

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 11, 2016

Cancellation No. 92058543

Edge Games Inc.

v.

Razer (Asia-Pacific) Pte Ltd.

Christen M. English, Interlocutory Attorney:

On January 30, 2015, the Board issued an order (“Prior Order”) requiring that Petitioner obtain the Board’s approval prior to filing any further unconsented motions or papers in this proceeding. 16 TTABVUE 2. The Board specified that “[i]f 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.” *Id.* at n. 2. The Board warned that “[i]f Petitioner fails to comply with this order, further sanctions may be entered against it, including entry of judgment.” *Id.* at p. 2.

In direct contravention of the Prior Order: (1) on December 8, 2015, Petitioner filed an unconsented paper requesting sanctions against Respondent without receiving prior Board approval to do so, *see* 34 TTABVUE; and (2) on January 8,

2016, Petitioner's Chief Executive Officer¹ sent an *ex parte* email communication to the assigned interlocutory attorney requesting a telephone conference to discuss the possibility of filing a motion to compel and a motion for summary judgment.² See Exhibit A, attached. Petitioner is allowed until **THIRTY DAYS** from the mailing date of this order to show cause as to why additional sanctions, including the entry of judgment, should not be entered against it based on its failure to comply with the Prior Order and its improper *ex parte* email communication. See *Chambers v. NASCO, Inc.*, 501 U.S. 32, 50 (1991) (“[T]he court may safely rely on its inherent power [to sanction] if, in its informed discretion, neither the statutes nor the rules are up to the task.”); *Carrini Inc. v. Carla Carini S.R.L.*, 57 USPQ2d 1067, 1072 (TTAB 2000) (“Although the Board is not a court, the Board possesses the inherent authority to control the disposition of cases on its docket, which necessarily includes the inherent power to enter sanctions.”).

Proceedings otherwise remain suspended.

¹ Petitioner is appearing *pro se* in this proceeding.

² Earlier the same day, and again in violation of the Prior Order, Petitioner's Chief Executive Officer left two back-to-back voice mail messages for the assigned interlocutory attorney requesting a telephone conference to discuss the possibility of filing a motion to compel. Petitioner's Chief Executive Officer asserted that he had left the assigned interlocutory attorney a similar voice mail message in December 2015. The assigned interlocutory attorney has no record of having received any voice mail message from Petitioner in December 2015.

Exhibit A

From: Tim [mailto:tim@edgegames.com]
Sent: Friday, January 08, 2016 1:27 PM
To: English, Christen
Subject: Cancellation No 92058543 - Request to file motions to compel and for judgment

Dear Ms English

I appreciate that you asked that we make all requests to file a motion via telephone, but I did make the request some weeks ago and have not heard from you. I just left two new phone messages for you, but hope you may please be understanding that given the urgency of our request, that you consider this in writing this one time, too.

The other side (Razer) have not yet produced a single document by the valid method of production per TMBP. Our discovery requests on Razer were served on them in, I believe, August 2014, some six-seven months before, I believe, they first filed any discovery requests on us in or about February 2015.

Razer have been permitted to file a motion to compel us to produce documents whereas we have proven in the moving papers that we have already produced every document they requested of us (and we have noted that we believe the true intent of their motion was just to get an extension of time that they otherwise would not have been granted). We, however, have not been permitted to file our valid motions against Razer that would not be fair or proper to be filed and heard only after Razer's motions have been ruled on.

The Board has asked that no document be filed that is not pertinent to Razer's motions, however since Razer has never validly produced a single document to us, despite our requests being 7 months older than theirs, it would only be fair and equitable for us to be permitted to file our motion to compel their discovery production. And that the Board consider their motions along side our motion, so that the Board can see the entire true picture of discovery in this case -- rather than the extremely biased version of events Mr Barritt is trying to convince the Board of.

In particular, Mr Barritt is two-facedly trying to argue that because we have not produced documents (when in fact we have produced every document) Razer should thus be granted judgment. However, he fails to add that Razer has yet to produce any document by a valid means of production (whereas we have produced over 850 pages of documents by the method they demanded we produce them), and it is they who are in dire breach of their discovery obligations, not Edge Games. Indeed, for this reason, I believe that we have the right to ask for summary judgment in our favor, and thus I also ask for permission to file a motion for judgment against Razer, too, please. And that this motion, also, be considered along side Razer's motions, in fairness and equity

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since it is all on the exact same topic of each party's performance on and adherence to the requirements of production and discovery.

Thank you

Rev Dr Tim Langdell, MDiv PhD
CEO, Edge Games Inc
Petitioner in pro se

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