1   UNITED STATES DISTRICT COURT

2   FOR THE DISTRICT OF DELAWARE

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4   ACCELERATION BAY LLC,   :   CA NO. 16-453-RGA

5   :   16-454-RGA,

6   Plaintiff,   :   16-455-RGA

7   :

8   v.   :   November 11, 2017

9   :

10   ACTIVISION BLIZZARD, INC.,   :

11   et al.,   :

12   :

13   Defendants,   :   9:02 o'clock a.m.

14   ....:

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17   TRANSCRIPT OF MARKMAN HEARING

18   BEFORE THE HONORABLE RICHARD G. ANDREWS

19   UNITED STATES DISTRICT JUDGE

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22   APPEARANCES:

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24   For Plaintiff: POTTER, ANDERSON & CORROON

25   BY: PHILIP A. ROVNER, ESQ

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 1                               -and-

 2                     KRAMER LEVIN NAFTALIS & FRANKEL

 3                     BY:  JAMES R. HANNAH, ESQ

 4                     BY:  AARON M. FRANKEL, ESQ

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 6

 7     For Defendants:    MORRIS NICHOLS ARSHT & TUNNELL

 8                     BY:  JACK B. BLUMENFELD, ESQ

 9                               -and-

10                     WINSTON & STRAWN LLPO

11                     BY:  MICHAEL A. TOMASULO, ESQ

12                     BY:  MICHAEL M. MURRAY, ESQ

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14     Also Present:     Omer Salik  - Representative for Activision

15                       Linda Zabnskie - Representative for Take-Two

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24     Court Reporter:        LEONARD A. DIBBS

25                            Official Court Reporter
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1   P R O C E E D I N G S

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3   (The proceedings occurred at 9:02 o'clock a.m. as

4   follows:)

09:02:53   5   THE COURT: Good morning, everyone. Please be seated.

6   This is the time set for the Markman Hearing in

7   Acceleration Bay v. Activision Blizzard, Civil Action No. 16-453

8   and two other related cases.

9   Mr. Rovner, good morning.

09:03:13   10   MR. ROVNER: Good morning, your Honor.

11   Phil Rovner from Potter, Anderson & Corroon for

12   plaintiff Acceleration Bay.

13   With me today from Kramer Levin is John Hannah.

14   Mr. HANNAH: Good morning, your Honor.

09:03:24   15   MR. ROVNER: And Aaron Frankel.

16   MR. FRANKEL: Good morning, your Honor.

17   THE COURT: Thank you, Mr. Rovner.

18   Mr. Blumenfeld?

19   MR. BLUMENFELD: Good morning, your Honor.

09:03:34   20   Jack Blumenfeld from Morris Nichols for all of the

21   defendants.

22   With me at counsel table is Mike Tomasulo and Mike

23   Murray both from Winston & Strawn.

24   In the first row is Omer Salik from Activision, and in

09:03:46   25   the second row behind him is Linda Zabnskie from Take-Two.

1   THE COURT: Good morning to you all, also.

2   All right.

3   So, I assume we're ready to start here, and presumably

4   we'll start with the plaintiff?

09:04:00   5   MR. HANNAH: Yes, your Honor.

6   I talked with the other side and it sounds like we're

7   going to start with Term 30. We think that's a good place to

8   start and that is in your Honor's order.

9   So, we'll present first on that term. And then

09:04:12   10   defendants will present first on terms that they choose. I

11   believe they are going to choose 38 to 48, the wherein clauses.

12   And then we'll proceed in order starting from 27, and then

13   present first, and we'll just go in numerical order from there.

14   THE COURT: Okay.

09:04:28   15   MR. HANNAH: So, for my colleague here, we're going to

16   kind of split up the terms, and he's going to start with Term

17   34.

18   THE COURT: Okay. That's fine.

19   Mr. Frankel, good morning.

09:04:40   20   MR. FRANKEL: Good morning, your Honor.

21   Before we get to Term 30, I wanted to advise the Court

22   that for Term 34, which is included in the Phase 1 briefing, the

23   parties did stipulate to plain and ordinary meaning.

24   THE COURT: Oh, okay.

09:04:55   25   MR. FRANKEL: You can cross one off the list.

1   THE COURT: All right.

2   Well, I will do that right now.

3   Okay. That's good.

4   Hold on just a moment, though. I'm curious to see what

09:05:04   5   I was going to do.

6   (Pause)

7   Okay. Go ahead.

8   MR. HANNAH: Your Honor, may I pass up the slide deck?

9   THE COURT: Sure, yes.

09:05:44   10   (Slides handed up to the Court.)

11   MR. FRANKEL: Your Honor, we thought the Term 30 was an

12   appropriate place to start, given the questions you proposed to

13   the parties yesterday.

14   THE COURT: All right.

09:05:54   15   MR. FRANKEL: And the disagreement between the parties

16   for this claim term is, if the claim requires that each

17   participant has at least three connections, but can have a

18   different number of connections, or if every participant has to

19   have the exact same number of connections.

09:06:13   20   When you look at the plain language of the claim, Claim

21   1 of the '069 patent, it does not require an m-regular network.

22   What this claim is talking about is a method for adding

23   participants to a network to prevent the network from becoming

24   elongated.

09:06:37   25   And what that is referring to is that, if you keep

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