

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)

Case PGR2018-00047 (Patent 9,770,659 B2)

Record of Oral Hearing
Held: June 19, 2019

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

Case PGR2018-00029 (Patent 9,636,583 B2)

Case PGR2018-00047 (Patent 9,770,659 B2)

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The above-entitled matter came on for hearing on Wednesday, June 19, 2019, commencing at 1:00 PM ET, at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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P R O C E E D I N G S

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JUDGE KIM: Good afternoon. Please be seated.

Bear with us for a minute. Welcome. This is the oral argument for two cases PGR2018-00029 and 00047. I'm Michael Kim. On the screen we have Judge Lynne Browne and we also have Judge Carl DeFranco joining us as well remotely.

A few housekeeping things. One, as you know the judges online can't see the slides so if you refer to a slide or exhibit or paper, please reply to them and try to provide as much of a pinpoint cite as you can. As far as in and out goes for counsel as well as for the audience if we just limit that to when counsel is changing. So with that, I will start with appearances starting with Petitioner's counsel.

MR. SACKSTEDER: Good afternoon, Your Honors. Michael Sacksteder of Fenwick & West. I'm actually back-up counsel for Supercell Oy and I'm here with lead counsel Jennifer Bush and another back-up counsel Geoffrey Miller.

JUDGE KIM: Great. Welcome.

MR. ALEMANNI: Good afternoon, Your Honors. My name is John Alemanni with Kilpatrick Townsend. I'm lead counsel for Patent Owner Gree. With me at table is Steve Moore, back-up counsel. Arneita Gray will be helping us with demonstratives today. Also with us are Andrew Rinehart who's

1 back-up counsel, and one of our summer associates Nick Vail
2 (phonetic) is here also.

3 JUDGE KIM: Welcome. All right. So I believe each
4 side has 60 minutes. Petitioner will go first as they have the
5 burdens, then Patent Owner, then Petitioner gets to reply, Patent
6 Owner gets to sur-reply. So Mr. Sacksteder, about how much
7 time roughly would you like to reserve for rebuttal?

8 MR. SACKSTEDER: I'm planning to reserve 20
9 minutes, Your Honor. I'll see how that goes.

10 JUDGE KIM: Okay. That's good.

11 MR. SACKSTEDER: The slide deck's pretty fat.

12 JUDGE KIM: Okay.

13 MR. SACKSTEDER: I'll try and get through it
14 expeditiously.

15 JUDGE KIM: Okay. You can begin when you're
16 ready.

17 MR. SACKSTEDER: Thank you, Your Honor. The
18 claims of the patents that are at issue here look a lot like an
19 incomplete version of the inside of the top of the box of a game
20 of Monopoly or the card with the rules that go into a deck of Uno
21 or Go Fish or Old Maid cards. What they don't do is recite
22 patentable inventions. They also, as we'll discuss in a little bit,
23 have some problems with reciting claim limitations that are
24 supported by the written description. The patent in one instance
25 they recite a claim limitation that is not definite.

1 So we'll start with the Section 101 issue and go to
2 slide 2, please. So just to recap how we got here, the Institution
3 decision stated that the Board was persuaded by the Petitioner
4 that the claims of the 583 patent are directed to displaying a
5 video game based on stored panel information.

6 Slide 3, and that the same conclusion was reached
7 with regard to the claims in the 659 patent being directed to
8 controlling the display of a video game based on a received
9 selection of panel information.

10 Slide 4, please. As we'll see, the claims of the two
11 patents, the independent claims of the two patents are very
12 similar. We've done a little (indiscernible) diagram with what
13 appears in both and what appears in the 583 on the left and what
14 appears in the 659 on the right.

15 The same is true in slide 5 for the dependent claims.
16 There are some transpositions of numbering in the claims in the
17 overlapping claims in the middle. There's one dependent claim
18 in the 583 and one dependent claim in the 659 that don't appear
19 in the other patents.

20 Slide 6, please. The Board found that the claims were
21 directed to an abstract idea. I'm not going to go into a lot of
22 detail because of time. Slide 7. The same conclusion was
23 reached regarding the lack of an inventive concept in addition to
24 the abstract idea with regard to both patents and it's a little
25 tricky here because we have two patents that are not completely

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