

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WARGAMING GROUP LIMITED,
Petitioner,

v.

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

Case IPR2017-01082
Patent 7,682,243 B2

Before STACEY G. WHITE, DANIEL J. GALLIGAN, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

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

I. INTRODUCTION

Wargaming Group Limited (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–7 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 8 (“Prelim. Resp.”). Pursuant to 37 C.F.R. § 42.4(a), we have authority to determine whether to institute review.

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.”

After considering the Petition, the Preliminary Response, and associated evidence, we institute an *inter partes* review as to claims 1–7 of the ’243 patent.

A. *Real Parties in Interest*

Petitioner identifies Wargaming Group Limited (formerly Wargaming Public Company Limited) and Wargaming.net LLP as real parties-in-interest. Pet. 72.

B. *Related Matters*

Petitioner and Patent Owner cite the following judicial matters involving the ’243 patent: *Game and Technology Co. Ltd v. Wargaming.net LLP*, 2:16-cv-06554 (C.D. Cal.) and *Game and Technology Co. Ltd v. Blizzard Entertainment, Inc.*, 2:16-cv-06499 (C.D. Cal.). Pet. 72; Paper 3. In addition, the Board previously denied another petitioner’s petition for *inter partes* review of the ’243 patent. *Activision Blizzard, Inc. v. Game and*

Tech. Co., Case IPR2016-01918, slip op. at 18 (PTAB Mar. 21, 2017)
(Paper 14).

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. Of the challenged claims, 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:

Levine US 2003/0177187 A1 Sept. 18, 2003 Ex. 1004

“Dungeons and Dragons: Player’s Handbook: Core Rulebook I v.3.5” (“D&D Handbook”), © 2003 WIZARD OF THE COAST. Ex. 1005¹

“Master of Orion II: Battle at Antares: The Official Strategy Guide” (“MOO Strategy Guide”), © 1996 Prima Publishing. Ex. 1009²

¹ Based on the current record, Petitioner has made a threshold showing that D&D Handbook is a prior art printed publication under 35 U.S.C. §§ 102(a) and 102(b). *See* Pet. 6 (citing Ex. 1005, 5; Ex. 1008; Ex. 1012; Ex. 1003 ¶ 102). Patent Owner does not argue substantively that D&D Handbook is not a printed publication 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.”).

² Based on the current record, Petitioner has made a threshold showing that the MOO Strategy Guide is a prior art printed publication under 35 U.S.C. § 102(b). *See* Pet. 7 (citing Ex. 1010; Ex. 1016; Ex. 1003 ¶ 103). Patent Owner does not argue substantively that the MOO Strategy Guide is not a printed publication 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.”).

E. Asserted Grounds of Unpatentability

Petitioner challenges claims 1–7 of the ’243 patent based on the asserted grounds of unpatentability set forth in the table below.

References	Basis	Claims Challenged
Levine and D&D Handbook	§ 103(a)	1–7
Levine and MOO Strategy Guide	§ 103(a)	1–7

II. ANALYSIS

A. 35 U.S.C. § 315(b)

Under 35 U.S.C. § 315(b), “[a]n inter partes review may not be instituted if the petition requesting the proceedings is filed more than 1 year after the date on which the petitioner, real party in interest, or privy of the petitioner is served with a complaint alleging infringement of the patent.” The Petition states that “Petitioner and real-parties-in-interest are not barred or estopped from requesting *inter partes* review of any claim of the ’243 Patent on the grounds set forth herein because they have not been served.” Pet. 72–73. In support, Petitioner cites a declaration of its general counsel, Roman Zanin, who provides testimony regarding attempted service on Wargaming entities abroad (Ex. 1011 ¶ 3) and further testifies that “Wargaming.net LLP and Wargaming Group Limited . . . were never served” (Ex. 1011 ¶ 6).

Patent Owner argues that the Petition, which was filed March 13, 2017, is time barred under 35 U.S.C. § 315(b) because Wargaming.net LLP, a real party-in-interest to Petitioner, “was served with a complaint alleging infringement of the ’243 patent on December 14, 2015, in accordance with the laws of England and Wales” pursuant to the Hague Convention. Prelim.

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