

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCELL OY,
Petitioner,

v.

GREE, INC.
Patent Owner.

Case PGR2019-00018
Patent 9,891,799 B2

Record of Oral Hearing
Held: March 3, 2020

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

Case PGR2019-00018
Patent 9,891,799 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JENNIFER R. BUSH, ESQ.
GEOFFREY MILLER, ESQ.
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 04041
650-335-7213
jbush@fenwick.com

ON BEHALF OF THE PATENT OWNER:

SCOTT A. MCKEOWN, ESQ.
BRENDAN MCLAUGHLIN, ESQ.
Ropes & Gray LLP
2099 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-6807
202-508-4740
scott.mckeown@ropesgray.com

The above-entitled matter came on for hearing on Tuesday, March 3, 2020, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 P-R-O-C-E-E-D-I-N-G-S

2 (1:00 p.m.)

3 JUDGE JUNG: Thank you. Please be seated. Good afternoon.
4 This is the oral hearing for PGR2019-00018. Petitioner Supercell Oy
5 challenges all claims of U.S. Patent Number 9,891,799.

6 Starting with counsel for Petitioner and followed by counsel for Patent
7 Owner, please state your names for the record.

8 MS. BUSH: Good morning, Your Honors. I am Jennifer Bush,
9 lead counsel for Petitioner Supercell Oy. And joining with me today is
10 Geoffrey Miller.

11 JUDGE JUNG: Welcome.

12 MR. MCKEOWN: Good afternoon. Scott McKeown of Ropes &
13 Gray for Patent Owner Gree, joined today by Brendan McLaughlin.

14 JUDGE JUNG: Welcome to you as well.

15 MR. MCKEOWN: Thank you.

16 JUDGE JUNG: As described in our trial hearing order each party
17 has 45 minutes of total time to present its arguments. Each side may also
18 reserve time for rebuttal.

19 And the last two reminders, please refer to your demonstratives by
20 slide number for the sake of Judges Browne and DeFranco. And please do
21 not interrupt to make an objection. I know sometimes it's a very tough thing.

22 With all that said, Ms. Bush, you may proceed when you're ready.

1 MS. BUSH: Thank you, Your Honors. We're here today, as you
2 noted, to talk about Gree's Patent 9,891,799. And --

3 JUDGE JUNG: Ms. Bush, would you like to reserve time for rebuttal?

4 MS. BUSH: Yes, absolutely. Can I reserve 15 minutes, please for
5 rebuttal? Thank you for the reminder, Judge.

6 I'm just going to start with a quick overview of the arguments which
7 you've obviously already seen from all of our papers, but that we'll touch on
8 briefly today.

9 The first is with respect to Section 101 that the Board should maintain
10 its findings from the institution decision that the claims of the '799 Patent are
11 directed to rules that govern play of a game involving the abstract idea of
12 associating game objects and moving one or more of the objects.

13 Also, that they do not integrate the abstract idea into a practical
14 application, nor do the claims provide additional inventive elements beyond
15 the abstract idea.

16 We'll also touch just briefly on Section 112(b) today, the arguments
17 there being that the term direction is indefinite and that the limitation moving
18 one or more of the plurality of the associated objects as a group also is
19 indefinite.

20 And then briefly the Patent Owner has actually waived its 112(b)
21 arguments that they did not maintain from the preliminary response into the
22 Patent Owner's response.

1 Talking about the '799 Patent just briefly, although I'm sure Your
2 Honors are aware that the claims were found to be directed to rules that govern
3 play of a game and involving the abstract idea of associating game objects and
4 moving one or more of the objects.

5 And I've got here Figure 5A which is shown there, some objects.
6 And then there's a finger sort of moving across the screen there in one or more,
7 the objects it's not clear there which are associated with the moving.

8 Looking at the claim itself, I'm not going to read all of it, but we've
9 got the steps here. Rules that govern play of a game. And again, involving
10 the abstract idea of associating game objects, those being the ones pictured
11 here, some portion of them and then moving one or more of those objects.

12 I'd like to start with talking a little bit about the fact that the Board
13 found the limitations of representative Claim 1 were all those that recite rules
14 governing play of a computer game because those limitations all recite
15 operations that take place during play of a computer game and that these were
16 seen to be similar to managing personal behavior or relationships which
17 includes following rules or instructions akin to those in the *In re: Smith* case.

18 And Patent Owner's expert actually agreed with the Board's statement
19 that the limitations recite operations that take place during play of a computer
20 game.

21 Patent Owner talks about it in its sur-reply, makes arguments that
22 Petitioner was trying to rewrite the Board's abstract idea. But really it just

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