

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLR WORLDWIDE SALES LIMITED,
Petitioner

v.

FLIP PHONE GAMES, INC.,
Patent Owner

IPR No. IPR2024-00133

Patent No. 8,688,089

**PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH
PETITIONER'S PETITION**

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner, Flip Phone Games, Inc. (“Patent Owner”) objects as follows to the admissibility of the evidence served with Petitioner’s Petition filed on November 7, 2023.

Ex. No.	Description	Objections
1004	International Patent Publication WO 2008/008038 (“Ho”)	Improper Prior Art. Ho is prior art under only pre-AIA § 102(e), which is improper for use in a petition under § 311(b). Ho was filed on July 12, 2006, but did not publish until January 17, 2008 (<i>i.e.</i> , after the June 26, 2007, priority date of the ’089 Patent), and never issued as a patent. Thus, Ho only became a “printed publication” under § 311(b) as of the date it became available to the public— <i>i.e.</i> , after the June 26, 2007, priority date of the ’089 Patent.
1008	U.S. Patent Pub. No. 2007/0174490 (“Choi”)	Improper Prior Art. Choi is prior art under only pre-AIA § 102(e), which is improper for use in a petition under § 311(b). Choi was filed on January 19, 2007, but did not publish until July 26, 2007 (<i>i.e.</i> , after the June 26, 2007, priority date of the ’089 Patent), and never issued as a patent. Thus, Choi only became a “printed publication” under § 311(b) as of the date it became available to the public— <i>i.e.</i> , after the June 26, 2007, priority date of the ’089 Patent.
1010	Steven Kent, The Ultimate History of Video Games (2001)	FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting

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		<p>time, or needlessly presenting cumulative evidence.</p> <p>FRE 802: The exhibit and statements included therein are inadmissible hearsay.</p> <p>FRE 901: Petitioners have not produced evidence sufficient to support a finding that the exhibit is what Petitioners claim it is.</p>
1011	Frans Mayra, “Mobile Games,” in the International Encyclopedia of Digital Communications and Society, 1st ed. (2015)	<p>FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence, including because the reference is not prior art to the challenged patent.</p> <p>FRE 802: The exhibit and statements included therein are inadmissible hearsay.</p> <p>FRE 901: Petitioners have not produced evidence sufficient to support a finding that the exhibit is what Petitioners claim it is.</p>
1012	N. Leavitt, “Will wireless gaming be a winner?” in Computer, Vol. 36, No. 1, pp. 24-27 (Jan. 2003)	<p>FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting</p>

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1013	Jason Soh & Bernard Tan, “Mobile Gaming,” in Communications of the ACM, Vol. 51, No. 3, pp. 35-39 (Mar. 2008)	<p>FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence, including because the reference is not prior art to the challenged patent.</p> <p>FRE 802: The exhibit and statements included therein are inadmissible hearsay.</p> <p>FRE 901: Petitioners have not produced evidence sufficient to support a finding that the exhibit is what Petitioners claim it is.</p>
1014	Michael Zyda et al., “Educating the Next Generation of Mobile Game Developers,” in IEEE Computer Graphics and Applications, Vol. 27, No. 2, pp. 92-96 (Mar./Apr. 2007)	<p>FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting</p>

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1015	<p>Mark Andrejevic, “Productive Play 2.0: The Logic of In-Game Advertising” in Media International Australia, Vol. 130, No. 1, pp. 66-76 (Feb. 2009)</p>	<p>FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence, including because the reference is not prior art to the challenged patent.</p> <p>FRE 802: The exhibit and statements included therein are inadmissible hearsay.</p> <p>FRE 901: Petitioners have not produced evidence sufficient to support a finding that the exhibit is what Petitioners claim it is.</p>
1016	<p>Ilya Vedrashko, Advertising in Computer Games (Doc. No. 123290221) [Master’s Thesis, Mass. Inst. of Technology], DSpace@MIT</p>	<p>FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting</p>

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1017	Exit Games, In-Game Advertising Goes Mobile [Press Release] (Mar. 21, 2006)	<p>FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.</p> <p>FRE 802: The exhibit and statements included therein are inadmissible hearsay.</p> <p>FRE 901: Petitioners have not produced evidence sufficient to support a finding that the exhibit is what Petitioners claim it is.</p>
1018	Jussi-Pekka Partanen, Mobile Gaming: A Framework for Evaluating the Industry 2000-2005 (2001)	<p>FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.</p>

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1019	Exemplary infringement charts for U.S. Patent No. 8,688,089 served by Patent Owner in <i>Flip Phone Games Inc. v. PLR Worldwide Sales Ltd.</i> , No. 2:23-cv-139 (E.D. Tex.)	FRE 402: The exhibit includes information that is not relevant to any ground upon which trial was instituted. FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

Dated: December 11, 2024

Respectfully submitted,

/Michael T. Morlock/

Michael T. Morlock

Reg. No. 62,245

Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH PETITIONER'S PETITION** has been served electronically via email upon the following:

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Dated: December 11, 2024

By: /Michael T. Morlock/
Michael T. Morlock
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