

**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.)

ACCELERATION BAY LLC,)
)
 Plaintiff,)
)
 v.) C.A. No. 16-454 (RGA)
)
 ELECTRONIC ARTS INC.,)
)
 Defendant.)

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

JOINT CLAIM CONSTRUCTION BRIEF (GROUP III) TERMS: 9, 10, 21, 24-26, 28, 37

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I. INTRODUCTION

A. Plaintiff's Opening Introduction

The terms in this final round of claim construction briefing are all readily understood by lay persons and have plain and ordinary meanings consistent with Acceleration Bay's proposed constructions. For example, "Computer Network" is a well-known phrase, meaning simply a group of connected computers or computer processes. Defendants attempt to limit these terms beyond their plain and ordinary meaning by importing unsupported limitations for other terms such as "Network." Defendants now also incorrectly contend that some terms are indefinite (e.g., "network"), directly contradicting their positions and arguments before the PTAB during *inter partes* review (IPR) proceedings and in their proposed constructions for other disputed terms, which included the terms Defendants now contend are indefinite. Defendants' prior positions confirm that these terms are not indefinite.

B. Defendants' Rebuttal Introduction

Where a term can be reasonably construed, Defendants have proposed definitions faithful to the intrinsic evidence and consistent with the operation of the purported invention. There are also a number of terms that cannot be construed or afforded patentable weight, due to flawed claims-drafting or defects in the original patent disclosure. Finally, there are terms for which Plaintiff's proposed constructions are simply nonsensical, are inconsistent with the Court's prior construction for related terms, or are otherwise improper because their adoption would result in an invalid claim. For the reasons explained herein, the Court should adopt Defendants' positions and should reject Plaintiff's constructions.

C. Plaintiff's Reply Introduction

Acceleration Bay's proposed claim constructions hew to the claims and intrinsic record. Indeed, for many of the disputed terms, Defendants do not even offer their own constructions or

seriously dispute Acceleration Bay’s constructions. Instead, as Defendants have done throughout the claim construction process, they take a position that is contrary to their previous one. Here, Defendants now argue that various terms are indefinite and a POSITA would be unable to grasp many of the most basic concepts and inventive aspects of the claimed inventions — despite submitting numerous declarations from its expert that purportedly describe how the inventions work, what they cover and differences over the prior art. In the final round of briefing, however, all the knowledge of their expert seems to have gone missing and now, to argue indefiniteness, Defendants contend that a POSITA would not even understand the basic differences between a network that uses routing tables and a network that does not use routing tables. The Court should reject Defendants’ baseless indefiniteness and invalidity arguments.

II. ARGUMENT

A. Term 9 (‘344/12 & ‘966/12)

Term	Plaintiff’s Proposed Constructions	Defendants’ Proposed Constructions
“Computer Network”	a group of connected computers and/or computer processes	at least two physical computers that are interconnected

1. Plaintiff’s Opening Statement (Term 9)

A computer network is “a group of connected computers and/or computer processes.” Declaration of Nenad Medvidovic in Support of Amend. Opening Claim Construction Brief (“Medvidović Decl.”), ¶ 7. Plaintiff’s construction is consistent with the usage of this term in the claims and specifications. *Id.* at ¶¶ 7-9. In contrast, Defendants improperly seek to limit computer networks to connections between “*physical*” computers, seeking a construction that could mislead the jury into thinking that computer processes cannot be part of the network.

The following exemplary quotations from the specifications confirm that participants in the application layer overlay network can include computer processes (e.g., application

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