

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WARGAMING GROUP LIMITED and ACTIVISION BLIZZARD, INC.,
Petitioners,

v.

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

Case IPR2017-01082
Patent 7,682,243

**JOINT MOTION TO LIMIT BRIEFING AND EVIDENCE
AS TO GROUND 2 OF THE PETITION**

I. STATEMENT OF RELIEF REQUESTED

Petitioners Wargaming Group Limited and Activision Blizzard, Inc. and Patent Owner Game and Technology Co., Ltd. jointly request that the Board limit the briefing and evidence considered for Ground 2 of this proceeding to the briefing and evidence that was submitted prior to the Board's institution of this *inter partes* review on October 6, 2017. Limiting the briefing and evidence as to Ground 2 will ensure the just, speedy, and inexpensive resolution of this proceeding because the deadline for Petitioners' reply brief was imminent when Ground 2 was instituted by the Board in view of the Supreme Court's decision in *SAS Institute Inc. v. Iancu*, and therefore briefing and discovery were largely complete at that time.

The Board authorized the filing of this motion on the May 15, 2018 conference call that was convened pursuant to the Board's order dated May 3, 2018 (Paper 47).

II. STATEMENT OF FACTS

On March 13, 2017, Petitioner Wargaming filed a petition seeking *inter partes* review for claims 1-7 of the '243 Patent. Paper 1. On October 6, 2017, the Board instituted *inter partes* review as to Ground 1 but not as to Ground 2. Paper 14. Both Grounds 1 and 2 allege that claims 1-7 of the '243 Patent are obvious, but each ground relies on a materially different combination of prior art. Ground 1

is based on the combination of the Dungeons and Dragons Player's Handbook with the Levine Patent Application. Ground 2 is based on the combination of the Masters of Orion Strategy Guide with the Levine Patent Application.

On May 3, 2018, the Board issued an order modifying the "institution decision to institute on all of the challenged claims and all of the grounds presented in the Petition" pursuant to the Supreme Court's decision in *SAS Institute, Inc. v. Iancu*, 2018 WL 1914661, at *10 (U.S. Apr. 24, 2018). Paper 47. At the time of the Board's order, Petitioner Wargaming was preparing its reply brief in support of the petition, and Petitioner Wargaming was not planning to submit a reply declaration by its expert.¹ In the absence of the Board's order, briefing and discovery in this briefing would have been substantially completed. The oral hearing is scheduled for July 11, 2018.

III. JOINT AGREEMENT TO LIMIT BRIEFING AND EVIDENCE

The parties jointly move to limit the briefing and evidence for Ground 2 to the briefing and evidence that was submitted prior to the Board's October 6, 2017 institution decision. Limiting the briefing and evidence for Ground 2 will allow the proceeding to continue according to the previously agreed schedule, which has the oral hearing set for July 11, 2018.

¹ On May 3, 2018, Petitioner Activision Blizzard, Inc. was added as a petitioner to this proceeding.

Given the late stage of the proceeding and considering the extensive briefing and discovery that has been completed, limiting the briefing and evidence for Ground 2 at this juncture promotes the efficient use of the Board's resources and saves additional expense for the parties. While the parties understand that the Board's final written decision may substantially incorporate its findings on Ground 2 as set forth in the Board's institution decision, the parties' agreement to forego further briefing and evidence should not be considered a default or waiver of any rights, and the parties retain all rights to appeal any final written decision on all instituted grounds.

May 22, 2018

Respectfully submitted,

/Harper Batts/

Harper Batts, Reg. No. 56,160

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on May 22, 2018, a complete and entire copy of the foregoing was filed electronically and served via email to all parties to this proceeding at the addresses indicated:

FOR PATENT OWNER:

Joseph J. Zito
Richard Castellano
DNL ZITO CASTELLANO
jzito@dnlzito.com
rcastellano@dnlzito.com

William H. Mandir
Peter S. Park
John M. Bird
Christopher Bezak
Fadi Kiblawi
SUGHRUE MION PLLC
gat@sughrue.com
jbird@sughrue.com
wmandir@sughrue.com
pspark@sughrue.com
cbezak@sughrue.com
fkiblawi@sughrue.com

FOR ACTIVISION BLIZZARD, INC.

Sharon Israel
John D. Garretson
Tanya Chaney
SHOOK HARDY & BACON
sisrael@shb.com
jgarretson@shb.com
tchaney@shb.com

May 22, 2018

/Harper Batts/
Harper Batts