

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-228 (RGA)
)	
ACTIVISION BLIZZARD, INC.)	
)	
Defendant.)	
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ACCELERATION BAY LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-282 (RGA)
)	
ELECTRONIC ARTS INC.,)	
)	
Defendant.)	
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ACCELERATION BAY LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-311 (RGA)
)	
TAKE-TWO INTERACTIVE SOFTWARE,)	
INC., ROCKSTAR GAMES, INC. and)	
2K SPORTS, INC.,)	
)	
Defendants.)	

NOTICE REGARDING INTER PARTES REVIEWS

This notice is to update the Court as to the status of various *inter partes* reviews as it relates to all of the asserted patents in the above captioned cases: U.S. Pat. Nos. 6,701,344, 6,714,966, 6,829,634, 6,732,147, 6,910,069, and 6,920,497.

SUMMARY

As explained below, *inter partes* reviews were instituted or are pending as to all of the asserted claims, with the exception of claims 13-15 of the '344 and '966 patents, which the Patent Trial and Appeal Board (“the Board”) was “unable to construe.” Thus, of the 33 claims collectively asserted against all of the Defendants (32 Asserted Claims per Defendant):

- **Instituted:** 14 of the Asserted Claims are subject to *inter partes* review proceedings that were filed in 2015 and were recently instituted;
- **Filed but not yet instituted:** 15 of the Asserted Claims are challenged in *inter partes* review petitions that were filed in March 2016; and
- **Not instituted:** 4 of the Asserted Claims were challenged but the Board declined to institute because the PTAB was “unable to construe” these claims.

STATUS OF PROCEEDINGS

Recently, the Board instituted trial on six petitions relating to the '344, '966, and '634 patents. The following table summarizes the Board’s decision on these six petitions:

IPR Number	Patent Number	Instituted Grounds
IPR2015-01951	6,714,966	Claims 1–7 and 16 as anticipated under 35 U.S.C. § 102(a) by Lin; Claims 6–11 and 17 as obvious under 35 U.S.C. § 103(a) over Lin; and Claim 12 as obvious under 35 U.S.C. § 103(a) over DirectPlay and Lin.
IPR2015-01953	6,714,966	Claims 1–7, 11 and 16 as anticipated under 35 U.S.C. § 102(a) by Shoubridge; and Claims 6–10 and 17 as obvious under 35 U.S.C. § 103(a) over Shoubridge.
IPR2015-01970	6,701,344	Claims 1–12 and 16-19 as obvious under 35 U.S.C. § 103(a) over DirectPlay and Lin; and

IPR Number	Patent Number	Instituted Grounds
		Claims 1-11 and 16-19 as obvious under 35 U.S.C. § 103(a) over Lin.
IPR2015-01972	6,701,344	Claims 1-11 and 16-19 as obvious under 35 U.S.C. § 103(a) over Shoubridge.
IPR2015-01964	6,829,634	Claims 10, 15, and 18 as anticipated under 35 U.S.C. § 102(a) by Lin; and Claims 1-18 as obvious under 35 U.S.C. § 103(a) over Lin.
IPR2015-01996	6,829,634	Claims 10, 11, 15, and 18 as anticipated under 35 U.S.C. § 102(b) by Shoubridge; and Claims 1-18 as obvious under 35 U.S.C. § 103(a) over Shoubridge.

Last month, March 2016, *inter partes* review petitions were filed as to the '634, '147, '069, and '497 patents; the following table summarizes the *inter partes* review petitions which are currently pending:

IPR Number	Patent Number	Reasoning
IPR2016-00724	6,920,497	Claims 1, 3-5, 7-9, and 16 are invalid under § 103(a) as obvious
IPR2016-00726	6,910,069	Claims 1-17 are invalid under § 103(a) as obvious
IPR2016-00727	6,829,634	Claims 19-24 are invalid under § 103(a) as obvious
IPR2016-00747	6,732,147	Claims 1-16 are invalid under § 103(a) as obvious

On March 25, 2016, Plaintiff served its preliminary election of asserted claims pursuant to the scheduling order. The following table summarizes Plaintiff's election of asserted claims:

Asserted Patent	As to Activision	As to EA	As to Take Two
6,701,344	1, 6-8, 10, 13-15, and 18	1, 6-8, 10, 13-15, and 18	1, 6-8, 13-15, and 18
6,829,634	1, 4, 5, 19, and 22	1, 4, 5, 19, and 22	1, 4, 5, 6, 19, and 22

Asserted Patent	As to Activision	As to EA	As to Take Two
6,732,147	1, 11, 14, 15, and 16	1, 11, 14, 15, and 16	1, 11, 14, 15, and 16
6,714,966	1, 7, 9, 12, and 13	1, 7, 9, 12, and 13	1, 7, 9, 12, and 13
6,920,497	1, 8, 9, and 16	1, 8, 9, and 16	1, 8, 9, and 16
6,910,069	1, 11, 12, and 13	1, 11, 12, and 13	1, 11, 12, and 13

Therefore, as summarized in the following table, there are *inter partes* reviews either instituted or pending as to all of the asserted claims, with the exception of claims 13-15 of the '344 patent and claim 13 of the '966 patent:¹

Asserted Patent	Asserted Claims Subject to Instituted IPRs	Remaining Asserted Claims Subject to Pending IPRs
6,701,344	All asserted claims, with the exception of claims 13-15 ²	N/A
6,829,634	1, 4, 5, and 6	19 and 22
6,732,147	N/A	All asserted claims
6,714,966	All asserted claims, with the exception of claim 13 ³	N/A

¹ The Board stated the following when it decided not to institute trial for claims 13-15 of the '344 and '966 patents:

For these reasons, the parties have not sufficiently identified a structure corresponding to the function recited in claim 13 or a corresponding algorithm as required for such a computer-implemented function. Thus, we are unable to construe claim 13, and dependent claims 14 and 15, for purposes of this Decision. *See In re Aoyama*, 656 F.3d 1293, 1298 (Fed. Cir. 2011) (quoting *Enzo Biochem, Inc. v. Applera Corp.*, 599 F.3d 1325, 1332 (Fed. Cir. 2010) (“If a claim is indefinite, the claim, by definition, cannot be construed.”)).

Decision, Paper 8 at 10, IPR2015-01953 (as to the '966 patent); *see also* Decision, Paper 8 at 10, IPR2015-01972 (stating the same as to the '344 patent).

² *See* Footnote 1.

³ *See* Footnote 1.

Asserted Patent	Asserted Claims Subject to Instituted IPRs	Remaining Asserted Claims Subject to Pending IPRs
6,920,497	N/A	All asserted claims
6,910,069	N/A	All asserted claims

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