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.	)	

**DEFENDANTS' SUPPLEMENTAL CLAIM
CONSTRUCTION BRIEF ADDRESSING TERM 4**

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I.   Introduction

As requested by the Court (D.I. 332)[1], Defendants submit this additional briefing addressing Term 4 and the issues of "(1) whether there is a substantive difference between the algorithm/'process of new computer Z connecting to the broadcast channel' of Figures 3A and 3B and corresponding specifications and the algorithm/'processing of the connect routine' of Figure 8 and the corresponding specifications, and (2) if there is a difference, whether Figures 3A and 3B and corresponding specifications constitute a separate algorithm." D.I. 332 at 2.

Figs. 3A and 3B and the corresponding portions of the specifications provide an overview of the process for adding a node to an m-regular network in an example where m=4, but include no details for how a node is actually connected to the network. The *only* algorithm for "connecting" the new node (i.e., corresponding to the function in the "means for connecting" of Term 4) is set forth in Fig. 8 and those figures the Court has already determined are "integral to performing the stated function" of Term 4, i.e., Figs. 9, 11, 13, 14, 17 and 18, along with the associated portions of the specifications. *See* D.I. 275 at 7-8 (*Markman* Opinion). Because Fig. 8 and the related figures provide the algorithms for accomplishing the addition of a new node "Z" shown in Figs. 3A and 3B, they are part of the same embodiment and there is therefore no substantive difference between Figs. 3A and 3B and the algorithm of Fig. 8.

Furthermore, even if Figs. 3A and 3B were viewed as being different in some respects, there is no "connecting" algorithm disclosed in Figs. 3A and 3B or the associated portions of the specifications. Thus, it is only the combination of Figs. 3A and 3B with Figs. 8, 9, 11, 13, 14, 17 and 18 that provides support for the "connecting" function of Term 4. Defendants, therefore, request that the Court adopt the construction of term 4 ("means for connecting to the identified broadcast channel") as follows:

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[1] Unless indicated otherwise, all citations to the record herein refer to Case No. 16-453.

Claim Term	Construction
"means for connecting to the identified broadcast channel"	**Function:** "Connecting to the identified broadcast channel" **'344 Structure:** A processor programmed to perform at least one of the algorithms disclosed in steps 801 to 809 in Figure 8 and described in the '344 Patent at 17:67-19:34, 19:66-20:44, 21:4-53, 22:61-24:6, and Figures 9, 11, 13, 14, 17 and 18, ~~or~~ **in combination with** Figures 3A and 3B and described in the '344 Patent at 5:33-55, which involves invoking the connecting routine with the identified broadcast channel's type and instance, connecting to the broadcast. **'966 Structure:** A processor programmed to perform at least one of the algorithms disclosed in steps 801 to 809 in Figure 8 and described in the '966 Patent at 18:3-20:9, 20:41-21:19, 21:46-22:28,23:37-24:49, and Figures 9, 11, 13, 14, 17 and 18, ~~or~~ **in combination with** combination with Figures 3A and 3B and described in the '966 Patent at 5:32-52, which involves invoking the connecting routine with the identified broadcast channel's type and instance, connecting to the broadcast channel, connecting to a neighbor, and connecting to a fully connected state.

II.   Argument

a.   There is No Substantive Difference Between Figs 3A, 3B and Fig. 8

The specifications of the '344 patent and '069 patent make it clear that Figs. 3A and 3B are not directed to a different embodiment than Fig. 8.[2]   The specifications first broadly disclose various concepts, including how a new computer is added to the claimed network, and then provide details, including the components of such a computer in the network and the algorithms that can be used to implement the functions introduced earlier in the specification. Thus, Fig. 8 and the related figures provide the algorithms that implement the connecting process introduced in Figs. 3A and 3B.

Specifically, after discussing the "broadcast technique" of the invention in broad strokes and introducing several concepts central to the invention, such as "m-regular" and "m-connected" (*see* A-1 ('344 Patent) at 4:3-5:16), the specifications describe various functions performed in the

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[2] The specifications of the '344 patent and the '069 patent are the same for purposes of this analysis. For convenience, all citations are to the '344 patent specification.

network in a series of sections entitled "Composing the Graph" (*id.* at 5:17-7:29), "Broadcasting Through the Graph" (*id.* at 7:30-8:67), "Decomposing the Graph" (*id.* at 9:1-11:31), "Port Selection" (*id.* at 11:32-12:32), "Locating a Portal Computer" (*id.* at 12:33-13:22), "Identifying Neighbors for a Seeking Computer" (*id.* at 13:23-14:20), and "External Data Representation" (*id.* at 14:21-51). Figs. 3A and 3B are addressed in the first of these sections, i.e., under "Composing the Graph." *Id.* at 5:17. The specifications here introduce "the process of a new computer Z connecting to the broadcast channel." *Id.* at 5:65-66. "Fig. 3A illustrates the broadcast channel before computer Z is connected." *Id.* at 5:66-6:1. In this "4-regular graph… [t]he connections between each of these [two neighbor] pairs is broken, and a connection between computer Z and each of computers B, C, D, and E is established as indicated by FIG. 3B." 5:56; 6:3-6. There are no details provided in connection with Figs 3A and 3B as to *how* the neighbor pairs are broken or *how* the new computer is connected to the graph. Those details are provided in the specifications in connection with Fig. 8.

In particular, following the sections outlining the various functions implemented by the claimed system, the specifications then have a "Components" section (*id.* at 15:8) that describes the "components of a computer that is connected to the broadcast channel." *Id.* at 15:9-10. This is the *only* description in the specifications of the components of such a computer, and thus is the *only* description of how to implement computer "Z" shown in Fig. 3B. One of these components is the "broadcaster component 602." *Id.* at 15:30-32; 16:1-28. The "primary functions provided" by the broadcaster component "may include a connect function that an application program invokes…" to allow connection to the broadcast channel. *Id.* at 15:39-41. Thus, the "connect function" is how a computer, such as computer Z in Fig. 3B, is added to the broadcast channel. The "Flow Diagrams" section of the specification, which begins at col. 17, line 65, "illustrates the

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