

EA's Video Game Graphics Patent Challenge Iced By PTAB

By **Nicole Narea**

Law360, New York (October 20, 2017, 5:40 PM EDT) -- The Patent Trial and Appeal Board upheld on Thursday a Terminal Reality Inc. computer graphics patent that several Electronic Arts Inc. hit video games, including "Star Wars: Battlefront," have been accused of infringing, determining that EA failed to show that the challenged claims were obvious.

The final written decision by Administrative Patent Judge Barbara Parvis asserted that EA failed to prove that the patent would have been obvious over a combination of prior art known as "Segal" and "McReynolds," as well as a well-known textbook, "Computer Graphics: Principles and Practice in C" by James Foley. Specifically, the board's opinion focused on deficiencies in EA's argument with regard to the obviousness of combining teachings of Segal to arrive at the patent's illustrative claims, a concept that undergirded its petition.

"We are not persuaded that [EA] has established how or why a person having ordinary skill in the art would have combined or modified the teachings relied upon to arrive at the subject matter recited in [the claim]," the decision states. "We determine that [EA] has not shown by a preponderance of the evidence that [the] claim would have been obvious over Segal alone or in combination with McReynolds and/or Foley."

Terminal Reality — a video game development and production company known for the titles "Nocturne," "Bloodrayne" and "Kinect Star Wars," among others — and its exclusive licensee Infernal Technology LLC filed suit against EA in September 2015 in the Eastern District of Texas. The complaint says that EA's video game graphics engine, Frostbite, infringes two Terminal Reality patents related to its own graphics engine known as the Infernal Engine.

EA employs Frostbite in video games such as "Army of Two: The Devil's Cartel," "Battlefield 3," "Battlefield 4," "Dragon Age: Inquisition," "EA PGA Tour," "Mass Effect: Andromeda," "Need for Speed Rivals," and "Star Wars: Battlefront," according to the complaint.

EA shot back by petitioning the PTAB for inter partes review of one of the patents, which covers means of rendering lighting and shadows in computer graphic simulations. EA told the board that the patent was obvious over the prior art references.

Segal describes a means of texture mapping based on viewer perspective, creating a realistic image of a 3D scene through lighting effects. McReynolds teaches the use of so-called Open Graphics Library

techniques to produce images with improved realism and utility, such as breaking up a shading process into multiple layers.

At oral arguments in July, EA asserted that a person of ordinary skill in the art would have found it obvious to combine Segal's two applications — a shadow application and a slide projector application — to arrive at a representative challenged claim of Terminal Reality's patent. EA referenced the Foley textbook to establish exactly what a person of ordinary skill in the art would understand, given that Terminal Reality countered that the skill level required to combine Segal's applications was beyond ordinary.

Yet the board disagreed with EA on Thursday, unpersuaded as to why a person of ordinary skill in the art would think to combine Segal's applications. It also found that EA had not adequately explained why Foley would bridge that gap in understanding by teaching conventional methods to render a scene.

With regard to McReynolds, the board said that EA had referenced its teaching of "using a separate accumulation buffer for accumulating light," but had offered no "argument, explanation, or evidence relating to McReynolds in the petition or the reply that remedies the deficiencies regarding [its] proposed combination of Segal's teachings."

"We appreciate the board considering our arguments and are pleased with their decision," Pat Heptig, a representative for Infernal Technology, told Law360 on Friday. "We will continue to move forward in defending our IP rights."

Counsel for the parties did not immediately respond to requests for comment Friday.

The patent-in-suit is U.S. Patent Number 7,061,488.

Administrative Patent Judges Bryan F. Moore, Barbara A. Parvis and Daniel N. Fishman sat on the panel for the board.

EA is represented by Winslow Taub and Gregory S. Discher of Covington & Burling LLP.

Terminal Reality and Infernal Technology are represented by Lori A. Gordon and Tyler J. Dutton of Sterne Kessler Goldstein & Fox PLLC.

The case is Electronic Arts Inc. et al. v. Terminal Reality Inc., case numbers IPR2016-00929 and IPR2016-00930, before the Patent Trial and Appeal Board.

--Editing by Adam LoBelia.