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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY, LLC, : CA NO. 16-453-RGA,
: 16-454-RGA,
Plaintiff, : 16-455-RGA
:
v. : December 4, 2017
:
ACTIVISION BLIZZARD, INC., :
:
Defendant, : 10:06 o'clock a.m.
.....:

TRANSCRIPT OF MARKMAN HEARING
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

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-and-

KRAMER LEVIN NAFTALIS & FRANKEL

BY: AARON M. FRANKEL, ESQ

BY: PAUL J. ANDRE, ESQ

For Defendant:

MORRIS, NICHOLS, ARSHT & TUNNELL

BY: JACK B. BLUMENFELD, ESQ

-and-

WINSTON & STRAWN LLP

BY: MICHAEL A. TOMASULO, ESQ

BY: MICHAEL M. MURRAY, ESQ

Court Reporter:

LEONARD A. DIBBS

Official Court Reporter

P R O C E E D I N G S

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3 (The proceedings occurred at 10:06 o'clock a.m. as
4 follows:)

10:05:56 5 THE COURT: Good morning and please be seated.

6 This is a Markman Hearing in Acceleration Bay v.
7 Activision Blizzard, Civil Action No. 16-453, plus the two
8 related cases.

9 Mr. Rover, good morning.

10:06:15 10 MR. ROVNER: Good morning, your Honor.

11 For the record, Phil Rovner from Potter, Anderson for
12 plaintiff for Acceleration Bay.

13 With me from Kramer Levin is Paul Andre and Aaron
14 Frankel.

10:06:23 15 MR. FRANKEL: Good morning, your Honor.

16 MR. ROVNER: And also Alan Silverstein from my firm.

17 MR. SILVERSTEIN: Good morning, your Honor.

18 THE COURT: Good morning to you all.

19 Mr. Blumenfeld.

10:06:31 20 MR. BLUMENFELD: Good morning, your Honor.

21 Jack Blumenfeld from Morris Nichols for the defendants
22 along with Mike Tomasulo.

23 MR. TOMASULO: Good morning, your Honor.

24 MR. ROVNER: Mike Murray.

25 MR. MURRAY: Good morning, your Honor.

1 MR. ROVNER: And J.C. Masullo, all from Winston &
2 Strawn for the defendants today.

3 And, again, with your Honor's permission, Mr. Tomasulo
4 and Mr. Murray will be splitting the issues.

10:06:57 5 THE COURT: Sure. That's fine.

6 MR. BLUMENFELD: Thank you.

7 THE COURT: Thank you.

8 All right.

9 So, let's begin.

10:07:07 10 MR. ANDRE: Good morning, your Honor.

11 Paul Andre for Acceleration Bay. I have some slides to
12 hand up to you.

13 THE COURT: Sure.

10:07:26 14 MR. ANDRE: Mr. Frankel and I will be splitting up the
15 terms today. We're going in the chronological order set out in
16 the briefing, and we'll take turns with defense counsel as we go
17 through them.

18 THE COURT: Okay.

10:07:40 19 MR. ANDRE: As your Honor knows, this is the third
20 Markman Hearing we've had in this case, or in these series of
21 cases, and they involve six patents.

22 Now, these six patents are very, very different. They
23 cover the same subject area, but they do it in very different
24 ways.

10:07:56 25 With the constructions that are proposed by defendants,

1 they have taken this process and taken ordinary terms and made
2 them extraordinary. They have given them special construction
3 where none exist.

4 I have the task of taking the first term of connection.

10:08:14 5 Now, connection is a pretty straightforward term.

6 People in ordinary, daily use, use the word connection.

7 People in science use connection. There is nothing special
8 about this. It deserves its ordinary meaning.

9 Now, in this case, your Honor asked, well, what is the

10:08:36 10 ordinary meaning of connection?

11 It's just a link connecting two things together. There
12 is nothing in the prosecution history. There's nothing in the
13 specification. There's nothing anywhere that would take it
14 outside of its ordinary meaning.

10:08:50 15 THE COURT: So, Page 12 in the brief, there's a diagram
16 -and I'm sure you have it in your slides somewhere -- of Figure
17 1 from the '344 patent.

18 Yes.

19 Are A and D connected to each other?

10:09:08 20 MR. ANDRE: Indirectly.

21 THE COURT: Well, are they connected within the meaning
22 of the claims?

23 MR. FRANKEL: No, your Honor.

24 THE COURT: Okay.

10:09:17 25 Thank you, Mr. Frankel.

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