# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

In the <i>Inter Partes</i> Review of:	)
	)
U.S. Patent No. 9,079,107	)
	)
	)
	)
	)
For: GAME CONTROL METHOD,	)
GAME CONTROL DEVICE, AND	)
RECORDING MEDIUM	)
	)

Mail Stop Patent Board Patent Trial and Appeal Board P.O. Box 1450 Alexandria, VA 22313-1450

DECLARATION OF EMMET J. WHITEHEAD, JR., Ph.D. IN SUPPORT OF PETITION FOR *INTER PARTES*REVIEW OF U.S. PATENT NO. 9,079,107



# TABLE OF CONTENTS

				Page	
I.	INTRODUCTION1				
II.	BACKGROUND AND QUALIFICATIONS1				
III.	COMPENSATION AND RELATIONSHIP WITH PARTIES4				
IV.	MATERIAL CONSIDERED5				
V.	BAS	IS OF	OPINIONS FORMED	6	
	A.	Level	of Ordinary Skill in the Art	6	
VI.	THE	'107 p	atent	7	
	A.	Purpo	orted Invention of the '107 Patent	8	
	B.	Prose	cution History	14	
VII.	LEG	AL ST	ANDARD FOR CLAIM CONSTRUCTION	15	
VIII.	OBVIOUSNESS STANDARD				
IX.	. ANALYSIS OF THE TECHNICAL BASIS UNDERLYING THE GROUNDs OF REJECTION SET FORTH IN THE PETITION FOR <i>INTER PARTES</i> REVIEW				
	A.	State	of the Art	19	
	B.	Speci	fic References that Render Claims Obvious	24	
		1.	The combination of Englman, Ronen, Schulhof, and Thompson renders obvious the claims of the '107 patent	24	
		2.	U.S. Patent Pub. No. 2011/0300926 to Englman		
		3.	U.S. Patent Pub. No. 2013/0190094 to Ronen		
		4.	U.S. Patent No. 8,376,828 to Schulhof		
		5.	Rationale to Combine Englman, Ronen, and Schulhof		



# **TABLE OF CONTENTS** (Continued)

			Page
	6.	U.S. Patent No. 7,824,253 to Thompson	66
	7.	Rationale to Combine Englman, Ronen, Schulhof, and Thompson	68
	8.	Secondary Considerations	71
	9.	Incorporation by Reference and Summary of Invalidity	72
X.	CONCLUS	ION	116



I, Emmet J. Whitehead, Jr., Ph.D., declare as follows:

### I. INTRODUCTION

- 1. I have been asked by the party requesting this review, Supercell Oy ("Petitioner"), to provide my expert opinions in support of the above-captioned petition for *inter partes* review of U.S. Patent No. 9,079,107 (the "107 patent" or the "challenged patent"), challenging the patentability of claims 1-11 of the '107 patent.
  - 2. I currently hold the opinions set forth in this declaration.
- 3. In summary, it is my opinion that the references cited below render obvious the challenged claims of the '107 patent. My detailed opinions on the claims are set forth below.

## II. BACKGROUND AND QUALIFICATIONS

- 4. I earned a Bachelor of Science degree from Rensselaer Polytechnic Institute in 1989, and both a Master of Science in 1994 and Ph.D. in 2000 in Information and Computer Science from the University of California, Irvine.
- 5. I am currently a Professor in the Computational Media Department at the University of California, Santa Cruz ("UCSC") in Santa Cruz, California. I am also the Associate Dean for Undergraduate Affairs for the Baskin School of Engineering at UCSC. I was the Chair of the Computational Media Department at UCSC from 2017-2019, and I was the Chair of the Computer Science Department at



UCSC from 2010 to 2014. I have been a Full Professor at UCSC since 2011. I began working as an Assistant Professor at UCSC in 2000 and became an Associate Professor in 2006.

- 6. My Ph.D. research included being the Founder and Chair of the Internet Engineering Task Force (IETF) Working Group on Web Distributed Authoring and Versioning (WEBDAV). WEBDAV is an extension to the core network protocol of the World Wide Web, the HyperText Transfer Protocol (HTTP) to support remote authoring and version control. WEBDAV is a client-server network protocol. The IETF is a leading standards development organization for Internet protocols.
- 7. In 2005-2006, I led efforts at UCSC to create the BS Computer Science: Computer Game Design degree, the first game design and development degree program in the University of California system. My classes have covered the areas of Computer Games, Web Engineering, and Software Engineering. Specific classes have covered topics of computer game design, programming and projects, procedural content generation for games, construction of database-backed web applications, and Internet protocol design, at both the undergraduate and graduate level. For thirteen years I have taught senior undergraduate game design students working on year-long game projects, and in this role, I have overseen the creation of over 120 computer games. I have also supervised both masters and doctoral students in the pursuit of their thesis work. Focuses of my research have included design of



# DOCKET

# Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

# **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

# **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

### API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### **LAW FIRMS**

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### **FINANCIAL INSTITUTIONS**

Litigation and bankruptcy checks for companies and debtors.

## **E-DISCOVERY AND LEGAL VENDORS**

Sync your system to PACER to automate legal marketing.

