

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCELL OY,
Petitioner,

v.

GREE, INC.,
Patent Owner.

Case PGR2018-00050
Patent 9,675,886 B2

Before LYNNE H. BROWNE, HYUN J. JUNG, and
CARL M. DEFRANCO, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining No Challenged Claims Unpatentable
35 U.S.C. § 328(a)

GREE, Inc. (“GREE”) is the owner of U.S. Patent No. 9,675,886 B2 (“the ’886 patent”). Supercell Oy (“Supercell”) filed a Petition for post-grant review of claims 1–10 of the ’886 patent. Paper 1 (“Pet.”). After a preliminary review of Supercell’s Petition, we instituted post-grant review of all the challenged claims. Paper 8 (“Inst. Dec.”). GREE, in turn, opposed

the Petition. Paper 11 (“PO Resp.”). Supercell replied. Paper 20 (“Reply”). And GREE filed a sur-reply. Paper 22 (“Sur-Reply”). In addition, as part of its response to the Petition, GREE filed a contingent motion to amend (Paper 12), which Supercell opposed (Paper 21). An oral hearing was conducted on June 26, 2019. Paper 29 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. After considering the parties’ arguments and supporting evidence, we determine that Supercell has *not* proven by a preponderance of the evidence that claims 1–10 of the ’886 patent are unpatentable. 35 U.S.C. § 326(e). As such, we need not reach GREE’s contingent motion to amend. We issue this Final Written Decision pursuant to 35 U.S.C. § 328(a).

I. BACKGROUND

A. *The ’886 Patent’s Advancement Over Conventional Online Games*

The ’886 patent, titled “Method, Computer, and Program for Providing Game,” issued June 13, 2017, and claims priority to a foreign application filed January 28, 2014.¹ Ex. 1001, codes [30], [45], [54]. The ’886 patent begins by describing a conventional online game system in which a “server apparatus” communicates with a “user terminal,” such as a smartphone, to transmit game content for display on the user terminal. *Id.* at 1:19–45. But, according to the ’886 patent, when the game content includes multiple rounds of play, conventional online games suffer from inefficient

¹ The ’886 patent is eligible for post-grant review because Supercell filed its Petition within nine months from the ’886 patent’s issue date, and the earliest possible priority date of the ’886 patent is after March 16, 2013 (the effective date for the first inventor to file provisions of the Leahy-Smith America Invents Act). *See* 35 U.S.C. § 321. GREE does not contest the eligibility of the ’886 patent for post-grant review.

transmission of game data. For instance, conventional online games that transmit game view data for all rounds at once incur long transmission and wait times before the user can commence gameplay (*id.* at 1:46–49, 10:15–24), while online games that transmit game view data for one round at a time disrupt smooth progress of gameplay due to wait times required to download the next round once a round is completed (*id.* at 1:52–54, 10:26–29).

Transmitting round-based online games in this way results in inefficiency because the user’s wait time is increased either initially (where an entire set of rounds is transmitted at once) or between rounds (where only one round is transmitted at a time). *Id.*

To address this problem, the ’886 patent provides “a method, a computer, and a program for efficiently providing game content through a web application.” *Id.* at 1:58–60. To do this, a “management server” is provided with a “controller” that determines a “predetermined number” of rounds for transmission to the user terminal. *Id.* at 1:60–2:5, 3:66–4:11, Fig. 1. The management server is connected to user terminals through a network such as the Internet. *Id.* at 4:1–3. As described, the predetermined number of rounds is a “subtotal” of the total number of rounds in the game. *Id.* at 2:31–42. In determining the predetermined number of rounds for transmission to the user terminal, the controller identifies a “terminal attribute” of the user terminal and sets the predetermined number of rounds based on the identified terminal attribute. *Id.* at 3:6–11, 11:6–44. For example, the identified terminal attribute may be “an information processing speed or a communication speed” of the user terminal, such that where the speed “is high, the number of rounds is set to be large.” *Id.* at 11:20–23.

With this configuration—by transmitting a predetermined number of rounds

rather than an entire set of rounds at a time or a single round at a time—transmission and wait times for gameplay are reduced, which “allows the game to efficiently progress.” *Id.* at 2:40–42.

B. The Challenged Claims

Of the challenged claims, three are independent—claims 1, 9, and 10. The three independent claims essentially differ only as to the preamble, with claim 1 reciting a “method,” claim 9 reciting a “computer,” and claim 10 reciting a “non-transitory computer-readable storage medium with a program stored therein for executing a method.” Common across the claims are the following steps for execution by “a controller”:

- (1) transmitting “game view data . . . corresponding to a first subset of rounds including a predetermined number of rounds,”
- (2) “identifying a terminal attribute of the user terminal,”
- (3) “determining the predetermined number based on the terminal attribute,” and
- (4) “detecting that the first subset of the rounds is completed [and] collectively transmitting, to the user terminal, game view data corresponding to a second subset of rounds including the predetermined number of rounds.”

See Ex. 1001, claims 1, 9, 10.

Given the identity of the limitations of the independent claims, we view claim 1 as representative.² Claim 1 recites:

1. A method comprising:
by a controller, collectively transmitting game view data of a game involving multiple opponents and having a set of a

² The parties do not argue claims 1, 9, and 10 separately, but rather apply the same argument across all three independent claims. *See* Pet. 33–53; PO Resp. 7–38.

plurality of rounds to a user terminal, the game view data corresponding to a first subset of rounds including a predetermined number of rounds in the plurality of rounds;

identifying a terminal attribute of the user terminal;

determining the predetermined number based on the terminal attribute; and

responsive to detecting that the first subset of the rounds is completed, collectively transmitting, to the user terminal, game view data corresponding to a second subset of rounds including the predetermined number of rounds subsequent to the completed rounds.

Ex. 1001, 13:58–14:5 (emphases added).

C. The Asserted Grounds of Unpatentability

Supercell asserts that claims 1–10 of the '886 patent are unpatentable, *first*, as being directed to non-statutory subject matter under 35 U.S.C. § 101 (Pet. 26–54), *second*, as failing to comply with the written description requirement of 35 U.S.C. § 112(a) (*id.* at 54–61), and, *third*, as being indefinite under 35 U.S.C. § 112(b) (*id.* at 62–66).

II. ANALYSIS

A. Claim Construction

Neither Supercell nor GREE proposes a construction for any particular claim term. *See* Pet. 20–26; PO Resp. 6. We determine that no express construction of the claim terms is necessary for purposes of this decision, with one exception. We note that the Specification of the '886 patent describes the claimed “terminal attribute” as follows: “Examples of the attribute information may include the OS version, the browser type, the terminal type, the communication circumstance, and the like.” Ex. 1001, 11:33–35. In that regard, the Specification also explains a communication

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