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Paper 10
Date: November 12, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERCELL OY,
Petitioner,

v.

GREE, INC.,
Patent Owner.

Case PGR2020-00063
Patent 10,406,432 B2

Before LYNNE H. BROWNE, HYUN J. JUNG, and
RICHARD H. MARSCHALL, *Administrative Patent Judges.*

BROWNE, *Administrative Patent Judge.*

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

I. INTRODUCTION

GREE, Inc. ("GREE") is the owner of U.S. Patent No. 10,406,432 B2 ("the '432 patent"). Supercell Oy ("Supercell") filed a petition requesting post-grant review of claims 1–9 of the '432 patent. Paper 2 ("Pet."). GREE, in turn, filed a preliminary response. Paper 8 ("Prelim. Resp."). After considering the petition and the preliminary response, as well as all supporting evidence, we determine the petition does not demonstrate that it is more likely than not that at least one of the challenged claims of the '432 patent is unpatentable. 35 U.S.C. § 324(a). Thus, we do not institute post-grant review of claims 1–9 of the '432 patent.

B. Related Proceedings

Petitioner indicates that there are no related matters involving the '432 patent. Pet. 1. Patent Owner does not contest this assertion.

C. The '432 Patent

The '432 patent is directed to "a virtual image display program, a virtual image display apparatus, and a virtual image display method capable of providing information while reducing the loss of a sense of immersion in [the] virtual space." Ex. 1001, 1:43–46. Reduction of the loss of a sense of immersion in the virtual space is achieved by eliminating the "need to display a button for executing information provision on an image of the virtual space." *Id.* at 2:1–3.

The '432 patent provides "a virtual image display program for displaying an image of virtual space on a display that displays an image by using a virtual image display apparatus, a detector for identifying a position and direction of a certain body part of a player, and the display." Ex. 1001, 1:48–52. The '432 patent identifies the certain body part of the player as

either the head or eyes of the player. *Id.* at 3:55–57, 60–62. The virtual image display apparatus includes "a controller and a storage unit where an information providing condition and to-be-provided information is recorded." *Id.* at 1:53–55. The virtual image display program causes "the controller to function as a space image output unit and an information provider." *Id.* at 1:56–57. The space image output unit displays "the image of the virtual space on the display in accordance with the position and direction of the certain body part of the player." *Id.* at 1:58–60. The information provider outputs "the to-be-provided information when the information providing condition regarding the position and direction of the certain body part of the player is satisfied." *Id.* at 1:61–63.

The virtual display program uses the gaze position of the player. *See*, *e.g.* Ex. 1001, 2:6–8. The gaze position of the player is "identified from the position and direction of the certain body part of the player." *Id.* at 2:10–11. Such identification is determined by gaze identifying unit 24 which identifies "a gaze position P1 of the player 101 in the virtual space, on the basis of the calculated position and direction of the head" or by detecting the eyeball movement or light reflected from the interior of the iris of player 101. *Id.* at 6: 32–34, 45–46.

Figure 5, reproduced below, shows the virtual space displayed to the user.

FIG. 5

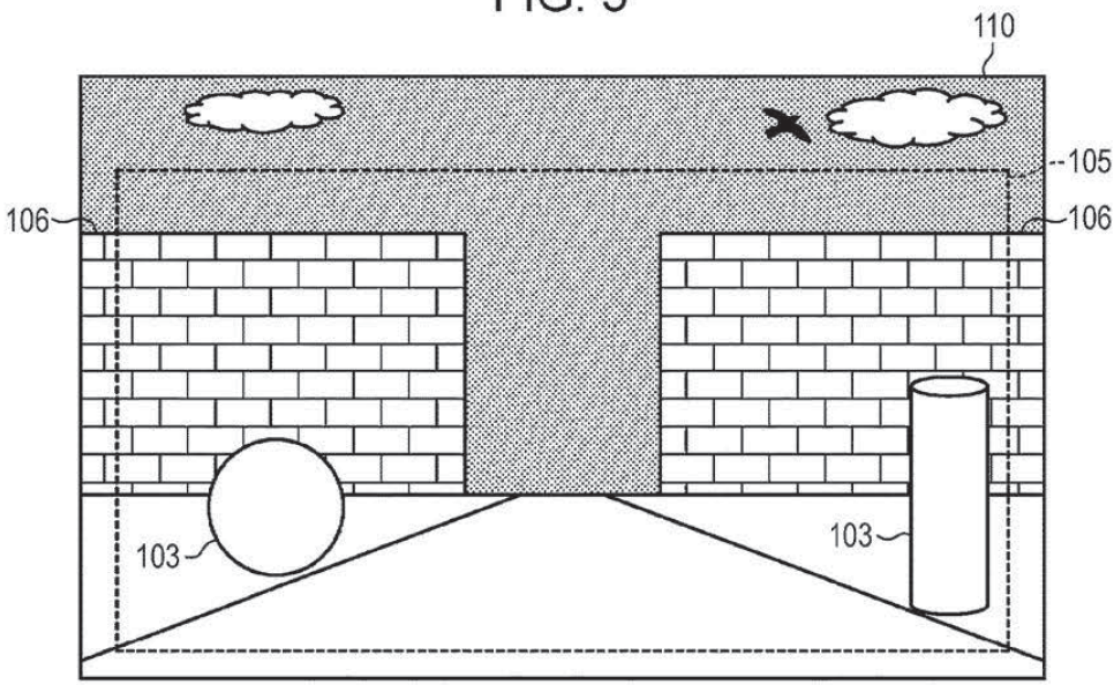

Figure 5 is "a schematic diagram illustrating an exemplary embodiment of an image that may be displayed on a virtual image display." Ex. 1001, 3:19–21. The virtual space shown in Figure 5 includes virtual space image 110 including gameable area 105 (corresponding to the claimed first area) in the shape of a rectangle that covers most of virtual space image 110 surrounded by an area outside of gameable area 105 (corresponding to the claimed second area). Virtual space image 110 includes target objects 103 inside gameable space 105 and other objects 106 which appear in both gameable space 105 and the area outside of gameable space 105. It also includes moving body 112 (not labeled in this figure) "which may appear as a bird moving outside the gameable area 105." *Id.* at 9:26–27.

In the claimed embodiment, the information providing condition is satisfied when the user's gaze position moves to the second area from the first area. Ex. 1001, 16:62–64. When the information providing condition is satisfied, the to-be-provided information is displayed in the second area. *Id* at 16:59–61.

D. Representative Claim

The '432 patent includes nine claims, of which claims 1, 8, and 9 are independent. All three independent claims recite similar limitations and vary only as to type, where claim 1 is directed to a "computer program product . . . executable by a virtual display apparatus," claim 8 to a "virtual image display apparatus," and claim 9 to a "virtual image display method." Ex. 1001, 16:31–33, 17:61, 18:31. Representative claim 1 is reproduced below:

> 1. A computer program product embodied on a non-transitory computer-readable medium, comprising code executable by a virtual image display apparatus having at least a processor and a memory, the memory being configured to store an information providing condition of the virtual image display apparatus and being further configured to store to-be-provided information, to cause the virtual image display apparatus to carry out the following steps:
>
> detecting, with a sensor operationally linked to the virtual image display apparatus, a movement of a body part of a player, the body part comprising at least one of a head of the player and an eye of the player, and the sensor being at least one of the set of: a gyro sensor configured to measure movement of the head of the player, an acceleration sensor configured to measure movement of the head of the player, a geomagnetic sensor configured to measure movement of the head of the player and a line-of-sight sensor configured to measure movement of the eye of the player; and

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