

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

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|---------------|---|-----------------------|
| GREE, INC., | § | |
| | § | |
| Plaintiff, | § | Case Nos.: |
| | § | 2:19-cv-00200-JRG-RSP |
| v. | § | 2:19-cv-00237-JRG-RSP |
| | § | 2:19-cv-00310-JRG-RSP |
| SUPERCELL OY, | § | 2:19-cv-00311-JRG-RSP |
| | § | |
| Defendant. | § | |
| | § | JURY TRIAL DEMANDED |
| | § | |

JOINT MOTION TO AMEND DOCKET CONTROL ORDER

Plaintiff GREE, Inc. (“GREE”) and Defendant Supercell Oy (“Supercell”) (collectively, the “Parties”) respectfully file this Joint Motion to Amend the Docket Control Order in these proceedings. There is good cause to amend the Docket Control Order in these proceedings to move the close of fact discovery by five (5) days and move other deadlines, including the dispositive motions deadlines by approximately the same number of days. The proposed extensions do not modify either the trial date of March 1, 2021, or the date of the pretrial conference, January 25, 2021.

Throughout these litigations and the related litigations the parties have utilized remote procedures such as videoconference depositions to move the case forward during the COVID-19 crisis. The crisis, however, has introduced complications and the parties are working together to find solutions to those complications. As discussed in prior briefing in the related litigations, Supercell has noticed several depositions of GREE’s witnesses in Japan that remain outstanding. *See, e.g., GREE, Inc. v. Supercell Oy*, No. 2:19-cv-00200-JRG-RSP, Dkts. 98, 102, 106, 107, 113. However, the Government of Japan has implemented a travel ban, banning the entry of foreigners

who have visited certain other countries, including the United States, during the last 14 days prior to attempted entry unless there are “exceptional circumstances.”¹

Further, under Japanese law, video depositions are not permitted, and all depositions must be held at one of the U.S. Embassy or U.S. Consulate in Japan. At the present time, the U.S. Embassy and Consulate in Japan is not available for depositions.² Further, the Japan government has imposed a 14-day quarantine requirement for Japanese nationals returning from international travel. However, GREE witnesses are available to travel to the United States where they may be deposed either in-person or via video. Thus, GREE intends to have four of the witnesses Supercell has noticed³—including two corporate representatives and two fact witnesses—travel to the United States for depositions occurring in the second half of October. The requested extension will enable the depositions of these four witnesses⁴ GREE has agreed to make available for deposition in the

¹ <https://www.japan.travel/en/coronavirus/> (last accessed October 22, 2020).

² <https://jp.usembassy.gov/u-s-citizen-services/attorneys/depositions-in-japan/#ava> (last accessed October 22, 2020).

³ In the above-captioned cases, Supercell filed motions to compel depositions of GREE witnesses who have personal knowledge of the relevant GREE games and other relevant issues. *See GREE, Inc. v. Supercell Oy*, No. 2:19-cv-00200-JRG-RSP, Dkt. 133. The parties are also currently attempting to resolve disputes regarding 30(b)(6) topics for which GREE has not designated witnesses, as well as email discovery issues; however, if the parties are not able to reach an agreement, additional motion practice may be needed. For the avoidance of doubt, Supercell contends additional time may be necessary to accommodate these depositions, and Supercell’s agreement to jointly file the present motion should have no effect on Supercell’s pending motions to compel or any other relief for further discovery Supercell may seek. GREE disagrees with Supercell’s positions set forth herein and opposes Supercell’s Motion to Compel. Further, Supercell’s 30(b)(6) notices include multiple improper contention topics. GREE also disagrees that the additional depositions sought by Supercell’s motion are proportional to the needs of the case or will lead to relevant information that is not available to Supercell through other, less burdensome means. GREE will further address these issues in the Opposition that it will file to Supercell’s Motion to Compel.

⁴ GREE has agreed to make a fifth witness, Tomoki Yasuhara, available for deposition out of time, either in the United States or other location that allows depositions. Mr. Yasuhara is not able to travel internationally at this time because his wife recently had twins.

United States, to proceed prior to the close of discovery and the deadline to serve expert reports. The parties respectfully request that the Court enter the proposed amended docket control order attached hereto.

Under the parties' proposed amended schedule, the minimum spacing between responses to dispositive motions and the pretrial conference set forth in this Court's earlier orders has been preserved. *See* Order Granting-in-Part Joint Motion to Amend the Docket Control Order (Dkt. 120), *Optis Wireless Tech., LLC v. Apple Inc.*, No. 2:19-CV-00066-JRG (E.D. Tex. Mar. 20, 2020), at 2 (J. Gilstrap) ("There should be at least four weeks between the response to dispositive motions deadline and the pre-trial conference"). Thus, there is good cause to modify the schedule in these proceedings as shown in the attached proposed docket control order.

Dated: October 22, 2020

Respectfully submitted,

/s/ Steven D. Moore

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