

NOTE: This disposition is nonprecedential.

## United States Court of Appeals for the Federal Circuit

---

**GREE, INC.,**  
*Appellant*

v.

**SUPERCELL OY,**  
*Cross-Appellant*

---

2019-1864, 2019-1960

---

Appeals from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. PGR2018-00008.

---

Decided: November 19, 2020

---

JOHN C. ALEMANNI, Kilpatrick Townsend & Stockton LLP, Raleigh, NC, for appellant. Also represented by STEVEN MOORE, San Francisco, CA; ANDREW WILLIAM RINEHART, Winston-Salem, NC.

MICHAEL JOHN SACKSTEDER, Fenwick & West, LLP, San Francisco, CA, for cross-appellant. Also represented by TODD RICHARD GREGORIAN; JENNIFER RENE BUSH, Mountain View, CA; GEOFFREY ROBERT MILLER, New York, NY; JESSICA KAEMPF, Seattle, WA.

---

Before LOURIE, HUGHES, and STOLL, *Circuit Judges*.

STOLL, *Circuit Judge*.

This appeal relates to eligibility under 35 U.S.C. § 101. GREE, Inc. appeals from a final written decision by the Patent Trial and Appeal Board holding claims 1, 8, and 10–20 of U.S. Patent No. 9,597,594 ineligible. Supercell Oy cross-appeals the Board’s determination that Supercell did not show claims 2–7 and 9 of the ’594 patent to be patent ineligible. We affirm the Board’s determination that claims 1, 8, and 10–20 of the ’594 patent are directed to patent-ineligible subject matter and its determination that claims 5–7 are not directed to patent-ineligible subject matter. We reverse the Board’s determination that claims 2–4 and 9 are not directed to patent-ineligible subject matter.

#### BACKGROUND

GREE is the assignee of the ’594 patent, titled “Computer Control Method, Control Program and Computer.” The specification of the ’594 patent describes the invention in the context of “city building games,” in which “a player builds a city within a virtual space (hereinafter referred to as ‘game space’) provided in the game program” in a computer. ’594 patent col. 1 ll. 27–30. Cities include arrangements of “game contents,” i.e., “items such as protective walls, buildings[,] . . . soldiers, weapons, etc.” *Id.* at col. 1 ll. 46–48, 50–51. A computer “progresses a game by arranging game contents within a game space based on a command by a player.” *Id.* at col. 3 ll. 19–21.

“[I]n recent city building games, a city built by one player is attacked by a different player, and the city . . . is one of [the] factors for deciding the winning and losing” players. *Id.* at col. 1 ll. 45–49. As players build more complicated cities, “it is very complicated for a player to change positions, types, levels, etc., of individual items” in the

cities. *Id.* at col. 1 ll. 50–53. “Therefore, many players have limited themselves to change only certain kinds of items, such as soldiers and weapons, for which changing positions, types, levels, etc., is easy.” *Id.* at col. 1 ll. 55–58. This leads to the undesirable result, as the game progresses, that players may find the game increasingly “monotonous.” *Id.* at col. 1 ll. 58–60. The claimed invention sought to address this monotony problem by “provid[ing] a method for controlling a computer, a recording medium and a computer that improve the usability of city building games and continuously attract players to the game.” *Id.* at col. 1 ll. 61–65.

More specifically, the claimed invention employs templates to improve the usability of city building games. Among other things, the claimed systems and methods involve creating a template defining positions of one or more game contents and subsequently applying the template to a predetermined area within the game space. *Id.* at col. 26 ll. 33–46, col. 27 l. 44–col. 28 l. 23. “When the template is applied,” the computer “moves the game contents arranged within the game space to the positions of the game contents defined by the template.” *Id.* at col. 3 ll. 27–29.

In some embodiments, the numbers of game contents of each type defined by the template match the numbers of game contents of each type in the game space to which the template is to be applied. *Id.* at col. 7 ll. 37–48 (disclosing an embodiment in which “[t]he number of types of facilities and the number of facilities in each type arranged within the game space 420 are equal to the number of types of facilities and the number of facilities in each type . . . defined by the template”). In that case, “all [game contents] arranged within the game space 420 are moved to positions of [game contents] as defined by the template.” *Id.* at col. 7 ll. 43–45.

In other embodiments, there is a mismatch between the numbers of game contents of each type defined by the

template and the numbers of game contents of each type in the game space to which the template is to be applied. *E.g.*, *id.* at col. 7 l. 54–col. 8 l. 29; *see also id.* at col. 11 ll. 25–28, 38–63. For example, the number of game contents of each type within the game space may be larger than the number of game contents of each type defined by the template. In that case, “those [game contents] with the smallest moving distance (e.g., Manhattan distance) to positions of [game contents] defined by the template” may be “moved to the positions of [game contents]” as defined by the template. *Id.* at col. 7 ll. 61–64. Alternatively, the number of game contents of each type arranged within the game space may be smaller than the number of game contents of each type defined by the template. In that case, “all [game contents] arranged within the game space” may be “moved to positions of [game contents] defined by the template 410, to which the moving distance is the smallest,” with “positions on which no [game contents] are arranged among the positions of [game contents] defined by the template . . . illustrated in a condition where the [game content] type is discernible.” *Id.* at col. 8 ll. 18–29. We refer to these embodiments in which the number of game contents defined by the template is not equal to the number of game contents in the game space to which the template is to be applied as “mismatched template scenarios.”

Claims 1, 10, 11, and 12 are independent claims. Claim 1 recites:

1. A method for controlling a computer that is provided with a storage unit configured to store game contents arranged within a game space, first positions of the game contents within the game space, and a template defining second positions of one or more of the game contents, and that progresses a game by arranging the game contents within the game space based on a command by a player, the method comprising:

when the template is applied to a predetermined area within the game space based on the command by the player, moving, by the computer, the game contents arranged at the first positions within the game space to the second positions of the game contents defined by the template within the predetermined area.

*Id.* at col. 26 ll. 33–46.

Claims 5–7 ultimately depend from claim 1 and are directed to mismatched template scenarios. They recite:

5. The method according to claim 1, wherein when the number of game contents arranged within the game space is smaller than the number of game contents for which the second positions are defined by the template, the computer moves the game contents arranged at the first positions within the game space to the second positions of the game contents defined by the template to which the moving distance is the smallest.

6. The method according to claim 5, wherein out of the second positions of the game contents defined by the template, the computer displays positions on which no game contents are arranged and the game contents, in a discernible condition.

7. The method according to claim 1, wherein when the number of game contents arranged within the game space is larger than the number of game contents for which the second position[s] are defined by the template, the computer moves the game contents arranged at the first positions within the game space for which the moving distance to the second positions of the game contents defined by the template is the smallest, to the positions.

*Id.* at col. 27 ll. 8–30.

# 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.