

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ACCELERATION BAY LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 16-453 (RGA)
	)	
ACTIVISION BLIZZARD, INC.,	)	
	)	
Defendant.	)	
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ACCELERATION BAY LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 16-454 (RGA)
	)	
ELECTRONIC ARTS INC.,	)	
	)	
Defendant.	)	
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ACCELERATION BAY LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 16-455 (RGA)
	)	
TAKE-TWO INTERACTIVE SOFTWARE,	)	
INC., ROCKSTAR GAMES, INC. and	)	
2K SPORTS, INC.,	)	
	)	
Defendants.	)	

**DECLARATION OF MICHAEL GOODRICH, Ph.D. IN SUPPORT OF  
PLAINTIFF ACCELERATION BAY LLC'S ANSWERING BRIEF  
IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS  
REGARDING U.S. PATENT NOS. 6,701,344, 6,714,966 AND 6,829,634**

I, Michael Goodrich, Ph.D., declare as follows:

1. I have been asked by Plaintiff Acceleration Bay LLC (“Acceleration Bay”) to testify as an expert witness in the above referenced actions. As part of my work in these actions and in support of Acceleration Bay’s Opposition to Defendants Activision Blizzard, Inc., Electronic Arts Inc. and Take-Two Interactive Software, Inc. (collectively, “Defendants”) Motion to Dismiss Regarding U.S. Patent Nos. 6,701,344, 6,714,966 and 6,829,634 (“Motion”), I have been asked by Acceleration Bay to offer an opinion as to whether Acceleration Bay’s U.S. Patent Nos. 6,701,344 (“344 Patent”), 6,714,966 (“966 Patent”) and 6,829,634 (“634 Patent”) (collectively, the “Asserted Patents”) meet the requirements for patent eligibility under 35 U.S.C. § 101. It is my opinion that they do.

## **I. EXPERIENCE AND QUALIFICATIONS**

### **A. Curriculum Vitae**

2. I received a Bachelor of Arts (“BA”) degree in Mathematics and Computer Science from Calvin College in 1983 and a PhD in Computer Sciences from Purdue University in 1987.

3. I am a Chancellor’s Professor in the Department of Computer Science at the University of California, Irvine, where I have been a faculty member since 2001. The Chancellor’s Professor title at University of California, Irvine is designed for persons who have earned the title of Professor and who have demonstrated unusual academic merit and whose continued promise for scholarly achievement is unusually high. In addition, I am Technical Director for the Center for Algorithms and Theory of Computation in the Donald Bren School of Information and Computer Sciences at University of California, Irvine. I was a professor in the Department of Computer Science at Johns Hopkins University from 1987-2001.

4. I have authored or coauthored over 300 publications, including several widely adopted books, such as *Introduction to Computer Security* and *Algorithm Design and Applications*. My research includes contributions to data structures and algorithms, information security and privacy, networking, graph algorithms, computational geometry, distributed and parallel algorithms, and cloud security. My research is supported by grants from the Defense Advanced Research Projects Agency (DARPA) and the National Science Foundation (NSF).

5. In addition, I have consulting experience in matters involving algorithms, cryptography, machine learning, digital rights management, computer security, networking, software, and storage technologies.

6. I am an ACM Distinguished Scientist, a Fellow of the American Association for the Advancement of Science (AAAS), a Fulbright Scholar, a Fellow of the Institute of Electrical and Electronics Engineers (IEEE), and a Fellow of the Association for Computing Machinery (ACM). I am also a recipient of the IEEE Computer Society Technical Achievement Award and the Pond Award for Excellence in Undergraduate Teaching.

7. Attached hereto as Exhibit A to this Declaration is a true and correct copy of my curriculum vitae.

## **II. MATERIALS CONSIDERED**

8. My opinions, expressed herein, are based on information I have reviewed to date including the materials and exhibits referenced in this Declaration, and are based on my knowledge and experience in the fields of computer and network security and network optimization. I reserve the right to amend or supplement information included in this Declaration, as appropriate, after considering the opinions set forth in any declarations or reports

submitted by the retained experts of Defendants or any additional information produced by Defendants after the date of this Declaration.

9. In the process of forming my opinions, I have reviewed and considered various documents and items including, but not limited to: the Asserted Patents, the file histories of the Asserted Patents and Defendants' Motion, along with its exhibits.

### **III. SUMMARY OF OPINIONS**

10. I have been asked by counsel for Acceleration Bay to consider if all of the claims of the '344 and '966 Patents and claims 1-18 of the '634 Patent (together, the "Broadcast Claims"<sup>1</sup>) meet the requirements for Patent Eligibility under 35 U.S.C. § 101. Specifically, I was asked to respond to several technical arguments made by Defendants in their Motion. After reviewing Defendants' Motion and the Broadcast Claims, it is my opinion that the Broadcast Claims meet the requirements for Patent Eligibility under 35 U.S.C. § 101 and that Defendants' arguments are technically unsound.

11. Defendants' Motion takes isolated words from the Broadcast Claims out of context, rather than reviewing the claims in their entirety, overgeneralizing the claims and ignoring the actual limitations. In essence, they are modifying the claim language to derive incorrect conclusions about the Broadcast Claims. It is my opinion that the Broadcast Claims present a concrete solution to a technical problem in the computer field and clearly provide an improvement in the distribution of data in computer networks between large numbers of geographically dispersed participants.

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<sup>1</sup> I understand that Defendants refer to the claims as the "Broadcast Claims." For consistency, I utilize the same terminology here. However, there are important differences between the various Broadcast Claims, as I discuss in this Declaration.

#### **IV. LEGAL STANDARDS**

12. Counsel for Acceleration Bay have informed me of the following legal standards that I have used as a framework in forming my opinion contained here.

##### **A. Patent Eligible Subject Matter**

13. I have been informed and I understand that patent law requires that claimed subject matter must cover a process, machine, manufacture, or composition of matter, or any new and useful improvement thereof. I have also been advised and understand that Supreme Court jurisprudence recognizes three exceptions that are not patentable: laws of nature, natural phenomena, and abstract ideas. I understand that abstract ideas, as defined in patent law, include fundamental, longstanding economic practices within the industry.

14. In analyzing subject matter eligibility, I have been informed and understand that the inquiry is assessed using a two-part test. First, one asks if the claim is “directed to” an abstract idea. Second, if the claim is directed to an abstract idea, then the question becomes whether the claims recite “significantly more” than the abstract idea.

15. I have been informed and understand that the Supreme Court has identified a number of considerations for determining whether a claim amounts to significantly more than an abstract idea. For example, I have been informed that claims that recite improvements to another technology or technical field, that add a specific limitation other than what is well understood, routine and conventional in the field, or that add unconventional steps that confine the claim to a particular useful application may be patent eligible. Patent claims are not abstract if they are directed to an actual and concretely defined solution to a problem, rather than effectively covering a problem-to-be-solved, thereby avoiding broadly preempting a field.

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