

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY LLC, : CA NO. 16-453-RGA,  
: 16-454-RGA, 16-455-RGA  
Plaintiff, :  
:  
v. : July 10, 2017  
:  
ACTIVISION BLIZZARD INC., et :  
al., :  
:  
Defendant. : 2:00 o'clock p.m.  
.....:

TRANSCRIPT OF MOTION TO DISMISS  
BEFORE THE HONORABLE RICHARD G. ANDREWS  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For Plaintiff: POTTER, ANDERSON & CORROON  
BY: PHILIP A. ROVNER, ESQ  
BY: ALAN R. SILVERSTEIN, ESQ

1 -and-

2 KRAMER, LEVIN, NATALIS & FRANKEL

3 BY: PAUL J. ANDRE, ESQ

4 BY: JAMES R. HANNAH, ESQ

5 BY: AARON M. FRANKEL, ESQ

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8 For Defendant: MORRIS, NICHOLAS, ARSHT & TUNNEL

9 BY: JACK B. BLUMENFELD, ESQ

10 -and-

11 WINSTON & STRAWN LLP

12 BY: MICHAEL A. TOMASULO, ESQ

13 BY: MICHAEL M. MURRAY, ESQ

14 BY: DAVID P. ENZIMINGER, ESQ

15 BY: ANDREW R. SOMMER, ESQ

16 BY: DAVID K. LIN, ESQ

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18 Also Present: OMER SALIK

19 JULIA KAZAKS

20 Activision Blizzard Representatives

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22 KERRY HOPKINS

23 Electronic Arts Representatives

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LINDA ZABRISKIE

Take 2 Interactive Software, Inc

Court Reporter:

LEONARD A. DIBBS

Official Court Reporter

P R O C E E D I N G S

(The proceedings occurred at 2:00 o'clock p.m. as follows:)

THE COURT: All right. Please be seated.

So this is an argument on the two Motions to Dismiss.

We've got to be finished by 3:00 o'clock here.

Who's arguing the motion? Which motion do you want to do first, defendants?

MR. MURRAY: It's the 101 Motion, your Honor, is that okay?

THE COURT: Yes.

MR. MURRAY: Your Honor, I have some slides, okay?

May I approach?

THE COURT: Yes.

(Pause)

MR. MURRAY: Can I begin?

THE COURT: Yes.

MR. MURRAY: So I know that your Honor is very familiar with 101 and Alice. I'm just going to sort of dive right into the claims here and get to the issues that we need to address.

So Alice Step 1, are the claims directed to an abstract method.

For these particular claims, the answer to that is easy to determine and the answer is yes.

1 The heart of the claim -- we have Claim 1 here -- on  
2 the slide from the '344 patent. It's a representative claim.

3 You can see that literally everything in the claim,  
4 other than the preamble, and a wherein clause that comes at the  
5 end, puts the method into some sort of context in terms of the  
6 structure -- well, I'll talk about that. We addressed those  
7 terms this morning, of course, in our regular -- et cetera.

8 But the rest of the claim is a straightforward abstract  
9 method. It's an originating participant sends data to the other  
10 participants by sending the data through each of its connections  
11 to its neighbor participants.

12 So that's sort of a first step. It's a data  
13 transmission step.

14 And wherein each participant sends data that it  
15 receives from a neighbor to its other neighbor participates.

16 So you transmit the data, you receive, and then forward  
17 it on. That's really all that says. That's the abstract method  
18 under Alice Step 1.

19 When you look at the specification about how they  
20 illustrate this abstract method, they illustrate it with  
21 abstract graphs, so that it's just a bunch of dots with lines  
22 between them.

23 And that's the method of the claim.

24 We've animated this a little bit.

25 So if the originating participant is H, it transmits



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