

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FANDUEL, INC., DRAFTKINGS, INC., and
BWIN.PARTY DIGITAL ENTERTAINMENT PLC,
Petitioners,

v.

CG TECHNOLOGY DEVELOPMENT, LLC,
Patent Owner.

Case IPR2017-00902
Patent RE39,818 E

Record of Oral Hearing
Held: July 16, 2018

Before THOMAS L. GIANNETTI, BARRY L. GROSSMAN, and
MITCHELL G. WEATHERLY, *Administrative Patent Judges*.

Case IPR2017-00902
Patent RE39,818 E

APPEARANCES:

ON BEHALF OF THE PETITIONERS:

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The above-entitled matter came on for hearing Monday, July 16, 2018, commencing at 10 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 PROCEEDINGS

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3 JUDGE GROSSMAN: Please be seated. Good morning. This
4 is a hearing in IPR2017-00902.

5 Let's start with the appearances of the parties and have
6 Petitioner go first.

7 MS. REDMOND: Good morning, my name is Megan
8 Redmond. I'm here on behalf of FanDuel, DraftKings and Bwin, and with
9 me is lead counsel, Callie Pendergrass, as well as Jonathan Berschadsky.

10 JUDGE GROSSMAN: And for the Patent Owner?

11 MR. GOLDBERG: Good morning, Your Honor, Joshua
12 Goldberg for CG Technology Development, LLC, and with me I have my
13 colleague Yi Yu.

14 JUDGE GROSSMAN: Thank you, Ms. Redmond and Mr.
15 Goldberg.

16 Our hearing order set out the basic ground rules. Just to remind
17 you, each side is going to have 60 minutes, the Petitioner goes first. You'll
18 have an opportunity to reserve some time for a rebuttal. Patent Owner has
19 60 minutes to respond to their case in chief.

20 I think, Patent Owner, you also have a motion to exclude; you
21 have the burden on that motion. If you want to discuss your motion to
22 exclude during your 60 minutes, you can. If you want to reserve some
23 rebuttal just exclusively for the motion to exclude, you can do that also. So
24 I'll ask you when you take the podium.

25 If you don't have any questions, Ms. Redmond, I'll let you begin
26 when you are ready. I'll try -- if you do reserve some time, I'll try to remind

1 you, but you should also watch the clock yourself.

2 MS. REDMOND: I will, Your Honor. We have copies of our
3 PowerPoint slides, would that be helpful to the panel?

4 JUDGE GROSSMAN: Not for me. I have copies
5 electronically in front of me on --

6 MS. REDMOND: Okay.

7 JUDGE GROSSMAN: -- our screens. And also I'll just point
8 out, if you see me looking down at the screens, I'm not checking my emails
9 or searching the Internet --

10 (Laughter.)

11 JUDGE GROSSMAN: -- I'm looking at the record, all of
12 which is before us on the screens.

13 MS. REDMOND: Okay.

14 JUDGE GIANETTI: I think we're fine.

15 JUDGE GROSSMAN: Okay.

16 MS. REDMOND: Okay.

17 JUDGE GROSSMAN: Have you given copies to the court
18 reporter?

19 MS. REDMOND: Oh, yes.

20 JUDGE GROSSMAN: And would you like to reserve any
21 rebuttal time?

22 MS. REDMOND: Yes, Your Honor, we'd like to reserve ten
23 minutes.

24 JUDGE GROSSMAN: Okay. You may proceed whenever
25 you're ready.

26 MS. REDMOND: All right. May it please Board. In this IPR,

1 Patent Owner's arguments distill down to one theme, and we believe that
2 theme is disregard; disregard the teachings of the prior art, disregard the
3 teachings and the authority invested in the Board, disregard the rules and
4 case law, disregard the claim language, and, most importantly, disregard
5 Petitioner's mappings.

6 Taking a step back, the video game -- the patent at issue is a
7 video game system that includes a personalized wireless controller to allow
8 for an interactive video game system. The system permits a transmission of
9 personal information from the controller to the server.

10 Now, the 818 was part of a reissue proceeding and as part of
11 that proceeding there's two groups of claims. So looking at slide DX-2,
12 please, you can see we've set out those two groupings of claims.

13 The first grouping of claims are where the player data is stored
14 on the processor. And these are claims 20, 21, 31 -- I'm sorry, 20, 21, 24,
15 31, and 32, and it is our belief that those claims are obvious based on the
16 primary reference, Walker in view of Kelly. In claim --

17 JUDGE GROSSMAN: On all those claims is the processor a
18 separate element from the controller?

19 MS. REDMOND: That is correct, Your Honor, it's like a server
20 or a central controller.

21 And for claim 25, that claim also falls in that bucket, but that
22 combination is Walker in view of Kelly, in further view of ViescasViescas.

23 And the second group of claims are really the original claims to
24 the patent and those are where the player data is actually stored on the game
25 controller as opposed to a central server, and those are claims 1 and 16, and
26 the primary reference for those claims is Kelly in view of Walker.

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