

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GREE, INC.,	§	Case No.:
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
SUPERCELL OY,	§	
	§	
Defendant.	§	

COMPLAINT

Plaintiff GREE, Inc., (“GREE” or “Plaintiff”) files this Complaint against Supercell Oy (“Supercell” or “Defendant”). In this Complaint, GREE asserts U.S. Patent No. 9,597,594 against Supercell’s “Clash of Clans” game. GREE alleges as follows:

PARTIES

1. Plaintiff GREE is a corporation organized under the laws of Japan with a principal place of business at 6-10-1, Roppongi, Roppongi Hills Mori Tower Minato-Ku, Tokyo, Japan.
2. On information and belief Defendant Supercell is a corporation organized under the laws of Finland, with a principal place of business at Itämerenkatu 11-13, Helsinki, Uusimaa, 00180, Finland.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Supercell because it has, directly or through agents and/or intermediaries, committed acts within Texas, including within this District, giving rise to this action and/or has established minimum contacts with Texas and this District such that the exercise of jurisdiction would not offend traditional notions of fair play and justice.

5. On information and belief, Supercell regularly conducts business in Texas, including this District, and purposefully avails itself of the privileges of conducting business in Texas. In particular, on information and belief, Supercell, directly and/or through its agents and/or intermediaries, makes, uses, imports, offers for sale, sells, and/or advertises its products and affiliated services in Texas, including this District. Defendants have placed, and continue to place, infringing products into the stream of commerce, via an established distribution channel, with the knowledge and/or understanding that such products are sold in the United States including in Texas and specifically including this District.

6. Alternatively, and/or in addition, this Court has jurisdiction over Supercell under Federal Rule of Civil Procedure 4(k)(2). This action arises from actions of Supercell directed toward the United States, including (1) committing at least a portion of the infringing acts alleged herein and (2) regularly transacting business, soliciting business, and deriving revenue from the sale of goods and services, including infringing goods and services, to individuals in the United States. Therefore, Supercell has purposefully availed itself of the benefits of the United States, including the Eastern District of Texas, and the exercise of jurisdiction over Supercell would not offend traditional notions of fair play and substantial justice.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(c), as Supercell is not a resident of the United States.

GREE AND THE ASSERTED PATENT

8. GREE is a global social media company that provides mobile content and services, including games, entertainment, media, advertising, and investment services.

9. Originally founded in 2004, GREE has long sought to develop and create innovative solutions in gaming and social networking. GREE has sought to protect its investments in innovation by obtaining patent protection. GREE currently hold patents covering various improvements in digital and gaming technology in countries throughout the world, including the United States.

10. GREE is the owner by assignment of all right, title, and interest in and to United States Patent No. 9,597,594 (“the ’594 patent”) entitled “Computer control method, control program and computer” which duly and legally issued on March 21, 2017. A true and correct copy of the ’594 patent is attached to this Complaint as Exhibit A.

11. The ’594 patent describes and claims innovative systems and methods for controlling computer-implemented “‘city-building games’ [] wherein a player builds a city within a virtual space,” also referred to as a game space. Ex. A at 1:27-30. The specification explains that in conventional computer city-building games, the particular arrangement of items such as “protective walls, buildings that are subject to an attack, protecting Soldiers, weapons, etc.” are vitally important to success. *Id.* at 1:42-50. The specification further explains that “since the items (game contents) of a city of a player increase as the city develops, it is very complicated for a player to change positions, types, levels, etc., of individual items” within the city. *See* Ex. B at 1:22-25, 1:50-53. As a result, players of these conventional city-building games often “limited themselves to change only certain kinds of items, such as soldiers and weapons, for which changing positions, types, levels, etc., is easy,” making the games

“monotonous.” *Id.* at 1:55-60.

12. To solve this problem, the '594 patent proposes innovative systems and methods of storing templates that define positions of game contents such that “[w]hen a template is applied, facilities arranged within the game space are automatically changed to the facilities defined in the template, and they are automatically moved to the defined positions.” *Id.* at 4:34-38.

13. The claims of the '594 patent cannot be performed without a computer. The claims solve a problem that is specific to computer implemented city-building games: “since the items (game contents) of a city of a player increase as the city develops, it is very complicated for a player to change positions, types, levels, etc., of individual items.” Ex. 1001, 1:50-53. The '594 patent’s solution of providing a template that stores the placement of the game items and simultaneously rearranges multiple game contents with a single command is an improvement in computer-specific technology that cannot be implemented outside of the context of a computer-implemented city-building game.

14. The use of templates in city-building games was not routine, well-understood, or conventional in the art of city-building games at the time of the invention of the '594 patent. The claimed system and method for using a template defining positions of multiple game contents and simultaneously rearranging a number of game items to conform to those positions represented a significant advance over conventional city-building computer games that “improve[s] the usability of city building games and continuously attract[s] players to the game.” *Id.* at 1:64-65.

15. These improvements over prior art and conventional gaming devices, systems, and methods represent meaningful limitations and/or inventive concepts. Further, in view of

these specific improvements, the inventions of the asserted claims, when such claims are viewed as a whole and in ordered combination, are not routine, well-understood, conventional, generic, existing, commonly used, well-known, previously known, or typical.

16. On January 2, 2019, in a Final Written Decision in PGR2018-00008, the Patent Trial and Appeal Board affirmed the subject matter eligibility and patentability of claims 2-7 and claim 9 of the '594 Patent.

GENERAL ALLEGATIONS

17. Defendant Supercell makes, uses, sells, offers for sale, and/or imports into the United States gaming systems, software, or methods for controlling games in which users do battle, including Clash of Clans.

18. Clash of Clans operates on computers and mobile devices, including those with iOS and Android operating systems.

19. Defendant Supercell operates, places into service, or otherwise controls a plurality of servers worldwide, including in the United States, on which Supercell operates, and its customers and other users use, software related to Clash of Clans and on which Supercell stores user data associated with the product.

20. Clash of Clans has millions of registered users worldwide, including in the United States and Texas.

21. On September 12, 2016, GREE sent a letter to Supercell specifically identifying the application that resulted in the '594 patent. Supercell has been on notice of the '594 patent and/or has been willfully blind to its existence since its issuance date.

22. Additionally and/or in the alternative, on information and belief, Supercell has had knowledge of the '594 patent and/or has been willfully blind to its existence since at least

May 18, 2017 or shortly thereafter, when GREE filed a complaint against Supercell for infringement of JP5953448, the Japanese counterpart of the '594 patent in Civil Department 46 of the Tokyo District Court. Supercell answered that complaint on June 28, 2017.

23. Additionally and/or alternatively, Supercell has had knowledge of the '594 patent at least since November 7, 2017, when it filed a petition for post-grant review of the '594 patent, PGR2018-00008.

COUNT I—Infringement of the '594 Patent

24. GREE realleges and incorporates by reference each and every allegation contained in the paragraphs above as if fully set forth herein.

25. Supercell directly infringes at least representative claim 2 of the '594 patent by, without authority, making, using, importing, selling, or offering to sell Clash of Clans in the United States, in violation of 35 U.S.C. § 271(a). For example, claim 2 of the '594 patent depends on claim 1, which recites:

[preamble] A method for controlling a computer that is provided with a storage unit configured to store game contents arranged within a game space, first positions of the game contents within the game space, and a template defining second positions of one or more of the game contents, and that progresses a game by arranging the game contents within the game space based on a command by a player, the method comprising:

[a] when the template is applied to a predetermined area within the game space based on the command by the player,

[b] moving, by the computer, the game contents arranged at the first positions within the game space to the second positions of the game contents defined by the template within the predetermined area.

26. Claim 2 of the '594 patent recites:

2. [preamble] The method according to claim 1,

[a] wherein the storage unit further stores a template related to a different player, and

[b] when the template related to the different player is applied to a predetermined area within the game space based on the command by the player, the computer moves the game contents arranged at the first positions within the game space to the second positions of the game contents defined by the template related to the different player.

27. To the extent the preamble is found to be limiting, Clash of Clans satisfies the preamble of claim 1. Clash of Clans controls a computer that is provided with a storage unit. Clash of Clans runs on computers such as handheld devices with Android and iOS operating systems. *See, e.g.*, <https://itunes.apple.com/us/app/clash-of-clans/id529479190?mt=8>; https://play.google.com/store/apps/details?id=com.supercell.clashofclans&hl=en_US. The computers are equipped with local memory and local data storage and the user. When Clash of Clans is active on such a computer, Clash of Clans controls the computer by manipulating information displayed on the screen, sounds produced by the computer, information being sent and received to a remote server, and by moving information in and out of local memory and local data storage on the computer.

28. Clash of Clans further satisfies the preamble because it is configured to store: (1) game contents arranged within a game space, (2) first positions of the game contents within the game space, and (3) a template defining second positions of one or more of the game contents, as illustrated in Figure 1 below.

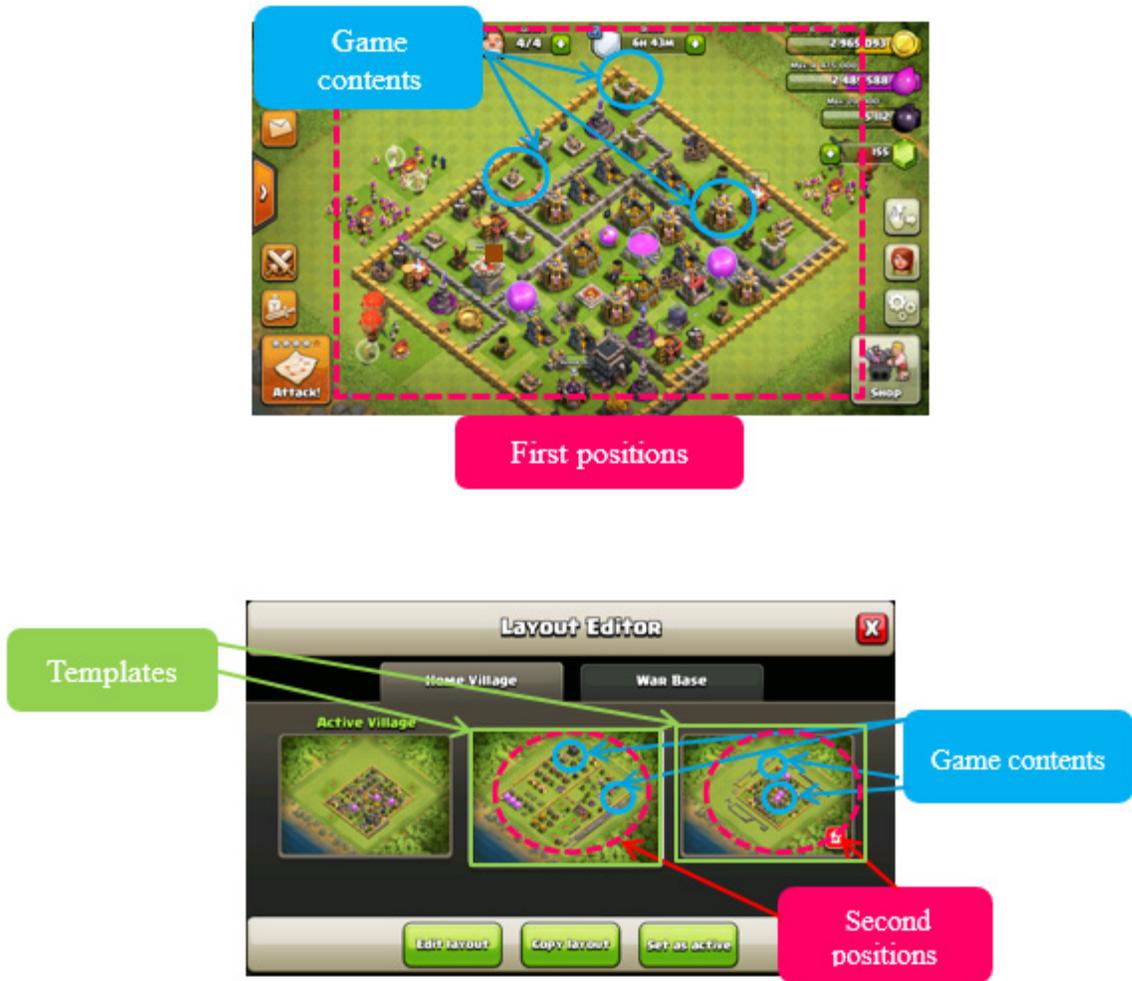


Figure 1: Illustrating elements of Claim 1

29. Clash of Clans further satisfies the preamble and elements [1a] and [1b] because a player can use the Clash of Clans layout editor to apply a template to a predetermined area, which causes the game contents arranged at the first positions within the game space to change to the second positions of the game contents defined by the template, causing the game to progress by this arrangement of game contents, as illustrated in Figure 2, below.

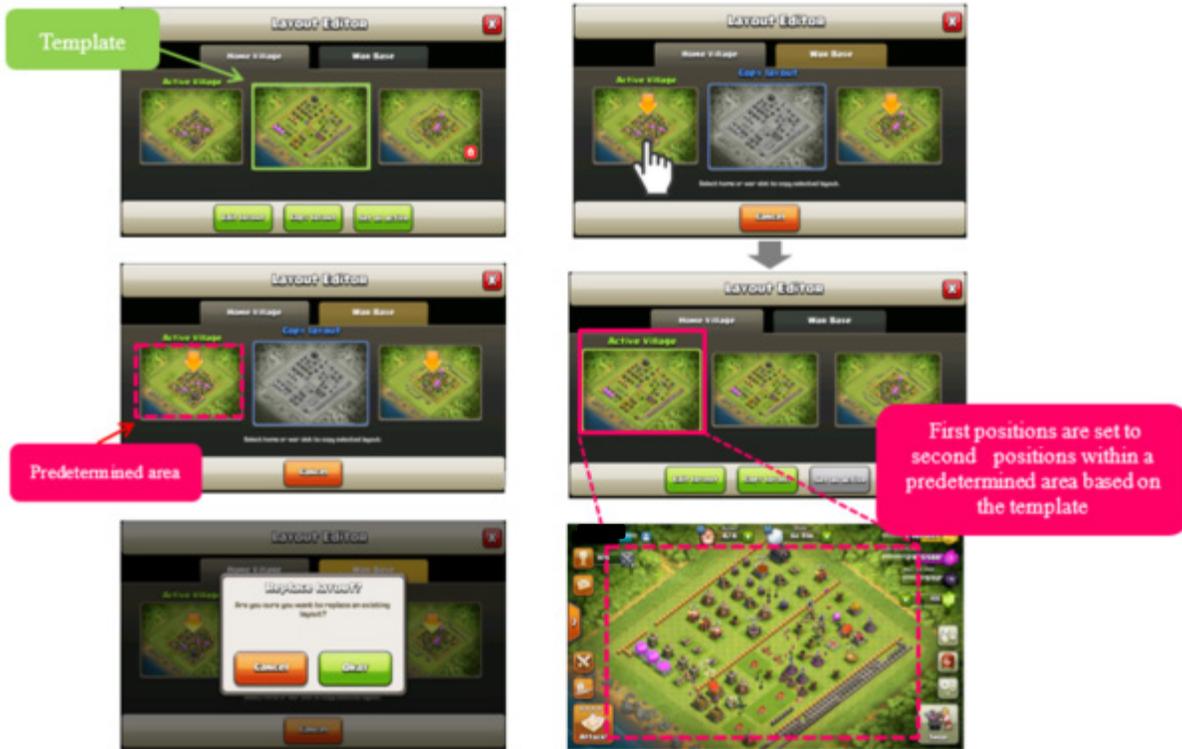


Figure 2: Illustrating application of a template to the predetermined area of Claim 1

30. Adding on to Claim 1, element [2a] of Claim 2 requires “the storage unit further stores a template related to a different player.” Clash of Clans satisfies claim element [2a] because it allows the copying of a template of another player into the layout editor of the first player, which then displays the village edit mode as illustrated in Figure 3, below.

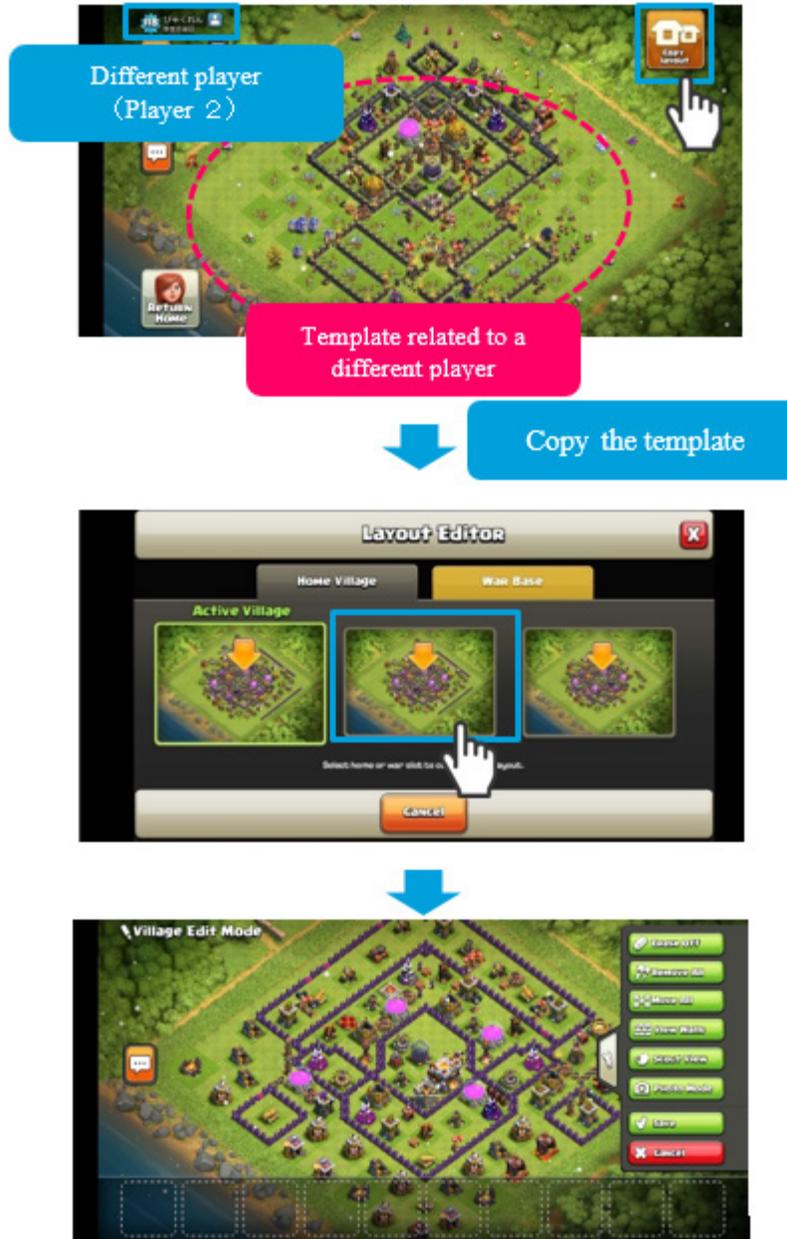


Figure 3: Illustrating copying of the template of another player as in Claim element 2a

31. After copying the template of another player, Clash of Clans puts the user into “Village Edit Mode” as shown in Figure 3, above. Once the user is in Village Edit Mode, when the user presses the “Save” button, the user stores the template of the other player as the user’s own template, as shown in Figure 4, below.

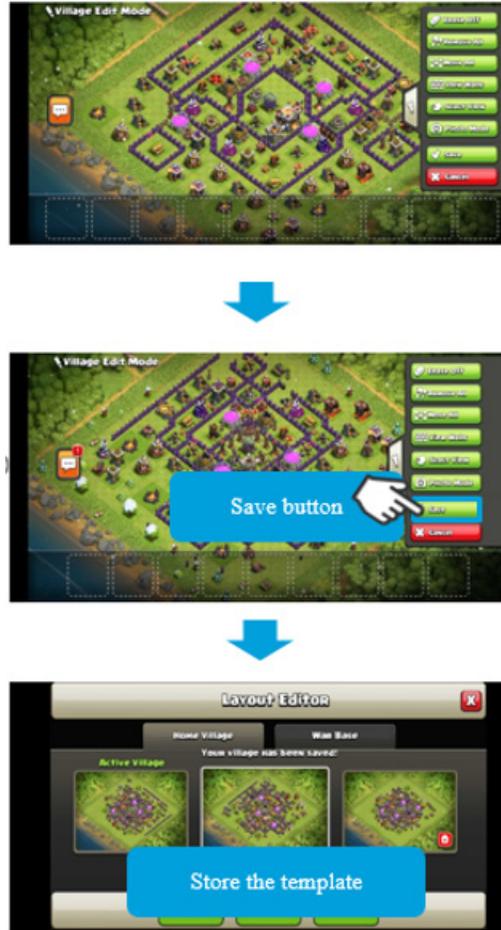


Figure 4: Illustrating storing of the template of another player as in Claim element 2a

32. Clash of Clans satisfies claim element [2b] when a user then applies the template related to the different player to a predetermined area within the game space based on the command by the player, as previously illustrated in Figure 2 with the user's own template. The functionality illustrated in Figure 2 is equally applicable to the a user using a template related to a different player as it is to a user using one of his/her own templates, with the computer moving the game contents arranged at the first positions within the game space to the second positions of the game contents defined by the template related to the different player, as illustrated in Figure 2.

33. The methods described in claims 1 and 2 of the '594 patent are further illustrated

by videos and information websites on editing layouts using templates in Clash of Clans (for example: <https://supercell.helpshift.com/a/clash-of-clans/?p=web&s=getting-started&f=what-is-the-layout-editor>). The methods described in claims 1 and 2 of the '594 patent are taught by Supercell through its online help website: <https://supercell.helpshift.com/a/clash-of-clans/?p=web&l=en&s=latest-update&f=how-can-i-copy-a-clan-mate-s-layout>.

34. Defendant Supercell indirectly infringes one or more claims of the '594 patent within the United States by inducement under 35 U.S.C. § 271(b). For example, since learning of the '594 patent and by failing to cease offering Clash of Clans, Defendant Supercell has knowingly and intentionally induced Clash of Clans users to directly infringe at least claim 2 of the '594 patent, *inter alia*, by (1) providing instructions or information, for example on publicly available websites (*see, e.g.*, <https://supercell.helpshift.com/a/clash-of-clans/?s=getting-started&f=introducing-the-multi-layout-village-editor&p=web>), to explain how to use the Clash of Clans application in an infringing manner, including the use of the Clash of Clans application in manners described in the foregoing paragraphs, which are expressly incorporated herein and (2) touting these infringing uses of Clash of Clans in advertisements including but not limited to those on their websites and other mobile app marketplace websites.

35. Defendant Supercell indirectly infringes the '594 patent by contributing to the direct infringement of end users under 35 U.S.C. § 271(c) by providing the Clash of Clans application, which, as evidenced by Defendant Supercell's websites and advertisements (*see, e.g.*, <https://supercell.helpshift.com/a/clash-of-clans/?s=getting-started&f=introducing-the-multi-layout-village-editor&p=web>), is especially made for use in a manner infringing one or more claims of the '594 patent as described herein and has no substantial non-infringing uses.

36. GREE has been and continues to be injured by Defendant Supercell's

infringement of the '594 patent. GREE is entitled to recover damages adequate to compensate it for Defendant Supercell's infringing activities in an amount to be determined at trial but in no event less than a reasonable royalty.

37. Unless enjoined by this Court, Defendant Supercell's acts of infringement will continue to damage GREE irreparably.

38. Defendant Supercell's infringement of the '594 patent has been willful and deliberate. Defendant Supercell has known of the '594 patent and its infringement thereof and continued its unlawful actions nevertheless. GREE is therefore entitled to increased damages under 35 U.S.C. § 284 and attorneys' fees and costs under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, GREE prays for relief in its favor, as follows:

- A. Enter a judgment that Defendant Supercell has infringed the Patent-in- Suit.
- B. Grant a permanent injunction restraining and enjoining Defendant and its officers, directors, agents, servants, employees, successors, assigns, parents, subsidiaries, affiliated or related companies, and attorneys from directly or indirectly infringing the Patent-in-Suit;
- C. A declaration that the case is exceptional and correspondingly award GREE attorney fees and costs under 35 U.S.C. § 285;
- D. Award enhanced damages and prejudgment interest to GREE under 35 U.S.C. § 284;
- E. Grant such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

GREE hereby demands a jury trial on all issues appropriately triable by a jury.

DATED: February 28, 2019

Respectfully submitted,

GILLAM & SMITH, LLP

By: /s/ Harry L. Gillam

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