

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCELL OY,
Petitioner,

v.

GREE, INC.,
Patent Owner.

Case PGR2018-00055 (Patent 9,687,744 B2)

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

DECISION
Granting Institution of Post-grant Review
35 U.S.C. § 324(a)

I. INTRODUCTION

A. Background

Supercell Oy (“Petitioner”) filed a Petition (“Pet.”) for post-grant review of claims 1–12 of U.S. Patent No. 9,687,744 B2 (“the ’744 patent”) (Ex. 1001) pursuant to 35 U.S.C. §§ 321–329. Paper 1. GREE Inc. (“Patent

Owner”) filed a Preliminary Response (“Prelim. Resp.”). Paper 10. We have jurisdiction under 35 U.S.C. § 324, which provides that a post-grant review may be instituted only if “the information presented in the petition . . . demonstrate[s] that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.”

Petitioner challenges the patentability of claims 1–12 of the ’744 patent under 35 U.S.C. §§ 101 and 112. After considering the Petition and the Preliminary Response, we are persuaded that it is more likely than not that Petitioner would prevail in showing that at least one of the challenged claims is unpatentable. Accordingly, we institute a post-grant review on claims 1–12.

B. Related Matters

Petitioner states that there are no related matters. Pet. 1.

C. The ’744 Patent

The ’744 patent relates generally to improvement of a video battle game by:

providing a battle game between groups, which are composed of characters operated by players through client devices . . . wherein a server device stor[es], for each character, a parameter which serves as an indicator for developing the battle game between the groups: calculates a difference in the parameter between two characters belonging to the same group . . . and performs presentation processing [for] increasing an effect of attack by the group according to the difference in the parameter.

Ex. 1001, 1:65–2:8.

The ’744 patent explains that in a battle game in order “[f]or a plurality of players to make successive attacks in cooperation with each

other, the players need to be proficient in the battle game to a certain extent, and there is hardly any scene where inexperienced players can play active parts.” *Id.* at 1:53–57. Consequently, “inexperienced players are not sufficiently motivated to participate in the battle game.” *Id.* at 1:58–60. According to the ’744 patent, this problem is solved by the operations outlined *supra*. *Id.* at 1:64–65. These operations are illustrated by the flowchart shown in Figure 6 reproduced below:

FIG. 6

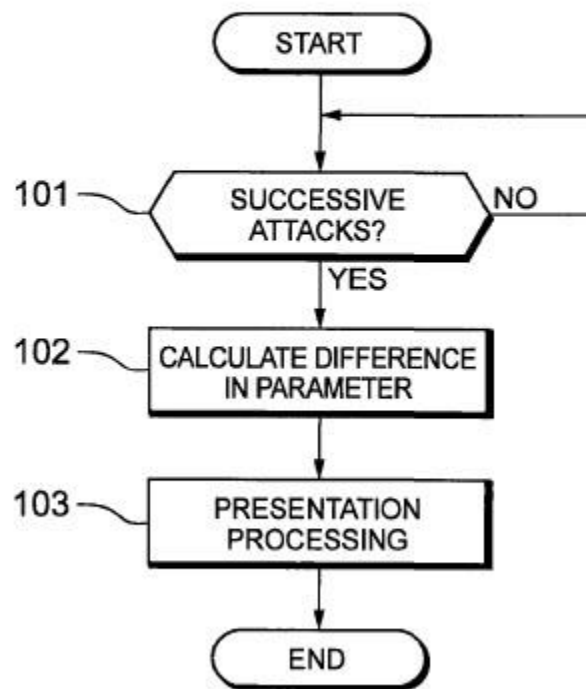


Figure 6 “is flowchart showing flow of ‘combo’ presentation processing

according to the embodiment.” *Id.* at 2:31–32. As shown in Figure 6,

When the presentation processing module 41 detects successive attacks by two characters belonging to the same group (step 101: YES), the presentation processing module 41 calculates the difference in the parameter 50 between the two characters successive in the attack order (step 102), and performs presentation processing of increasing the effect of attack by the group according to the difference in the parameter 50 (step 103).

Id. at 6:49–56 (emphasis omitted).

D. Illustrative Claim

Claims 1, 5, and 9 are independent. Illustrative claim 1 is reproduced below:

1. A method for providing a battle game to each of a plurality of client devices via a network, comprising:
 - storing, by a server device, for each of a plurality of characters, a parameter that serves as an indicator for developing the battle game; and
 - controlling, by a processor of the server device, an effect of attack by a group, according to a difference in the parameter between two characters belonging to the same group and successive in attack order and to a number of attacks within a predetermined time by any characters in the group.

Ex. 1001, 7:54–64.

Additional independent claims 5 and 9 are directed to a method and system. *Id.* at 8:12, 8:40. Each independent claim recites, with some variation, limitations directed to a network storing a parameter for each character and controlling an effect of an attack based on a difference in

parameter between two characters. *See id.* at 7:54–65, 8:12–24, 8:40–54.

Asserted Grounds of Unpatentability

Petitioner challenges the patentability of claims 1–12 of the ’744 patent on the following grounds (Pet. 16).

Statutory Basis	Claims
§ 101	1–12
§ 112(a)	1–12
§ 112(b)	1–12

With its Petition, Petitioner does not provide declarant testimony, for example, from a person of ordinary skill in the art. Patent Owner relies on the testimony of Mr. David Crane (Ex. 2002, the “Crane Declaration”). *See, e.g.,* Prelim. Resp. *iii.*

Eligibility of Patent for Post-Grant Review

The post-grant review provisions of the Leahy-Smith America Invents Act (“AIA”)¹ apply only to patents subject to the first inventor to file provisions of the AIA. AIA § 6(f)(2)(A). Specifically, the first inventor to file provisions apply to any application for patent, and to any patent issuing thereon, that contains or contained at any time a claim to a claimed invention that has an effective filing date on or after March 16, 2013. AIA § 3(n)(1). Furthermore, “[a] petition for a post-grant review may only be filed not later than the date that is 9 months after the date of the grant of the patent or of the issuance of a reissue patent (as the case may be).” 35 U.S.C. § 321(c); *see also* 37 C.F.R. § 42.202(a) (setting forth the same).

¹ Pub L. No. 112-29, 125 Stat. 284 (2011).

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