

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTIVISION BLIZZARD, INC.,
Petitioner,

v.

GAME AND TECHNOLOGY CO., LTD.,
Patent Owner.

Case IPR2016-01918
Patent 7,682,243 B2

Before BARBARA A. BENOIT, STACEY G. WHITE, and
DANIEL J. GALLIGAN, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Activision Blizzard, Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–8 of U.S. Patent No. 7,682,243 B2 (“the ’243 patent,” Ex. 1001). Paper 1 (“Pet.”). Game and Technology Co., Ltd. (“Patent Owner”) timely filed a Preliminary Response. Paper 11 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a).

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless the information presented in the Petition shows “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.”

For the reasons that follow, we deny institution of an *inter partes* review.

A. *Real Parties in Interest*

Petitioner identifies the following additional real parties in interest: Blizzard Entertainment, Inc., Activision Publishing, Inc., and Activision Entertainment Holdings, Inc. Pet. 1.

B. *Related Matters*

Petitioner and Patent Owner cite a number of judicial and administrative matters involving the ’243 patent and other patents owned by Patent Owner. Pet. 1–2; Paper 5, 2–3.

C. *The ’243 Patent and Illustrative Claim*

The ’243 patent generally relates to “providing an online game, in which ability information of a unit associated with a pilot is enabled to change as ability information of the pilot changes.” Ex. 1001, 1:23–25. The

'243 patent has eight claims, of which claims 1, 6, and 7 are independent.

Claim 1 is illustrative and is reproduced below:

1. An online game providing method for providing a pilot and a unit associated with the pilot at an online game, the method comprising the steps of:

controlling an online game such that a player can manipulate a pilot and a unit associated with said pilot, said pilot being a game character operated by a player, said pilot representing the player, said unit being a virtual object controlled by the player;

maintaining a unit information database, the unit information database recording unit information on said unit, in which the unit information includes ability of said unit and sync point information;

maintaining a pilot information database, the pilot information database recording pilot information on said pilot, in which the pilot information includes a unit identifier indicating said unit associated with said pilot, ability of said pilot and the ability of said unit associated with said pilot;

receiving a request for update on first pilot ability information of a first pilot;

searching for unit identifier information associated with the first pilot by referring to the pilot information database;

searching for sync point information associated with the searched unit identifier information by referring to the unit information database; and

updating and recording the first pilot ability information and unit ability information associated therewith in accordance with the searched sync point information such that said ability of unit is changed proportionally to changes in ability of the pilot by referring to said sync point,

wherein said sync point information is a ratio of which changes in said ability of pilot are applied to said ability of unit, and said steps of searching for unit identifier information and of searching for sync point information are performed by a processor.

D. References

Petitioner relies upon the following references:

Matsui	JP2000-135272	May 16, 2000	Ex. 1003 ¹
Kurosawa	JP2002-200350	July 16, 2002	Ex. 1010 ²
“Warlords Battlecry III User’s Guide” (“Battlecry Manual”), © 2004 Enlight Interactive Inc. and Infinite Interactive Pty. Ltd.			Ex. 1004 ³
“Warlords Battlecry III – Hero Creation” (“Battlecry Heroes Table”), bearing a date of May, 2004.			Ex. 1005
“Warlords Battlecry III – Spells” (“Battlecry Spells Table”), bearing a date of May, 2004.			Ex. 1006
Warlords Battlecry III Units (“Battlecry Units Table”), allegedly available online before June 28, 2004. <i>See</i> Pet. 6.			Ex. 1007

¹ As Patent Owner correctly notes, Exhibit 1003 filed with the Petition includes an English translation of Matsui but does not include the original Japanese language document. *See* Prelim. Resp. 3–4. Petitioner filed a motion to correct the Petition along with a corrected exhibit including the Japanese language document. *See* Paper 12; Ex. 1014. Because we deny for other reasons, we need not address Petitioner’s motion to correct further.

² As Patent Owner correctly notes, Exhibit 1010 filed with the Petition includes an English translation of Kurosawa but does not include the original Japanese language document. *See* Prelim. Resp. 3–4. Petitioner filed a motion to correct the Petition along with a corrected exhibit including the Japanese language document. *See* Paper 12; Ex. 1015. Because we deny for other reasons, we need not address Petitioner’s motion to correct further.

³ Patent Owner does not substantively argue that the Battlecry Manual and other game documentation are not printed publications at this stage. *See* Prelim. Resp. 3 n.1 (“Patent Owner reserves the right to contest whether the game manuals are prior art printed publications.”). For purposes of this Decision, we treat the Battlecry game documentation as prior art printed publications.

E. Asserted Grounds of Unpatentability

Petitioner challenges claims 1–8 of the '243 patent based on the asserted grounds of unpatentability set forth in the table below.

Reference(s)	Basis	Claims Challenged
Matsui alone or in combination with Battlecry Manual, Battlecry Heroes Table, Battlecry Spells Table, and Battlecry Units Table (collectively, “the Battlecry Documents”)	§ 103(a)	1, 6, and 7
Matsui alone or in combination with Kurosawa	§ 103(a)	2–5 and 8

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016) (upholding the use of the broadest reasonable interpretation standard in an *inter partes* review). In applying a broadest reasonable construction, claim terms generally are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). This presumption may be rebutted when a patentee, acting as a lexicographer, sets forth an alternate definition of a term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

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