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Filing date: **05/08/2015**

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

Proceeding	92058543
Party	Defendant Razer (Asia-Pacific) Pte Ltd.
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Signature	/Keith Barritt/
Date	05/08/2015
Attachments	razer.pdf(1133507 bytes)

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

EDGE GAMES, INC.

Petitioner,

v.

RAZER (ASIA-PACIFIC) PTE LTD,
Registrant.

Cancellation No.: 92058543

Mark: EDGE

Registration No. 4,394,393

Registered: September 3, 2013

**REGISTRANT RAZER (ASIA-PACIFIC) PTE LTD'S
BRIEF IN OPPOSITION TO PETITIONER'S MOTIONS TO
WITHDRAW DEFAULT ADMISSIONS AND TAKE
DISCOVERY UNDER FRCP 56(d)**

INTRODUCTION

Registrant Razer (Asia-Pacific) Pte Ltd (“Registrant” or “Razer”), by and through its undersigned attorneys, hereby responds to Petitioner’s self-styled “Petitioner’s Reply to Registrant’s Motion to Dismiss; Petitioner’s Motion to Withdraw Admissions and File Amended Responses Per FRCP 36(b)” and “Petitioner’s Motion to Defer Consideration of Registrant’s Motion for Summary Judgment To Allow Time For Petitioner To Take Discovery And Obtain Deposition Testimony To Acquire Facts Essential To Justify Its Opposition (Rule 56(d)); Request For Extension Of Time To Conclude Discovery,” both filed on April 18, 2015.

To facilitate the Board’s review, Razer will respond to these two filings in a consolidated manner, addressing Petitioner’s (1) motion to withdraw its default admissions pursuant to the Board’s order of April 6, 2015, (2) motion for discovery under FRCP 56(d) pursuant to the Board’s order of April 6, 2015, and (3) motion to extend the time for taking discovery.¹ Finally, to expedite matters further in this case, for the reasons set forth below Razer also requests the Board to clarify that (4) Petitioner has waived its right to object to Razer’s discovery requests and (5) the only viable claims in the Petition to Cancel are based on (a) a likelihood of confusion and (b) dilution.

¹ Razer notes that the Board has not given Petitioner permission to file a motion to extend the time for taking discovery, and thus this portion of Petitioner’s motion is not within the scope of the Board’s order of April 6, 2015 and therefore out of order. Nonetheless, to facilitate disposition of this issue, Razer will address it herein.

1. Petitioner's Motion To Withdraw Default Admissions Should Be Denied

A. Petitioner Has Not Established Excusable Neglect

Razer served its discovery requests by U.S. certified mail on February 5, 2015.

Petitioner's responses were therefore due on March 12, 2015.

No response of any kind was received by Razer by the due date, nor for more than two weeks after. Accordingly, Razer prepared a summary judgment motion based on Petitioner's default admissions under FRCP 36(a). This motion was nearing completion by Friday, March 27, 2015, as evidenced by the date of signature of the declaration from Sergio Pantano, attached as Exhibit 2 to the motion.

The first time that Razer heard from Petitioner regarding its discovery response obligations was on Monday, March 30, 2015, as Petitioner requested a teleconference with the Board seeking permission to suspend proceedings to allow for the "outcome of actions commencing through the Federal Court that are directly related to discovery." *See* Email No. 1 from Petitioner, Exhibit 1 hereto. In response to an immediate inquiry from Razer's counsel that same day regarding this cryptic request, Petitioner further explained that the "actions" were the "[i]ssuance of subpoenas for document production and for deposition on our licensee Velocity." *See* Email No. 2 from Petitioner, Exhibit 2 hereto. As neither of these subpoenas were required for Petitioner to address the salient admissions relied upon by Razer in its summary judgment motion, Razer proceeded to file the motion, which it had already prepared, the morning of March 31. *See* TTAB filing receipt, Exhibit 3 hereto.

Contrary to Petitioner's false statement on page 6 of its pending motion to withdraw its default admissions that "Petitioner informed [Razer] that it would be serving its Responses to the Request for Admissions on March 31, 2015," in fact at no time prior to the filing of the summary judgment motion did Petitioner promise to provide by a certain date its discovery responses, and in particular responses to the Requests for Admission. Petitioner also states on page 13 that Razer "falsely alleged in its motion that Petitioner has failed to provide any discovery responses." In fact, Razer had not received any discovery responses at the time its summary judgment motion was filed, making the statement entirely true when made. In short, prior to the filing of Razer's summary judgment motion Razer had not received any discovery responses nor did it have knowledge of precisely when – if ever – such responses would be forthcoming.²

On pages 5-6 of its filing, Petitioner now claims as grounds for a finding of excusable neglect that:

² In a further effort to unfairly depict Razer as uncooperative or in violation of the rules, Petitioner repeatedly asserts in its motion to withdraw its admissions that Razer's responses to Petitioner's discovery requests were late or otherwise inadequate. As explained in detail in Razer's brief in opposition to Petitioner's motion for summary judgment filed on September 18, 2014 and Razer's reply brief in support of its request for sanctions filed on October 20, 2014, Razer's responses to Petitioner's discovery requests have been proper at all times.

In any event, as stated by the Board in *Miss America Pageant v. Petite Productions Inc.*, 17 USPQ2d 1067, 1070 (TTAB 1990), "a party is not relieved of its discovery obligations in spite of the fact that its adverse party has wrongfully failed to fulfill its own obligations. That is, discovery before the Board is not governed by any concept of priority of discovery. . . This is so even if the adverse party has failed to provide any response to discovery." Thus, even if Razer had not properly responded to Petitioner's discovery requests – though in fact it did properly respond – such allegedly improper responses are irrelevant to the issues currently before the Board.

“[I]t was Petitioner’s understanding that the 30-day period within which to serve [discovery] responses was a guideline, not a firm deadline.”

“At all times, the Board had indicated that the proper course of action to take should a party not have fully responded to Discovery Requests is to patiently persist, and only after [a] number of reasonable attempts should the other party file a motion to compel.”

“Petitioner was unaware that it was possible for [Razer] to argue Petitioner had admitted the requests by default.”

“Petitioner understood that it was entirely reasonable that Petitioner request of [Razer] additional time to serve its responses.”

In essence, Petitioner is claiming that it didn’t understand the rules, that the Board is responsible for its misunderstanding, that it thought Razer would grant an extension of the deadline, and falsely claiming that it did request an extension to March 31 prior to the filing of Razer’s summary judgment motion. Clearly this is not a suitable basis for a finding of excusable neglect. *See Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 USPQ2d 1848, 1852 (TTAB 2001) (holding that docketing errors and misreading of the rules are entirely within the control of the noncomplying party); *Hobie Designs Inc. v. Fred Hayman Beverly Hills Inc.*, 14 USPQ2d 2064, 2065 n.1 (TTAB 1990) (no excusable neglect where defendant’s failure to timely respond to certain discovery requests was due to defendant’s oversight or lack of care in reading discovery requests).

If a party believes it will require additional time to respond to discovery, it has a duty to request such an extension prior to the response deadline. *See Giersch v. Scripps Netowks, Inc.*, 85 USPQ2d 1306, 1308 (TTAB 2007). The party seeking discovery is under no obligation to grant an extension. Indeed, in this case no extension was reasonably required to respond to the Requests for Admission, at least in relevant part. Petitioner’s failure to even contact Razer until over two weeks after the discovery response deadline, and

its serving of discovery responses late and only after the filing of a summary judgment motion, is not the result of excusable neglect, and its request to withdraw its admissions on this basis should be denied.

B. Petitioner's Is Not Entitled To Withdraw Default Admissions

Apart from Petitioner's failure to demonstrate excusable neglect under FRCP 6(b)(1)(B), its request to withdraw its default admissions under FRCP 36(b) should also be denied.

While the Board has the authority to allow a party to withdraw its default admissions, such a ruling is at the discretion of the Board. There is no automatic right to withdraw such admissions, even if certain conditions exist. Petitioner's continued pattern of making false statements to the Board to paint Razer in an unjustified negative light, combined with its long history of fabricating evidence, third-party testimony, and legal quotes in various judicial proceedings including before the Board as documented in detail in Razer's request for sanctions filed on September 18, 2014 and Razer's reply brief in support of its request for sanctions filed on October 20, 2014 make this a situation where the Board should exercise its discretion and not allow withdrawal of the default admissions.

2. Petitioner's Motion For 56(d) Discovery Should Be Denied

A. Petitioner Has Admitted It Does Not Need 56(d) Discovery

Petitioner's proposed admissions belie its alleged need for additional discovery to respond to Razer's summary judgment motion. Specifically, Petitioner's admissions relied upon by Razer in its motion for summary judgment are that:

It has not used the EDGE mark or any variant thereof in the United States for any products or services (see Request No. 1 in Exhibit 1-A).

None of its licensees has used the EDGE mark or any variant thereof in the United States for any products or services (see Request No. 7 in Exhibit 1-A).

It does not have in place quality control standards or procedures for all licensees controlling the quality of goods or services offered under the EDGE mark or any variant thereof (see Request No. 13 in Exhibit 1-A).

It has not enforced any quality control standards or procedures against any licensee involving goods or services offered under the EDGE mark or any variant thereof (see Request No. 14 in Exhibit 1-A).

It has abandoned any rights in the mark EDGE or any variant thereof due to uncontrolled licensing (see Request No. 17 in Exhibit 1-A).

There is no likelihood of confusion between Edge Games' EDGE mark or any variant thereof and Razer's EDGE mark (see Request No. 34 in Exhibit 1-A).

Its EDGE mark or any variant thereof is not famous for purposes of federal dilution law (see Request No. 30 in Exhibit 1-A).

In Petitioner's tardy proposed responses to these Requests for Admissions included as Exhibit B to its motion to withdraw its admissions, Petitioner has denied each of these requests, each time without stating that it also needs further discovery from its licensees, in contrast to its responses to other requests such as Request Nos. 4, 5, and 6. Accordingly, by Petitioner's own admissions, it does not need any further discovery to address the issues raised in Razer's summary judgment motion.

A request for discovery under Rule 56(d) should "only be filed when a party's ability to respond to its adversary's summary judgment motion is so constrained, because of inability to take needed discovery, that the . . . movant cannot present, by affidavit, facts essential to justify the party's opposition to its adversary's motion for summary judgment." *Dyneer Corp. v. Automotive plc*, 37 USPQ2d 1251, 1253 (TTAB 1995).

Because Petitioner has failed to demonstrate why it needs any discovery under Rule 56(d)

to respond to the particular issues raised in Razer’s motion for summary judgment, its motion should be denied.

B. Petitioner’s Motion For 56(d) Discovery Is Unsupported By A Showing Of Excusable Neglect

As stated in Section 509.01(b)(1) of the Trademark Trial and Appeal Board Manual of Procedure, “[w]here the time for taking required action, as originally set or as previously reset, has expired, a party desiring to take the required action must file a motion to reopen the time for taking that action. The movant must show that its failure to act during the time previously allotted therefor was the result of excusable neglect.”

It is uncontested that Petitioner’s deadline to respond to Razer’s discovery requests closed on March 12, 2015, more than two weeks before Petitioner first raised with Razer its desire to serve subpoenas for taking discovery. Accordingly, for any discovery responses to be considered timely, Petitioner should have also requested a re-opening of time for Petitioner to respond to Razer’s discovery requests. This Petitioner has not done, and thus any discovery responses it obtains would be untimely. In short, failure to request a re-opening of the time to reply to Razer’s discovery requests dooms Petitioner’s request for discovery under FRCP 56(d). The Board is not required to, nor should it, advise Petitioner on the motions it must file with the Board to pursue its case, whether it be a motion to re-open the time to respond to discovery or a motion to withdraw default admissions.³

³ If Petitioner were to now seek the Board’s permission to file such a motion to re-open time, clearly it should be denied as untimely. All issues related to Petitioner’s asserted need for 56(d) discovery should have been brought at the same time, and the Board should not permit continuous “piecemeal” motions to allow Petitioner to patch together its case – especially when Razer is required to point out those deficiencies in its opposition to motions such as those now before the Board.

Moreover, even if Petitioner were to request a re-opening of the time to respond to Razer's discovery requests, such a motion requires a showing of excusable neglect, as set forth in Section 509.01(b)(1) of the Trademark Trial and Appeal Board Manual of Procedure. In the present case, Petitioner's motion for discovery under FRCP 56(d) does not even attempt to show there has been excusable neglect regarding its failure to respond to Razer's discovery requests by the March 12, 2015 deadline. And even if Petitioner's arguments in its concurrent motion to withdraw its default admissions are considered, for the reasons set forth by Razer above there has been no showing of excusable neglect.

In short, Petitioner's request for discovery under FRCP 56(d) is fatally deficient, as Petitioner has not requested – and is not entitled to in any event – a re-opening of the time in which to answer Razer's discovery requests. The proper path for Petitioner to have followed was that it should have requested an extension of time to respond to Razer's discovery requests prior to the March 12, 2015 deadline. This it chose not to do, and it must now accept the consequences of its inaction.

C. Petitioner's Motion Fails To Satisfy Requirements Of FRCP 56(d)

Petitioner's motion includes as Exhibit A a declaration from Tim Langdell, the CEO of Petitioner. The declaration vaguely avers that subpoenas on Velocity Micro and its President are both "in the *process* of being served" and "are *being served at this time.*"⁴ No other factual allegations of any substance are included in the declaration.

⁴ In fact, the subpoenas included in Exhibit A1 to Petitioner's motion for 56(d) discovery are unsigned, there is no evidence they have been served, and Razer has not received any service copies of any such subpoenas, calling into serious question the truthfulness of the statement that they are "being served at this time."

Under FRCP 56(d), a party must state “by affidavit or declaration” the “specified reasons it cannot present facts essential to justify its opposition” to a motion for summary judgment. The declaration should (1) set forth the reasons why the party cannot present facts essential to justify its opposition to the motion for summary judgment, (2) what facts are sought through the discovery, and (3) how those facts are reasonably expected to create genuine issues of material fact. Discovery will generally not be allowed if the requisite affidavit or declaration is not submitted.

As stated by the Federal Circuit, “[a] party may not simply assert *in its brief* that discovery was necessary and thereby overturn summary judgment when it failed to comply with the requirement of Rule 56(f) [now 56(d)] to set out reasons for the need for discovery *in an affidavit*.” *Sweats Fashion, Inc. v. Pannil Knitting Co., Inc.*, 4 USPQ2d 1793, 1799 (Fed. Cir. 1987) (emphasis added). *See also Nature’s Way Products Inc. v. Nature’s Herbs Inc.*, 9 USPQ2d 2077 (TTAB 1989) (denying request for 56(d) discovery that was not supported by the required affidavit). As stated in Section 528.06 of the Trademark Trial and Appeal Board Manual of Procedure, “[t]he request must be supported *by an affidavit* showing that the nonmoving party cannot, for reasons stated therein, present facts essential to justify its opposition to the motion.”

Petitioner’s declaration does not comply with FRCP 56(d)’s requirement to set forth specific reasons why it cannot present facts essential to oppose the summary judgment motion, what facts are sought through the discovery, and how those facts are reasonably expected to create genuine issues of material fact. All the declaration does is to assert that subpoenas are either “in the process of being served” or “are being served at this time.”

This declaration is therefore wholly inadequate to support a motion for discovery under FRCP 56(d).

D. Petitioner's Arguments In Opposition To Razer's Summary Judgment Motion Renders Need For 56(d) Discovery Moot

Petitioner has captioned its filing in part a "Reply To Registrant's Motion To Dismiss," which Razer understands to be a brief in opposition to its summary judgment motion. Petitioner argues on pages 10-12 of its filing why Razer's summary judgment motion should be denied.⁵ As Petitioner has included a substantive response to Razer's motion for summary judgment, it has shown it does not need discovery under Rule 56(d). This case is therefore similar to *Ron Cauldwell Jewelry Inc. v. Clothestime Clothes Inc.*, 63 USPQ2d 2009, 2012 n.8 (TTAB 2002), in which the Board held that "[i]nasmuch as opposer has submitted a substantive response to applicant's motion for summary judgment, opposer's request for discovery pursuant to [FRCP 56(d)] is denied."

3. Petitioner's Request To Extend Discovery Period

Petitioner requests on page 3 of its motion for FRCP 56(d) discovery that the period for discovery be extended "until the subpoena process is concluded and the additional discovery acquired." As noted above, because the time for serving such subpoenas has passed without a motion filed to re-open the time to respond to Razer's discovery requests or a showing of excusable neglect, no such FRCP 56(d) discovery should be permitted.

⁵ For the reasons discussed above, Petitioner's default admissions should stand in any event, which would be conclusive as to the issues raised in the summary judgment motion.

Nonetheless, if the Board grants Petitioner's motion for 56(d) discovery, Razer presumes the Board will reset the close of discovery as a matter of course. If the Board denies Petitioner's request for 56(d) discovery, Razer presumes the Board will proceed to rule on its summary judgment motion and if necessary reset discovery as appropriate and as requested therein.

4. Petitioner Has Waived Its Right To Object To Razer's Discovery Requests

In the absence of excusable neglect justifying its tardy discovery responses, Petitioner has forfeited its right to object to Razer's discovery requests. As stated by the Board in *Envirotech Corporation v. Compagnie Des Lampes*, 219 USPQ 448, 449 (TTAB 1979), "[u]nder the Board's discovery practice, a party who fails to respond to a request for discovery during the time allowed therefor is deemed to have forfeited his right to object to the request on its merits unless he can show that failure to timely respond was the result of excusable neglect." *See also Crane Co. v. Shimano Industrial Co.*, 184 USPQ 691 (TTAB 1975) ("[i]nasmuch as applicant failed to respond to the interrogatories on or before [the due date], or to request an extension of its time to do so prior to the aforesaid date, applicant has waived its right to object to the interrogatories on their merits and must reply to them as put").

Accordingly, in the interest of judicial economy, Razer requests that the Board include in its ruling on the present motions confirmation that Petitioner has indeed waived its right to object to Razer's discovery requests. This will obviate the need for Razer and Petitioner to argue about this issue, or for the Board to later rule on it in any subsequent motion to compel that may be filed based on Petitioner's inadequate and tardy discovery

responses served on March 31, 2015 and any subsequent (but still inexcusably tardy) responses.⁶

5. The Board Should Clarify Scope of Permissible Claims In The Petition For Cancellation

As noted in Razer's motion for summary judgment, the Petition for Cancellation contains four enumerated claims. The first claim is merely a claim of prior rights (based primarily on cancelled registrations). Thus, claim one is merely, at most, supportive of claim two (dilution) and claim three (likelihood of confusion). Claim four contains a vague allegation of "bad faith" which is not a recognizable basis for cancelling a trademark registration under 15 U.S.C. § 1064.

Accordingly, as Razer noted in its motion for summary judgment, the only substantive claims at issue are (1) likelihood of confusion and (2) dilution. Petitioner, however, on pages 9-10 of its motion to withdraw its default admissions, still clings to the belief that claim one and claim four are somehow viable legal theories for cancellation. In order to facilitate the resolution of this case and in the interest of judicial

⁶ The Board's order of January 30, 2015 required Petitioner to attest that it had read certain sections of the Trademark Trial and Appeal Board Manual of Procedure pertaining to discovery. Petitioner's objections indicate that it either has not read those sections or has not understood them. For example, in its objections to Interrogatory No. 9 included in Exhibit D to Petitioner's motion to withdraw its default admissions, Petitioner objects that the interrogatory "calls for legal conclusion" and "calls for information covered by attorney client privilege or work product." Per TBMP 414(21), discovery requests that call for the application of law to fact are not objectionable. And as documented in Razer's request for sanctions filed on September 18, 2014, it was Petitioner who insisted that privilege logs be produced as needed in response to discovery, which Petitioner has not produced. As a further example, as shown in Exhibit C to Petitioner's motion to withdraw its default admissions, Petitioner has objected to Document Request No. 13 requesting documents regarding any trademark searches for Petitioner's marks incorporating EDGE, when in fact such a request is entirely proper pursuant to TBMP 414(4) and (6).

economy, Razer requests that the Board clarify for all parties that claims one and four do not state valid grounds for cancellation and that the only possible valid legal theories in the Petition for Cancellation are likelihood of confusion and dilution.⁷

CONCLUSION

The record is clear that Razer's Requests for Admissions, along with Razer's interrogatories and document requests, were timely served on February 5, 2015 and that Petitioner's responses were therefore due on March 12, 2015. The record is equally clear that Petitioner did not serve any timely responses, nor contact Razer to timely request an extension of the March 12 deadline. There has been no showing of excusable neglect, and Petitioner's continued deliberate efforts to mislead the Board as to the facts of the case should result in a denial of its motion to withdraw its default admissions.

Regarding Petitioner's motion for discovery under FRCP 56(d), Petitioner has not shown that it requires any additional discovery to respond to Razer's summary judgment motion, nor has it shown that excusable neglect exists in this case. Petitioner's request for 56(d) discovery is also unsupported by the required affidavit or declaration. Petitioner has also already submitted arguments in response to Razer's summary judgment motion. Accordingly, Petitioner's motion for 56(d) discovery should also be denied.

⁷ Razer reserves its right to file a more formal motion to strike claims one and four or to take other appropriate action with respect to these claims, but believes that if the Board clarifies the potentially valid claims it will be to the benefit of all, including Petitioner who is appearing *pro se*.

Finally, if this case does proceed, for the benefit of all concerned the Board should clarify (1) what the date for the close of discovery will be (or how it will be calculated), (2) that Petitioner has waived its right to object to Razer's discovery requests and must answer them in full as put, and (3) what the potentially valid legal claims in the Petition for Cancellation are.

Respectfully submitted,

Razer (Asia-Pacific) Pte Ltd

By:



Keith A. Barritt

Fish & Richardson P.C.

P.O. Box 1022

Minneapolis, MN 55440-1022

phone: (202) 783-5070

fax: (202) 783-2331

May 8, 2015

Date

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

EDGE GAMES, INC.

Petitioner,

v.

RAZER (ASIA-PACIFIC) PTE LTD,
Registrant.

Cancellation No.: 92058543

Mark: EDGE

Registration No. 4,394,393

Registered: September 3, 2013

CERTIFICATE OF SERVICE

In accordance with 37 CFR 2.111(b), the undersigned hereby certifies that on May 8, 2015, a true copy of the foregoing REGISTRANT RAZER (ASIA-PACIFIC) PTE LTD'S BRIEF IN OPPOSITION TO PETITIONER'S MOTIONS TO WITHDRAW DEFAULT ADMISSIONS AND TAKE DISCOVERY UNDER FRCP 56(d) was sent via U.S. certified mail addressed to the following correspondent of record for Edge Games, Inc.:

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



Signature

EXHIBIT 1

Keith Barritt

From: Tim <tim@edgegames.com>
Sent: Monday, March 30, 2015 1:01 PM
To: English, Christen
Cc: uspto@edgegames.com; Keith Barritt; tmdoctc; Mel Erickson
Subject: Re: Trademark Cancellation No. 92058543

Ms English

Per the Board's letter of January 30, 2015, footnote on page 2, we are contacting the Board and opposing counsel via email to schedule a mutually agreeable time for the parties and the Board to participate in a teleconference to discuss Petitioner's request for permission to file a motion to suspend proceedings pending the outcome of actions commencing through the Federal Court that are directly related to discovery in this matter. Petitioner requests the earliest convenient date for the teleconference given the tight time scale remaining in Discovery.

Kind regards,
Dr Tim Langdell
CEO Petitioner Edge Games Inc
In pro per

EXHIBIT 2

Keith Barritt

From: Tim <tim@edgegames.com>
Sent: Monday, March 30, 2015 1:36 PM
To: Keith Barritt
Subject: Re: Request for consent-TTAB 92058543 (F&R File 39771-0019PP1)

Dear Mr Barritt

Issuance of subpoenas for document production and for deposition on our licensee Velocity. We cannot complete Discovery until this process is concluded since it is essential to our document production, etc.

Kind Regards,
Dr Langdell
Edge Games Inc

Sent from my iPhone 6 with apologies for any errors due to Apple's auto-correct or my mis-typing.

On Mar 30, 2015, at 10:06 AM, Keith Barritt <barritt@fr.com> wrote:

Dear Mr. Langdell:

Please elaborate with specifics on the nature of the "actions" and why they are essential to discovery.

Sincerely,

Keith Barritt :: Principal :: Fish & Richardson P.C.
1425 K Street, N.W., Suite 1100 Washington DC 20005
+1-202-626-6433 direct :: barritt@fr.com
fr.com :: FishTMCopyrightblog.com :: Bio

-----Original Message-----

From: Tim [<mailto:tim@edgegames.com>]
Sent: Monday, March 30, 2015 1:04 PM
To: Keith Barritt
Subject: Request for consent-TTAB 92058543

Mr Barritt,

We need to file a motion to suspend proceedings while actions underway through the Federal Court take place that are essential to Discovery. Will you consent to us filing such a motion?

Kind regards,
Dr Tim Langdell
CEO Petitioner Edge Games Inc

EXHIBIT 3

Keith Barritt

From: estta-server@uspto.gov
Sent: Tuesday, March 31, 2015 8:52 AM
To: tmdoctc; Keith Barritt
Subject: ESTTA. Motion for Summary Judgment confirmation receipt ID: ESTTA663934

Cancellation No.: 92058543

Tracking No: ESTTA663934

ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS Filing Receipt

We have received your Cancellation No.: 92058543 submitted through the Trademark Trial and Appeal Board's ESTTA electronic filing system. This is the only receipt which will be sent for this paper. If the Board later determines that your submission is inappropriate and should not have been accepted through ESTTA, you will receive notification and appropriate action will be taken.

Please note:

Unless your submission fails to meet the minimum legal requirements for filing, the Board will not cancel the filing or refund any fee paid.

If you have a technical question, comment or concern about your ESTTA submission, call 571-272-8500 during business hours or e-mail at estta@uspto.gov.

The status of any Board proceeding may be checked using TTABVUE which is available at <http://ttabvue.uspto.gov>. Complete information on Board proceedings is not available through the TESS or TARR databases. Please allow a minimum of 2 business days for TTABVUE to be updated with information on your submission.

The Board will consider and take appropriate action on your filing in due course.

Printable version of your request is attached to this e-mail

ESTTA server at <http://estta.uspto.gov>

ESTTA Tracking number: ESTTA663934
Filing date: 03/31/2015

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

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Party: Defendant
Razer (Asia-Pacific) Pte Ltd.

Correspondence Address: KEITH A BARRITT

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Submission: Motion for Summary Judgment

Filer's Name: Keith Barritt
Filer's e-mail: tmdoctc@fr.com, barritt@fr.com
Signature: /Keith Barritt/
Date: 03/31/2015

Attachments: SJ motion.pdf