

Patent No. 9,770,656 — Petition for Post Grant Review

Filed on behalf of Supercell Oy

By:

JENNIFER R. BUSH, Reg. No 50,784

MICHAEL J. SACKSTEDER

FENWICK & WEST LLP

801 California Street

Mountain View, CA 94041

Telephone: 650.988.8500

Facsimile: 650.938.5200

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCCELL OY,
Petitioner

v.

GREE, INC.,
Patent Owner.

Post Grant Review No. _____
Patent 9,770,656 B2

**PETITION FOR POST GRANT REVIEW OF
U.S. PATENT 9,770,656**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. MANDATORY NOTICES (37 CFR § 42.8(A)(1)).....	1
A. Real Party-In-Interest (37 CFR § 42.8(b)(1))	1
B. Notice of Related Matters (37 CFR § 42.8(b)(2)).....	1
C. Designation of Lead and Backup Counsel (37 CFR § 42.8(b)(3))	1
D. Service of Information (37 CFR § 42.8(b)(4)).....	1
III. ADDITIONAL REQUIREMENTS	2
A. Timing	2
B. Grounds for Standing (37 CFR § 42.204(a))	2
IV. DESCRIPTION OF THE '656 PATENT.....	2
A. Specification.....	2
1. Prior Art, Problem, and Functionality.....	2
2. System Description	6
3. Conventional Data Structures	13
B. Prosecution History	15
V. IDENTIFICATION OF CHALLENGE UNDER 37 CFR § 42.204(B) AND RELIEF REQUESTED.....	18
A. Effective Filing Date of the Challenged Claims	18
B. Claims for Which PGR Is Requested, Precise Relief Requested, and Specific Statutory Grounds on Which the Challenge Is Based [37 CFR § 42.204(b)(1) & 37 CFR § 42.204(b)(2)]	18

TABLE OF CONTENTS
(continued)

	Page
C. Claim Construction (37 CFR § 42.204(b)(3)).....	18
1. The Claimed Invention.....	19
VI. IT IS MORE LIKELY THAN NOT THAT AT LEAST ONE OF THE CHALLENGED CLAIMS OF THE '656 PATENT IS UNPATENTABLE.....	22
A. Claims 1-6 of the '656 Patent Are Invalid Under 35 U.S.C. § 101 for Failing to Be Directed Toward Patent-Eligible Subject Matter	22
1. Legal Standard	23
a. 35 U.S.C. § 101 Bars Claims that Recite Abstract Ideas and Lack an Inventive Concept.....	23
2. Alice Step 1: The '656 Patent Claims the Abstract Idea of Generating a Mission List in a Video Game, Retrieving a Second Mission from a Storage Unit Based on a Mission-Item Relationship and an Item Identifier Upon a User Clearing a Mission, and Updating the Mission List with the Second Mission.....	25
a. The claims recite a series of generalized steps and fail to recite a non-abstract way of performing those steps. 25	
b. The claims fail to recite an improvement to computers or video game technology.....	31
c. The '656 Patent Recites an Abstract Concept Relating to Tracking and Organizing Information.	32
3. Alice Step 2: Claims 1-6 of the '656 Patent Do Not Disclose An “Inventive Concept” Sufficient to Transform Their Ineligible Abstract Idea into a Patent-Eligible Invention.	36
a. The claim limitations, individually and as an ordered	

TABLE OF CONTENTS
(continued)

	Page
combination, are well-understood, routine, and conventional.	36
b. The Federal Circuit’s recent guidance on subject matter eligibility in <i>Berkheimer</i> confirms that the challenged claims of the ’656 patent fail under the second step of <i>Alice</i>	41
c. The dependent claims are abstract and add nothing inventive.	43
4. Section 101 Was Improperly Analyzed During Prosecution.	47
B. Claims 1-6 of the ’656 Patent Are Invalid Under 35 U.S.C. § 112(a) for Lack of Written Description.	50
1. Claims 1-6 of the ’656 patent are unpatentable under 35 U.S.C. § 112(a) because the specification of the ’656 patent fails to provide adequate written description of receiving an identifier of an item from the first user device.	51
2. Claims 1-6 of the ’656 patent are unpatentable under 35 U.S.C. § 112(a) because the specification of the ’656 patent fails to provide adequate written description of identifying a second mission in which the item specified by the received identifier can be acquired.	53
C. Claims 1-6 of the ’656 Patent Are Invalid Under 35 U.S.C. § 112(b) as Indefinite.	55

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Affinity Labs of Texas, LLC v. DirectTV</i> , 838 F.3d 1253 (2016).....	24, 46
<i>Alice Corp. Pty. Ltd. v. CLS Bank Int’l</i> , 134 S. Ct. 2347 (2014).....	<i>passim</i>
<i>Apple, Inc. v. Ameranth, Inc.</i> , 842 F.3d 1229 (Fed. Cir. 2016)	37
<i>Atl. Research Mkt. Sys. v. Troy</i> , 659 F.3d 1345 (2011).....	50
<i>BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC</i> , 827 F.3d 1341 (Fed. Cir. 2016)	24
<i>Berkheimer v. HP Inc.</i> , 881 F.3d 1360 (Fed. Cir. 2018)	41, 42
<i>buySAFE, Inc. v. Google, Inc.</i> , 765 F.3d 1350 (Fed. Cir. 2014)	48
<i>Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.</i> , 776 F.3d 1343 (Fed. Cir. 2014)	20
<i>Elec. Power Grp., LLC v. Alstom S.A.</i> , 830 F.3d 1350 (Fed. Cir. 2016)	28, 31
<i>Enfish, LLC v. Microsoft Corp.</i> , 822 F.3d 1327 (Fed. Cir. 2016)	24, 31, 49
<i>In re Anderson</i> , 1997 U.S. App. Lexis 167 (Fed. Cir. Jan. 6, 1997)	56
<i>In re Cohn</i> , 438 F.2d 989 (CCPA 1971).....	56

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.