

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

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Mailed: March 8, 2013

Cancellation No. 92051465

EA Digital Illusions CE AB
and Electronic Arts Inc.

v.

Edge Games, Inc., and Future
Publishing, Ltd.

By the Board:

On October 8, 2010, in *Edge Games, Inc. v. Electronic Arts Inc.*, Case No. 10-CV-02614-WHA, the United States District Court for the Northern District of California ("District Court") issued a *Final Judgment*, which states:

Pursuant to Section 37 of the Lanham Act, 15 U.S.C. § 1119, the Commissioner of Patents and Trademarks and the Assistant Commissioner for Trademarks are hereby ordered to cancel U.S. Trademark Registration Nos. 2,219,837; 2,251,584; 3,105,816; 3,559,342; and 3,381,826.

Also on October 8, 2010, the District Court issued an *Order Approving the Parties' Stipulation Regarding the Disposition of Claims and Proposed Judgment Subject to Stated Conditions*, which states:

The Clerk of the Court shall send a copy of the order denying plaintiff's motion for a preliminary injunction along with a copy of the final judgment to the Commissioner of the Patent and Trademark Office.

Trademark Act § 37, 15 U.S.C. § 1119, *Power of Court Over Registration; Certification of Decrees and Orders*, provides:

In any action involving a registered mark the court may determine the right to registration, order the cancellation of registrations, in whole or in part, restore cancelled registrations, and otherwise rectify the register with respect to the registrations of any party to the action. Decrees and orders shall be certified by the court to the Director, who shall make appropriate entry upon the records of the Patent and Trademark Office, and shall be controlled thereby.

The record in this cancellation proceeding does not include a certified copy of each of the District Court orders referenced above. Uncertified copies are not acceptable. See TMEP § 1610 (October 2012).

It is further noted that Edge Games, Inc. filed in the District Court a Fed. R. Civ. P. 60 motion for relief from judgment which was entered in October 2010, and that on July 23, 2012, the District Court issued an *Order Striking Motion and Vacating Hearing*, thereby denying relief from the Final Judgment. The parties have not made the Board aware of any modification or appeal of the July 23, 2012, order.¹

¹ On March 30, 2012, the Board issued an order providing Edge Games, Inc. twenty days in which to notify the Board whether it had either filed any motion in the District Court seeking reconsideration, review or modification of the Final Judgment, or had pursued any available form of relief from the Final Judgment. Notwithstanding that the numerous responses and papers filed subsequent to April 19, 2012 are untimely, the Board has reviewed all of the submissions filed subsequent to the March 30, 2012, order.

The March 30, 2012 order is clear. Contrary to the assertions of Edge Games, Inc., the Board did not *require* it to file any motion or other filing in the District Court, or in any other tribunal. The Board merely allowed time to provide notification

Cancellation No. 92051465

In view thereof, petitioners are allowed until thirty (30) days from the mailing date of this order in which to file herein certified copies of the above-referenced October 8, 2010 orders, and of the July 23, 2012 order, which were issued by the District Court.

A copy of the instant order has been mailed to each of the following:

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

Robert N. Phillips
Reed Smith LLP
101 Second Street, Suite 1800
San Francisco, CA 94105-3659

Vineeta Gajwani
Electronic Arts, Inc.
209 Redwood Shores Parkway
Redwood City, CA 94065

to the Board of the status of any such submission which had been filed.

To the extent that the Board, in its July 11, 2011, order, granted Edge Games Inc.'s February 18, 2011, motion to withdraw (reverse) its voluntary surrender of Registration No. 3105816, said order is vacated.

The April 17, 2012, motions, filed by Edge Games, Inc., for reconsideration of the Board's denial of the motion to reverse the division of Registration No. 2219837, and for reconsideration of the Board's denial of the motion to withdraw (reverse) the surrender of Registration Nos. 3559342 and 2219837, are denied. The Board finds no error in reaching the decisions it issued. See Trademark Rule 2.127(b); TBMP § 518. As the Board has previously and clearly stated, the Board is bound to follow the mandate of the District Court.