

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GREE, INC.,

Plaintiff,

v.

SUPERCELL OY,

Defendant.

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Case No. 2:19-cv-00311-JRG

JURY TRIAL DEMANDED

**GREE, INC.’S DISCLOSURE OF ASSERTED CLAIMS
AND INFRINGEMENT CONTENTIONS**

Pursuant to P.R. 3-1, Plaintiff GREE, Inc. (“GREE”) submits this disclosure of asserted claims and infringement contentions to Defendant Supercell Oy (“Supercell”).

GREE’s investigation of the extent of the infringement is ongoing, and the following disclosures are based solely on the information currently available to GREE. GREE reserves the right to supplement or modify these disclosures as new information, including any additional source code, becomes available, whether through discovery or otherwise.

I. P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions

- a. Supercell literally infringes the following claims, directly and indirectly:
 - i. Claims 1-11 of U.S. Pat. No. 9,079,107; and
 - ii. Claims 1-7 of U.S. Pat. No. 9,561,439.

Supercell’s infringement is further detailed in the claim charts attached as Exhibits A-F. GREE reserves the right to augment or supplement its contentions to identify additional claims infringed by Supercell after discovery, including upon reviewing additional source code, or as otherwise permitted under the Patent Rules.

b. Supercell's infringement pertains to the Accused Products identified in Exhibits A-F. GREE expects that this disclosure may be subject to amendment or supplementation to identify and accuse additional products released, developed, or made available by Supercell after the date on which these contentions are served, or of which GREE was not aware at the time of these contentions.

c. Charts identifying where each element or step of the asserted claims is found within, or performed by, each Accused Product are attached as Exhibits A-F. The charts are based on publicly-available information and information produced by Supercell that is currently accessible to GREE. GREE reserves the right to offer additional evidence to prove Supercell's infringement in its expert reports, and in motions and at trial.

d. Based on its current understanding of the claim language, publicly-available information pertaining to the Accused Products, and information produced by Supercell, and without notice of any non-infringement position from Supercell, GREE asserts that Supercell literally infringes each element or step of the asserted claims. However, any claim element or step not literally present in or performed by the Accused Products is satisfied under the doctrine of equivalents because any such difference between such claim element or step and the accused element or step are insubstantial. In other words, the accused element or step performs substantially the same function, in substantially the same way, to achieve substantially the same result.

As discovery has not yet begun, the parties have not exchanged potentially disputed claim elements, and the Court has not construed certain claim terms, it is not yet clear whether and to what extent GREE will rely on the doctrine of equivalents. Accordingly, GREE reserves the right, in response to discovery, Supercell's P.R. 3-4 production, source code review, review of

Supercell's contentions, exchange of proposed claim constructions, issuance of a claim construction order, or as otherwise permitted under the Patent Rules, to amend its infringement contentions as necessary.

e. The asserted claims of U.S. Pat. No. 9,079,107 claim priority to Japanese Patent Application Nos. 2013-049388 (filed March 12, 2013), 2013-202682 (filed September 27, 2013), and 2013-262855 (filed December 19, 2013). The asserted claims of U.S. Pat. No. 9,561,439 claim priority to the application that issued as U.S. Pat. No. 9,079,107, which claims priority to Japanese Patent Application Nos. 2013-049388 (filed March 12, 2013), 2013-202682 (filed September 27, 2013), and 2013-262855 (filed December 19, 2013).

f. To date, GREE has not identified its own games that practice the asserted claims based on its investigation but reserves the right to amend should it later discover any games that do so.

II. P.R. 3-2 Document Production Accompanying Disclosure

a. Documents responsive to P.R. 3-2(a) are being produced herewith as follows: Based on its investigation to date, GREE is not aware of any discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the claimed inventions prior to the date of applications for the patents-in-suit. GREE continues to investigate and reserves the right to supplement its production with additional readily accessible information in its possession, custody, or control.

b. Documents that may be responsive to P.R. 3-2(b) are being produced herewith as follows: GREE_EDTXcv311_0000001 - GREE_EDTXcv311_0000007. GREE continues to investigate and reserves the right to supplement its production with additional readily accessible information in its possession, custody, or control.

c. Documents responsive to P.R. 3-2(c) are being produced herewith as follows:
GREE_EDTXcv311_0000008 - GREE_EDTXcv311_0001105. GREE continues to investigate and reserves the right to supplement its production with additional readily accessible information in its possession, custody, or control.

DATED: January 28, 2020

Respectfully submitted,

GILLAM & SMITH, LLP

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