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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.
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Date	06/13/2012
Attachments	Respondents' Joint Oppositions to Edge Games Inc.'s Motion to Suspend Proceedings.pdf (8 pages)(277585 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 MOTION TO SUSPEND
PROCEEDINGS PENDING OUTCOME
OF MOTION BEFORE CIVIL COURT
(Docket Nos. 75-77)

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") Motion to Suspend Proceedings Pending Outcome of Motion Before Civil Court (Docket Nos. 75-77). Respondents request the Board to deny the motion to suspend, and proceed with entering the cancellations as set forth in the Board's Order dated March 30, 2012 (the "Order" -- Docket No. 67).

In its Order, the Board allowed Edge Games twenty days (i.e. until April 19, 2012) to file with the Board a paper stating whether it has filed a motion with the District Court seeking reconsideration, review or modification of the final judgment, and the result of the motion. The Board stated that in the event Edge Games fails to file with the Board as directed, 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 did not seek relief from the District Court within the 20 days as directed by the Board. Instead, Edge Games filed three responses that argued it was not possible or necessary to seek relief from the District Court (Docket Nos. 68, 71, 72) and also filed two motions for reconsideration of the Order (Docket Nos. 69, 70). Edge Games deliberately flaunted the Board's Order. Therefore, the Board should proceed as indicated, deny the motion to suspend, and cancel the subject registrations.

Despite claiming it was not possible, and long after its barrage of filings with the Board, Edge Games ultimately filed with the District Court a Motion Under FRCP 60(b)(4) to Confirm the Court's Final Order and Judgment Void. Edge Games' motion, however, was filed on May 25, 2012, thirty six (36) days late under the Board's Order. (See May 25, 2012 date stamp at Docket No. 77) Edge Games does not offer any reasonable excuse for its late filing. Clearly it has none. Rather than file a motion at the District Court within the timeframe directed, Edge Games filed no fewer than six briefs challenging the Board's decision (Docket Nos. 68-72, 74), and it was not until the last brief (Docket No. 74), long after the 20 day time period expired, that Edge Games capitulated and stated its intention to file a motion with the District Court.

Moreover, the motion that Edge Games ultimately filed violated the Northern District of California's rule that a corporation cannot represent itself in court and must appear through an attorney. Northern District of California Civil Local Rule 3-9(b) states that "[a] corporation, unincorporated association, partnership or other such entity may appear only through a member of the bar of this Court." Civil L.R. 3-9(b). "This regulation reflects the longstanding rule that a corporation may only appear in court through an attorney." *U.S. Commodity Futures Trading Comm'n v. Castillo*, 2007 WL 2088372, at *1 (N.D. Cal. July 19, 2007) (citing *In re Am. W. Airlines*, 40 F.3d 1058, 1059 (9th Cir. 1994)). "Non-attorneys, including a corporation's president and sole shareholder, are barred from representing a corporation." *Id.* (citing *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993)). Edge Games, Inc. is a

corporation within the meaning of Civil Local Rule 3-9(b), such that only a member of the California bar may represent it. Dr. Langdell is not a member of the bar of California or any other court. Dr. Langdell therefore may not represent Plaintiff Edge Games, Inc. in the District Court action. Accordingly, EA has moved to strike the procedurally defective motion (see Exhibit 1 hereto).

Based upon Edge Games' failure to show that it has filed a timely and procedurally proper motion as directed in the Board's Order, the Board should deny the motion to suspend and issue the cancellations of the subject registrations as indicated.

Respectfully submitted,

Dated: June 13, 2012

REED SMITH LLP

By: /s/ Robert N. Phillips
Robert N. Phillips
Attorneys for Future Publishing Limited

Dated: June 13, 2012

EA DIGITAL ILLUSIONS CE AB
ELECTRONIC ARTS, INC.

By: /s/ Vineeta Gajwani
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 MOTION TO SUSPEND PROCEEDINGS PENDING OUTCOME OF MOTION BEFORE CIVIL COURT (Docket Nos. 75-77) was served on Edge Games, Inc., by depositing same in the U.S. Mail, first class postage prepaid, this 13th day of June, 2012 to:

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

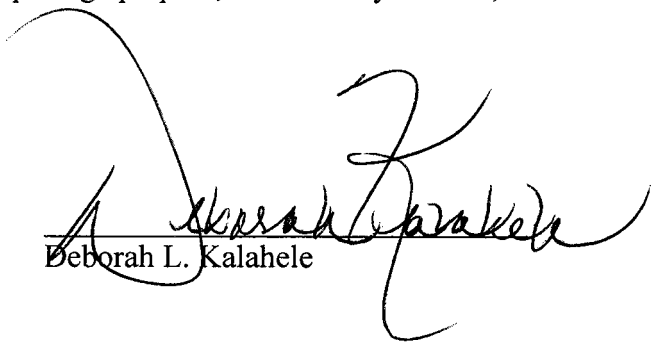

Deborah L. Kalahela

EXHIBIT A

1 KENDALL BRILL & KLIEGER LLP
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3 Los Angeles, California 90067
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4 Facsimile: 310.556.2705

5 Attorneys for Defendant and
Counterclaimant Electronic Arts Inc. and
6 Counterclaimant EA Digital Illusions CE AB

7 UNITED STATES DISTRICT COURT
8
9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

10 EDGE GAMES, INC., a California
11 corporation,

12 Plaintiff,

13 v.

14 ELECTRONIC ARTS INC., a Delaware
15 corporation,

16 Defendant.

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

19 Counterclaimants,

20 v.

21 EDGE GAMES, INC., a California
22 corporation; and THE EDGE INTERACTIVE
MEDIA, INC., a California corporation,

23 Counterdefendants.

Case No. 10-CV-2614-WHA

**NOTICE OF MOTION AND MOTION TO
STRIKE PLAINTIFF EDGE GAMES'
NOTICE OF MOTION AND MOTION
UNDER FRCP 60(b)(4) TO CONFIRM
THE COURT'S FINAL ORDER AND
JUDGMENT VOID (CIVIL L.R. 7-11)**

Hon. William Alsup

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TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT, pursuant to Civil L.R. 7-11, Defendant and Counterclaimant Electronic Arts Inc. and Counterclaimant EA Digital Illusions CE AB hereby move this Court for an order striking Plaintiff Edge Games' Notice of Motion and Motion under FRCP 60(b)(4) to Confirm the Court's Final Order and Judgment Void (Dkt. No. 81) ("Plaintiff's Rule 60 Motion").

This motion is made upon the grounds that Plaintiff's Rule 60 Motion was filed in violation of Civil Local Rule 3-9(b), which requires that "[a] corporation, unincorporated association, partnership or other such entity may appear only through a member of the bar of this Court." Civil L.R. 3-9(b).

This Motion is based on this Notice of Motion, the attached Memorandum of Points and Authorities, all of the pleadings, files, and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence that may be presented to or considered by the Court prior to its ruling.

Dated: May 30, 2012

KENDALL BRILL & KLIEGER LLP

By: /s/ Robert N. Klieger
Robert N. Klieger
Attorneys for Defendant and Counterclaimant
Electronic Arts Inc. and Counterclaimant EA
Digital Illusions CE AB

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 On May 25, 2012, Plaintiff Edge Games, Inc. filed a Notice of Motion and Motion Under
3 FRCP 60(b)(4) to Confirm the Court's Final Order and Judgment Void (Dkt. No. 81) ("Plaintiff's
4 Rule 60 Motion"). The motion was filed by "Dr. Timothy Langdell, CEO" appearing "Pro Se" on
5 behalf of Plaintiff Edge Games, Inc.

6 Civil Local Rule 3-9(b) states that "[a] corporation, unincorporated association, partnership
7 or other such entity may appear only through a member of the bar of this Court." Civil L.R. 3-
8 9(b). "This regulation reflects the longstanding rule that a corporation may only appear in court
9 through an attorney." *U.S. Commodity Futures Trading Comm'n v. Castillo*, 2007 WL 2088372,
10 at *1 (N.D. Cal. July 19, 2007) (citing *In re Am. W. Airlines*, 40 F.3d 1058, 1059 (9th Cir. 1994)).
11 "Non-attorneys, including a corporation's president and sole shareholder, are barred from
12 representing a corporation." *Id.* (citing *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245
13 (9th Cir. 1993)). This Court regularly strikes motions and other pleadings that are filed in
14 violation of Civil Local Rule 3-9(b). *See, e.g., Crosthwaite v. A Better Sacramento Valley Crane*
15 *Serv.*, 2011 WL 1740085, at *1 n.1 (N.D. Cal. May 5, 2011); *Gallup, Inc. v. Bus. Research Bureau*
16 *(PVT) Ltd.*, 2009 WL 941756, at *1 (N.D. Cal. Apr. 6, 2009); *Castillo*, 2007 WL 2088372, at *1;
17 *Lexar Media, Inc. v. Pretec Elecs. Corp.*, 2007 WL 1449749, at *1 (N.D. Cal. May 14, 2007).

18 Plaintiff Edge Games, Inc. is a corporation within the meaning of Civil Local Rule 3-9(b),
19 such that only a member of the bar of this Court may represent it. Dr. Langdell is not a member of
20 the bar of this or any other court. Dr. Langdell therefore may not represent Plaintiff Edge Games,
21 Inc. in this action, and Plaintiff's Rule 60 Motion should be stricken.

22 Dated: May 30, 2012

KENDALL BRILL & KLIEGER LLP

23
24 By: /s/ Robert N. Klieger

25 Robert N. Klieger
26 Attorneys for Defendant and Counterclaimant
27 Electronic Arts Inc. and Counterclaimant EA
28 Digital Illusions CE AB