:
>
> identifying image resource data associated with an update event for a first image from a basic recording space when the update event for the first image occurs;
>
> loading the identified image resource data in a buffer space including a plurality of buffers, in which the image resource data are loaded in rotation on the buffer by frame, respectively;
>
> generating the first image at a first frame rate by sequentially rendering the loaded image resource data;

generating a second image associated with an update event for the second image at a second frame rate when the update event for the second image occurs, the generation of the second image being substantially independent from the generation of the first image such that image resource data of the second image is not loaded in the buffer space;

compositing the first image with the second image; and

updating at least a portion of the display device to display the composite image,

wherein the second image is generated without being rendered.

Id. at 11:57–12:12.

C.   *Related Proceedings*

Petitioner identifies related district court cases involving the '649 patent and other patents, which were originally filed in the Eastern District of Texas and subsequently transferred to the Central District of California. Pet. 1–2. Petitioner also identifies at least one other related district court case involving the '649 patent and other patents against other defendants. *Id.* Petitioner notes that it has filed petitions for *inter partes* review challenging claims of the other patents involved in the related district court cases and that Patent Owner has an application pending that is a continuation of the application that issued as the '649 patent. *Id.* at 2. Patent Owner also identifies these related matters. Paper 4, 2–3.

D.   *Claim Construction*

In an *inter partes* review, claim terms in an unexpired patent are construed according to their broadest reasonable interpretation in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016). Under that standard, claim terms are generally given their ordinary and customary

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