

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCELL OY,
Petitioner,

v.

GREE, INC.,
Patent Owner.

Case PGR2018-00029
Patent 9,636,583 B2

Before MICHAEL W. KIM, LYNNE H. BROWNE, and CARL M. DEFRANCO,
Administrative Patent Judges.

KIM, *Administrative Patent Judge.*

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

On September 10, 2018, a conference call was held, between counsel for the parties and Judges Kim, Browne, and DeFranco, concerning Petitioner's request to file a response to Patent Owner's Request for Reconsideration (Paper 23; "Request"). Petitioner asserted that Patent Owner's Request included improper new argument, albeit arguments that relied on evidence of record, and, thus, requested the opportunity to address those improper new arguments. In the alternative, Petitioner indicated that if the Board was inclined to grant the request, it would appreciate the opportunity to file a response. Patent Owner responded that grants of such requests are rare, and that the current posture of the proceeding did not warrant deviation from that norm. We agree with Patent Owner.

Concerning potential new arguments, Petitioner has informed the Board of its belief, and so the Board will take it into account. If the Request does contain such new argument, then the Request should be denied on that basis alone, without need for a response from Petitioner. If the argument is not new, however, and only depends on that which was misapprehended or overlooked, then it is a proper Request which also does not warrant a response from the Petitioner.

Accordingly, it is

ORDERED that Petitioner's request to file a response to Patent Owner's Request is *denied*.

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For PETITIONER:

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