

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

CME

Mailed: January 30, 2015

Cancellation No. 92058543

Edge Games Inc.

v.

Razer (Asia-Pacific) Pte Ltd.

**Christen M. English, Interlocutory Attorney:**

On January 29, 2015, the Board convened a telephone conference with the parties to address Respondent's motion for sanctions, filed September 18, 2014. Petitioner appeared *pro se*,<sup>1</sup> Keith Barritt appeared on behalf of Respondent, and the assigned interlocutory attorney participated on behalf of the Board.

During the teleconference, the parties stipulated to serve all future papers via U.S. certified mail. Any paper filed with the Board that is not served in compliance with the parties' stipulation may be given no consideration. The parties also stipulated to extend discovery in this proceeding by sixty (60) days. The parties are commended for working together to reach these stipulations.

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<sup>1</sup> Information for parties representing themselves *pro se* is provided at the end of this order.

For the reasons discussed during the teleconference, Respondent's motion for sanctions is **GRANTED, IN PART**, to the extent that Petitioner is required:

1. to obtain the Board's verbal approval prior to filing any further unconsented motions or papers;<sup>2</sup> and
2. within fourteen (14) days of the mailing date of this order to read Sections 402 (Scope of Discovery) and 414 (Selected Discovery Guidelines) of the Trademark Trial and Appeal Board Manual (2014) and file with the Board a declaration pursuant to Trademark Rule 2.20 attesting that it has done so.

If Petitioner fails to comply with this order, further sanctions may be entered against it, including entry of judgment. Respondent's motion is otherwise **DENIED**.

Proceedings remain suspended for fourteen (14) days from the mailing date of this order and will resume on the following schedule:

Discovery Closes	<b>4/27/2015</b>
Plaintiff's Pretrial Disclosures Due	<b>6/11/2015</b>
Plaintiff's 30-day Trial Period Ends	<b>7/26/2015</b>
Defendant's Pretrial Disclosures Due	<b>8/10/2015</b>
Defendant's 30-day Trial Period Ends	<b>9/24/2015</b>

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<sup>2</sup> If Petitioner wishes to file an unconsented motion or paper, it should contact both opposing counsel and the assigned interlocutory attorney via email to schedule a mutually agreeable time for the parties and the Board to participate in a teleconference to discuss the basis for any proposed motion or filing.

During the teleconference, Petitioner requested leave to file a motion for summary on grounds that the Board construes as the USPTO's purported failure to follow proper procedure in approving the underlying application for publication and issuing the involved registration. Petitioner's request is denied.

Plaintiff's Rebuttal Disclosures Due	<b>10/9/2015</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>11/8/2015</b>

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

***Pro Se Information***

Although Patent and Trademark Rule 11.14 permits an entity to represent itself, it is strongly advisable for a party who is not acquainted with the technicalities of the procedural and substantive law involved in *inter partes* proceedings before the Board to secure the services of an attorney who is familiar with such matters. The United States Patent and Trademark Office (USPTO) cannot aid in the selection of an attorney. As the impartial decision maker, the Board may not provide legal advice; it may provide information solely as to procedure.

Any party who does not retain counsel should be familiar with the authorities governing this proceeding, including the Trademark Trial and Appeal Board Manual of Procedure (TBMP), and the Trademark Rules of Practice (37 C.F.R. Part 2), both accessible directly from the Board's web

page: <http://www.uspto.gov/trademarks/process/appeal/index.jsp>. Also on the Board's web page are links to ESTTA, the Board's electronic filing system<sup>3</sup> at <http://estta.uspto.gov>, and TTABVUE, for case status and prosecution history at <http://ttabvue.uspto.gov/ttabvue>.

Trademark Rules 2.119(a) and (b) require that every paper filed in the USPTO in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney. Proof of service must be made before the paper will be considered by the Board. Accordingly, copies of all papers filed in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made. See TBMP § 113.03. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service, must be signed and dated, and should take the form of a certificate of service as follows:

**I hereby certify that a true and complete copy of the foregoing (insert title of submission) has been served on (insert name of opposing counsel or party) by mailing said copy on (insert date of mailing), via U.S. certified mail (or insert other appropriate method of delivery) to: (name and address of opposing counsel or party).**

**Signature** \_\_\_\_\_

**Date** \_\_\_\_\_

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<sup>3</sup> The Board strongly encourages parties to file all papers through ESTTA, which operates in real time and provides a tracking number that the filing has been received. For assistance in using ESTTA, call 571-272-8500.

Strict compliance with the Trademark Rules of Practice, and the Federal Rules of Civil Procedure (where applicable), is required of all parties before the Board, whether or not they are represented by counsel. *See McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, n.2 (TTAB 2006).

This *inter partes* proceeding is similar to a civil action in a federal district court. The parties file pleadings and a range of possible motions. This proceeding includes designated times for disclosures, discovery (discovery depositions, interrogatories, requests for production of documents and things, and requests for admission, to ascertain the facts underlying an adversary's case), a trial period, and the filing of briefs. The Board does not preside at the taking of testimony; all testimony is taken out of the presence of the Board during the assigned testimony, or trial, periods, and the written transcripts thereof, together with any exhibits thereto, are then filed with the Board. No paper, document, or exhibit will be considered as evidence unless it has been introduced in evidence in accordance with the applicable rules.

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