

**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**

## Table of Contents

I.	INTRODUCTION .....	1
A.	Plaintiff’s Opening Introduction.....	1
B.	Defendants’ Rebuttal Introduction.....	1
C.	Plaintiff’s Reply Introduction .....	1
II.	ARGUMENT .....	2
A.	Term 9 (‘344/12 & ‘966/12).....	2
1.	Plaintiff’s Opening Statement (Term 9) .....	2
2.	Defendants’ Rebuttal Statement (Term 9).....	4
3.	Plaintiff’s Reply Statement (Term 9).....	8
4.	Defendants’ Sur-Reply Statement (Term 9) .....	12
B.	Term 10 (‘344/13 & ‘966/13).....	14
1.	Plaintiff’s Opening Statement (Term 10) .....	14
2.	Defendants’ Rebuttal Statement (Term 10).....	17
3.	Plaintiff’s Reply Statement (Term 10).....	23
4.	Defendants’ Sur-Reply Statement (Term 10).....	27
C.	Term 21 (‘147/15).....	29
1.	Plaintiff’s Opening Statement (Term 21) .....	29
1.	Defendants’ Rebuttal Statement (Term 21) .....	30
2.	Plaintiff’s Reply Statement (Term 21).....	31
3.	Defendants’ Sur-Reply Statement (Term 21).....	32
D.	Terms 24-26.....	33
1.	Plaintiff’s Opening Statement (Terms 24-26).....	34
2.	Defendants’ Rebuttal Statement (Terms 24-26).....	38
3.	Plaintiff’s Reply Statement (Terms 24-26).....	52
4.	Defendants’ Sur-Reply Statement (Terms 24-26) .....	60
E.	Term 28 (‘497/9).....	65
1.	Plaintiff’s Opening Statement (Term 28) .....	65
2.	Defendants’ Rebuttal Statement (Term 28) .....	66
3.	Plaintiff’s Reply Statement (Term 28).....	68
4.	Defendants’ Sur-Reply Statement (Term 28) .....	69
F.	Term 37 (‘497/9).....	69
1.	Plaintiff’s Opening Statement (Term 37) .....	69
2.	Defendants’ Rebuttal Statement (Term 37) .....	72

3. Plaintiff's Reply Statement (Term 37).....	74
4. Defendants' Sur-Reply Statement (Term 37) .....	76

## **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

# 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.