

ESTTA Tracking number: **ESTTA470369**

Filing date: **05/02/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92051465
Party	Plaintiff EA Digital Illusions CE AB and Electronic Arts Inc.
Correspondence Address	VINEETA GAJWANI ELECTRONIC ARTS INC 209 REDWOOD SHORES PARKWAY REDWOOD CITY, CA 94065 UNITED STATES vgajwani@ea.com
Submission	Opposition/Response to Motion
Filer's Name	Vineeta Gajwani
Filer's e-mail	vgajwani@ea.com, robphillips@reedsmith.com, dkalahale@reedsmith.com
Signature	/Vineeta Gajwani/
Date	05/02/2012
Attachments	Joint Oppositions to Edge Games' Motions for Reconsideration & Request to Dismiss Proceeding.pdf ( 4 pages )(150851 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,105,816  
For the Trademark EDGE  
Issued June 20, 2006

EA DIGITAL ILLUSIONS CE AB, a Swedish corporation; ELECTRONIC ARTS INC., a Delaware corporation,

Petitioners,

v.

EDGE GAMES, INC., a California corporation and FUTURE PUBLISHING LTD, a UK company,

Co-Defendants.

EA DIGITAL ILLUSIONS CE AB, ELECTRONIC ARTS INC., and FUTURE PUBLISHING LTD'S JOINT OPPOSITIONS TO EDGE GAMES, INC.'S MOTIONS FOR RECONSIDERATION (Docket Nos. 69 and 70) AND REQUEST TO DISMISS PROCEEDINGS (Docket No. 71)

Cancellation No. 92051465

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

EA Digital Illusions CE AB, Electronic Arts Inc, and Future Publishing Ltd (collectively "Respondents") hereby jointly oppose Edge Games, Inc's ("Edge") motions for reconsideration (Docket Nos. 69 and 70) and request to dismiss proceedings (Docket No. 71). Respondents request the Board to deny the motions, and proceed with entering the cancellations as set forth in the Board's Order dated March 30, 2012. (Docket No. 67)

As the Board correctly noted in its Order, "[the Board] is clearly bound by the mandate issued by way of the [District Court's] final judgment, and has no power or authority to deviate therefrom." *In re Wella A.G.*, 858 F.2d 725, 8 USPQ2d 1365, 1368 (Fed. Cir. 1988). Edge Games had not cited any authority to the contrary in its recent round of submissions.

As an accommodation, the Board gave Edge a final opportunity to raise its various arguments with the District Court, and seek relief from the allegedly void judgment. But Edge

deliberately failed to do so, and instead opted to file several responses to the Board that merely rehash Edge's prior invalid arguments and assert an additional argument that it is "not possible" for Edge to seek relief from the District Court judgment. (Docket Nos. 68-72) Edge, however, has not cited any authority that supports its erroneous assertion that it is not possible to seek relief from the District Court. Indeed, FRCP 60(b)(4) clearly allows a party to seek relief from a "void judgment" at any time. ***Despite the reasonable opportunity afforded by the Board***, Edge was clearly unwilling to return to the District Court with its litany of frivolous arguments, for fear of being held in contempt and harshly sanctioned. Under these circumstances, the Board should duly proceed with its order that "if [Edge Games, Inc.'s] filing indicates that it has not prevailed [*or, as here, has not filed*] a post-judgment motion in the District Court, the Board will issue an order in fulfillment of the District Court's October 8, 2010 final judgment, directing the Commissioner of Patents and Trademarks and Assistant Commissioner for Trademarks to cancel U.S. Registration Nos. 2219837, 2251584, 3105816, 3559342, and 3381826."

Edge Games, Inc.'s motions for reconsideration (Docket Nos. 69 and 70) should be summarily denied because they do not raise any new facts or legal arguments that the Board did not already consider, and they do not demonstrate clear error by the Board. As set forth in TBMP §518, motions for reconsideration should not "be devoted simply to a re-argument of the points presented in a brief on the original motion." Rather, the motion should be limited to a demonstration that based on the facts before it and the applicable law, the Board's ruling is in error and requires appropriate change." Edge Games, Inc. has woefully failed to make this showing.

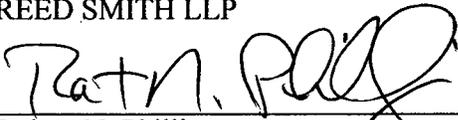
Moreover, Edge Games, Inc.'s repeated requests to withdraw (reverse) its surrenders of Reg Nos. 3559342 and 2219837 are moot in light of the fact that these registrations have been ordered cancelled by a district court, and the Board is bound by this mandate, as noted above.

Finally, Edge Games, Inc.'s request for a dismissal of this proceeding, citing all the way back to a superseded Consent Motion filed on November 14 and 15, 2010 (Docket Nos. 31 and 33), is clearly without merit. The Consent Motion was clearly *conditioned* upon the subject

registrations being voluntarily surrendered for cancellation, as cancellation of the registrations was expressly required by the settlement agreement between Edge and EA. See Docket No. 49, Phillips Declaration, Ex. A, Section 2. Edge Games, Inc.'s subsequent motions to withdraw (reverse) the voluntary surrenders breached the condition in the Consent Motion (and the settlement agreement), and thus dismissal by consent was (and is) no longer applicable. Indeed, the Board recognized this when it resumed the proceedings on July 11, 2011. (Docket No. 42) To be clear, Respondents no longer consent to dismissal. Rather, judgment of cancellation should be entered immediately.

Respectfully submitted,

Dated: May 1, 2012

REED SMITH LLP  
By:   
Robert N. Phillips  
Attorneys for Future Publishing Limited

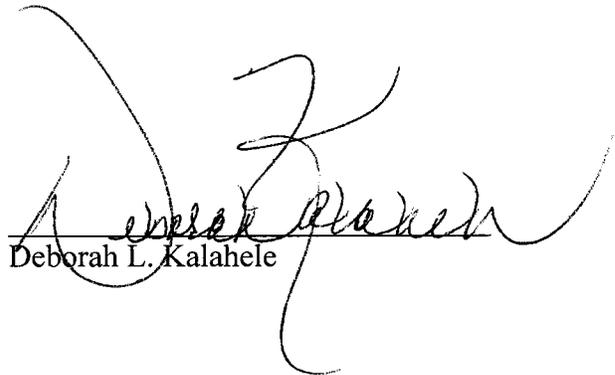
Dated: May 1, 2012

EA DIGITAL ILLUSIONS CE AB  
ELECTONIC ARTS, INC.  
By:   
Vineeta Gajwani  
Trademark Counsel

CERTIFICATE OF SERVICE

In accordance with Rule 2.105(a) of the Trademark Rules of Practice, as amended, its is hereby certified that a true copy of the foregoing EA DIGITAL ILLUSIONS CE AB, ELECTRONIC ARTS INC., and FUTURE PUBLISHING LTD'S JOINT OPPOSITIONS TO EDGE GAMES, INC.'S MOTIONS FOR RECONSIDERATION (Docket Nos. 69 and 70) AND REQUEST TO DISMISS PROCEEDINGS (Docket No. 71) was served on Edge Games, Inc, by depositing same in the U.S. Mail, first class postage prepaid, this 2 day of May, 2011 to:

Tim Langdell  
Edge Games Inc.  
530 South Lake Avenue, #171  
Pasadena, CA 91101



Deborah L. Kalahale