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

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

**DECLARATION OF DAVID R. KARGER, Ph.D IN SUPPORT OF DEFENDANTS'
MOTION FOR PARTIAL SUMMARY JUDGMENT OF INVALIDITY FOR LACK OF
WRITTEN DESCRIPTION**

Original Filing Date: February 2, 2018
Redacted Filing Date: February 13, 2018

I.   INTRODUCTION

1.   I have been retained on behalf of Defendants Activision Blizzard, Inc., Electronic Arts Inc.,

Take-Two Interactive Software, Inc., 2K Sports, Inc., and Rockstar Games, Inc. to provide my

opinions about the validity of certain patent claims found in U.S. Patent Nos. 6,701,344; 6,829,634;

6,714,966; 6,732,147; and 6,910,069. Specifically, I have been asked to provide opinions about

whether the specifications of each of these patents supports the following two aspects of the claims:

(1) a value of "*m*" that changes after formation of the broadcast channel ('344 patent claims 12-

15, '966 patent claims 12-13, '634 patent claims 19 and 22, '069 patent claims 1 and 11, and '147

patent claims 1 and 11; and (2) "non-routing table based" methods or computer-readable media

('634 patent claims 19 and 22, and '069 patent claims 1 and 11). As I explained in my expert

reports, paragraphs 28, 62-92, 121-129, 137-156, 163-175, 187-207 of my Opening Report (Ex.

B-1), paragraphs 32-43, 47-59, 78-80, 84, 90-112 of my Reply Report (Ex. B-3), and paragraphs

8-13 of my Supplemental Report (Ex. B-4), it is my opinion that the specifications, as understood

by those of skill in the art, do not describe either feature. Therefore, it is my opinion that the

Asserted Claims from the '344, '966, '634, '069, and '147 patents are invalid for lack of written

description.

2.   I am being compensated at my standard rate of ███ per hour for my services. I have no

financial interest in the outcome of these litigations between Defendants and Acceleration Bay

LLC.

3.   **Appendix B** lists the testimony that I have provided in the last four years and my

compensation. The opinions provided in this declaration are my own and my compensation does

not depend in any way on the substance of my opinions.

II.   QUALIFICATIONS

4.   My *Curriculum Vitae* and my Faculty Personnel Record are attached to this report as

Appendix A. I provide a summary of certain experience that I have relevant to the technical field of the Asserted Patents.

A.   Formal Education

5.   I earned a bachelor's degree in Computer Science and Physics from Harvard University in 1989, a certificate of advanced study in mathematics from Churchill College, Cambridge, England, in 1990, and a Ph.D. degree in Computer Science from Stanford University in 1994.

B.   Employment

6.   I am currently a professor at the Massachusetts Institute of Technology ("M.I.T.") where I am a member of the Computer Science and Artificial Intelligence Laboratory and the Electrical Engineering and Computer Science Department.

7.   I was a research scientist with Akamai Technologies from 1998 to 2001. I was also a postdoctoral fellow at AT&T Bell Laboratories from 1994 to 1995. I was an intern at Xerox PARC from 1991 to 1995. I have acted as a consultant for Google, Microsoft, and Vanu, among others. During the course of my work, I have gained substantial experience in computer software, computer networking, and network architectures. I have also worked with numerous other scientists and engineers to develop networking and Internet-based technologies that are germane to the concepts described in the various Asserted Patents.

C.   Other Qualifications, Awards, and Research Interests

8.   My research interests include, *inter alia*, graph algorithms and their applications in communications, networking, and natural language processing. I have authored over 200 publications in these and other areas.

9.   My Ph.D. thesis on graph theory and graph algorithms received the 1994 ACM doctoral dissertation award and the Mathematical Programming Society's 1997 Tucker Prize. I also received the National Academy of Science's 2003 Award for Initiative in Research. *See* Appendix

A for a representative list of other honors.

10.   I am a fellow of the Association for Computing Machinery ("ACM"), and a member of the Society for Industrial and Applied Mathematics ("SIAM"). I have served as a referee for the *Journal of the ACM*, the *ACM Transactions on Information Systems*, *Mathematical Programming*, the *Journal of Algorithms*, the *SIAM Journal on Computing*, *Information Processing Letters*, and the *Journal of Computer and System Sciences*, and chaired the 2009 International Semantic Web Conference in Chantilly, VA. I served on program committees for the 1996 ACM-SIAM Symposium on Discrete Algorithms, the 1996 and 1998 IEEE Symposium on Foundations of Computer Science, the 2002 International Peer to Peer Systems conference (IPTPS), the 2005 ACM Symposium on Theory of Computing, the 2007 and 2009 Conference on Innovative Database Systems Research (CIDR), the 2008 International Semantic Web Conference (ISWC), the 2010 Conference on Intelligent User Interfaces (IUI), the 2008 and 2010 Conference on Information Retrieval (SIGIR), the 2009 Visual Interface to the Social and Semantic Web, the Conference on Human-Computer Interaction (CHI) 2010, and the World Wide Web conference (WWW) in 2003, 2009, and 2010.

11.   My research interests include, *inter alia*, graph algorithms and their applications in communications, networking, and natural language processing. I have authored over 200 publications in these and other areas.

D.   My Qualifications Are Pertinent to the Asserted Patents

12.   I have extensive experience in the technical areas of the Asserted Patents. For example, my work with colleagues at M.I.T. on distributed cache systems was the basis for the founding of Akamai Technologies, a well-known content distribution network, where I served as the first research scientist. I helped to develop network protocols for Akamai and was a named inventor on several related patents. I also, together with a number of my colleagues at M.I.T., developed

Chord, one of the four original distributed hash tables protocols, which address a fundamental problem in peer-to-peer networks (how to efficiently locate a node that stores particular data items). *See* Stoica, Ion, *et al. Chord: A Scalable Peer-To-Peer Lookup Service For Internet Applications*, ACM SIGCOMM COMPUTER COMMUNICATION REVIEW, Vol. 31, No. 4 (2001), 149–160.

III.   **LEGAL STANDARDS**

      A.   **Lack of Written Description**

13.   I have been informed that a patent may be invalid if the full scope of the claimed subject matter is not adequately described in the patent's specification. In order to satisfy the written description requirement, the description of the invention in the specification of the patent must be detailed and clear enough to demonstrate that the applicant actually possessed the invention as broadly as claimed in the claims of the issued patent. Whether the written description requirement is satisfied is determined from the perspective of a person of ordinary skill in the art ("POSITA"). The written description may be satisfied by any combination of the words, structures, figures, diagrams, formulas, etc., contained in the patent application. The full scope of a claim or any particular requirement in claim need not be expressly disclosed in the original patent application if a person having ordinary skill in the field of technology of the patent at the time of filing would have understood that the full scope or missing requirement is in the written description in the patent application.

14.   I have been further informed and understand that compliance with the written description requirement is determined based on the disclosure of the original patent application to determine whether the disclosure conveys that the inventor had possession of the invention as of the filing date of the application. Given this requirement, I understand that I need not address the summary of the invention that was added during prosecution nearly four years after the application was

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

fastcase®
Smarter legal research.