UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENIUS SPORTS LTD.,
Petitioner

v.

SPORTSCASTR INC.,
(D/B/A PANDA INTERACTIVE),
Patent Owner.

IPR2024-01308
U.S. Patent No. 10,425,697

PETITIONER'S REASONS FOR PARALLEL PETITIONS AND PETITION RANKING

Genius Sports LTD ("Petitioner") requests IPR of claims 1-9, 19-25, and 27-30 of U.S. Patent No. 10,425,697 ("the '697"). Ex.1006. Petitioner is filing parallel petitions separately challenging claims 1-9, 19-25, and 27-30 of U.S. Patent No. 10,805,687 ("the '687") and claims 1-30 of U.S. Patent No. 11,039,218 ("the '218").

1. REASONS WARRANTING TWO PETITIONS

PO is asserting 20 claims from the '697 in the Texas Litigation. *See* Ex.1019 at 3. The Board has recognized that in such circumstances more than one petition may be necessary. *See* Trial Practice Guide Update (July 2019). Petitioner has filed two petitions related to the '697's claims and respectfully requests that the Board institute both petitions. The Board should institute both petitions for three basic reasons. First, the claims cannot be addressed in one petition because of the number and length of the claims (which alone includes roughly 3,734 words) and because of the nature of the claims themselves. Second, each petition challenges different claims. Thus, the petitions are not duplicative and efficiently address the patentability of the '697 claims. Third, the petitions cite essentially the same art against all claims, thus minimizing the burden on the Board from instituting both petitions.

The first petition challenges 9 claims including one independent claim. The second petition challenges 11 claims including three independent claims. The Challenged Claims are directed to substantially overlapping subject matter and the

multiple petitions are only needed due to the large number and length of the Challenged Claims. *See e.g., AliveCor, Inc. v. Apple Inc.*, IPR2023-00949, paper 8 (P.T.A.B., January 9, 2024) (acknowledging that "[j]ust reproducing the [almost 1000 word] claims and claim limitations alone, as a Petitioner generally must do for purposes of appropriate analysis, accounts for a significant portion of the required 14,000 word count").

2. RANKING OF THE PETITIONS

Petitioner requests that the Board consider the petitions in the following order, although, for the reasons explained above, the Board's analysis of the claims asserted in the Texas Litigation would not be complete without considering both petitions:

Rank	Petition	Challenged Claims	Prior Art Applied in Grounds
A	IPR2024-01309	19-25 and 27-30	1. U.S. Patent Publication No. 2014/0229992 to Ellis et al. ("Ellis") 2. U.S. Patent Publication No. 2016/0036910 to Spivey ("Spivey") 3. U.S. Patent Publication No. 2015/0163379 to Herzog ("Herzog")
B	IPR2024-01308	1-9	1. U.S. Patent Publication No. 2014/0229992 to Ellis et al. ("Ellis") 2. U.S. Patent Publication No. 2016/0036910 to Spivey ("Spivey") 3. U.S. Patent Publication No. 2015/0163379 to Herzog ("Herzog")

3. CONCLUSION

Petitioner is only filing these two IPR petitions against the ’697, and has not previously filed any IPR petitions against the ’697. Petitioner is thus not abusing process, rather Petitioner is merely providing the Board with sufficient context to fully understand the nature of the challenged claims and the asserted prior art. For these reasons, the Board should institute both petitions.[1]

[1] The Administrative Procedures Act and substantive and procedural due process weigh against denying the institution of either petition under 35 U.S.C. §314(a).

Date: August 22, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

In compliance with 37 C.F.R. §§42.105, 42.6(e), the undersigned hereby certifies that a copy of the foregoing Petition and supporting exhibits were served on the 22nd day of August, 2024, via Federal Express® directed to PO at the correspondence address of record:

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A courtesy copy was also served by electronic mail on PO's counsel of record in the Texas litigation:

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