

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTIVISION BLIZZARD, INC.,
ELECTRONIC ARTS INC.,
TAKE-TWO INTERACTIVE SOFTWARE, INC.,
2K SPORTS, INC., and
ROCKSTAR GAMES, INC.,
Petitioner,

v.

ACCELERATION BAY, LLC,
Patent Owner.

Case IPR2015-01964
Patent 6,829,634 B1

Before SALLY C. MEDLEY, LYNNE E. PETTIGREW, and
WILLIAM M. FINK, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Inc., 2K Sports, Inc., and Rockstar Games, Inc. (collectively, “Petitioner”) filed a Petition for *inter partes* review of claims 1–18 of U.S. Patent No. 6,829,634 B1 (Ex. 1001, “the ’634 patent”). Paper 2 (“Pet.”). Acceleration Bay, LLC (“Patent Owner”) filed a Corrected Preliminary Response. Paper 7 (“Prelim. Resp.”). Institution of an *inter partes* review is authorized by statute when “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition and Preliminary Response, we conclude the information presented shows there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of claims 1–18 of the ’634 patent.

A. Related Matters

Petitioner and Patent Owner identify the following pending judicial matters as relating to the ’634 patent: *Acceleration Bay LLC v. Activision Blizzard, Inc.*, Case No. 1:15-cv-00228-RGA (D. Del., filed Mar. 11, 2015); *Acceleration Bay LLC v. Electronic Arts Inc.*, Case No. 1:15-cv-00282-RGA (D. Del., filed Mar. 30, 2015); and *Acceleration Bay LLC v. Take-Two Interactive Software, Inc.*, Case No. 1:15-cv-00311-RGA (D. Del., filed Apr. 13, 2015). Pet. 4; Paper 4, 1.

Petitioner and Patent Owner also identify five other petitions for *inter partes* review filed by Petitioner challenging the ’634 patent and similar patents:

IPR2015-01951 IPR2015-01953	U.S. Patent No. 6,714,966 B1
IPR2015-01970 IPR2015-01972	U.S. Patent No. 6,701,344 B1
IPR2015-01996	U.S. Patent No. 6,829,634 B1

Pet. 4; Paper 4, 1.

B. The '634 Patent

The '634 patent relates to a “broadcast technique in which a broadcast channel overlays a point-to-point communications network.” Ex. 1001, 4:29–30. The broadcast technique overlays the underlying network system with a graph of point-to-point connections between host computers or nodes through which the broadcast channel is implemented. *Id.* at 4:49–52.

Figure 1 of the '634 patent is reproduced below:

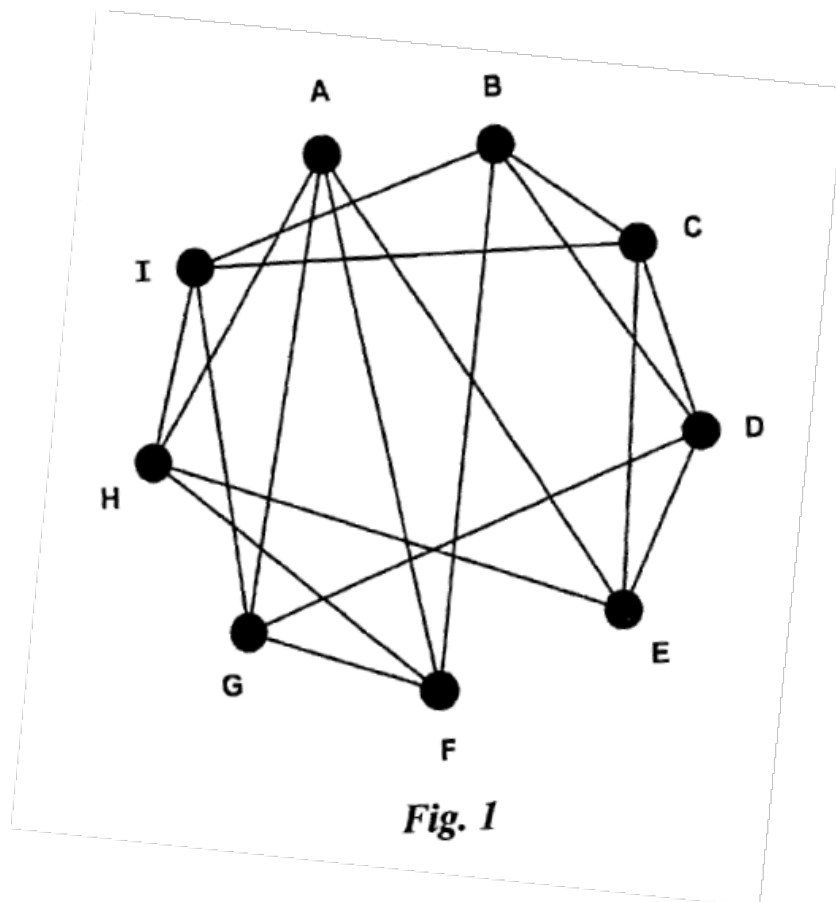


Figure 1 illustrates a broadcast channel represented by a “4-regular, 4-connected” graph. *Id.* at 5:7–8. The graph of Figure 1 is “4-regular” because each node is connected to exactly four other nodes (e.g., node A is connected to nodes E, F, G, and H). *Id.* at 4:64–65, 5:8–12. A node in a 4-regular graph can only be disconnected if all four of the connections to its neighbors fail. *Id.* at 4:65–5:1. Moreover, the graph of Figure 1 is “4-connected” because it would take the failure of four nodes to divide the graph into two separate sub-graphs (i.e., two broadcast channels). *Id.* at 5:1–5.

To broadcast a message over the network, an originating computer sends the message to each of its four neighbors using the point-to-point connections. *Id.* at 4:56–58. Each computer that receives the message sends the message to its other neighbors, such that the message is propagated to each computer in the network. *Id.* at 4:58–60. Each computer, however, only sends to its neighbors the first copy of the message that it receives and disregards subsequently received copies. *Id.* at 7:66–8:2. Each computer that originates messages numbers its own messages sequentially so that each computer that receives the messages out of order can queue the messages until it receives the earlier ordered messages. *Id.* at 2:52–53, 8:17–21, 30–35.

C. Illustrative Claims

Petitioner challenges claims 1–18 of the ’634 patent. Claims 1 and 10 are independent and are illustrative of the claimed subject matter:

1. A non-routing table based computer network having a plurality of participants, each participant having connections to at least three neighbor participants, wherein an originating participant sends data to the other participants by sending the

data through each of its connections to its neighbor participants, wherein each participant sends data that it receives from a neighbor participant to its other neighbor participants, wherein data is numbered sequentially so that data received out of order can be queued and rearranged, further wherein the network is m -regular and m -connected, where m is the number of neighbor participants of each participant, and further wherein the number of participants is at least two greater than m thus resulting in a non-complete graph.

10. A non-routing table based broadcast channel for participants, comprising:

a communications network that provides peer-to-peer communications between the participants connected to the broadcast channel; and

for each participant connected to the broadcast channel, an indication of four neighbor participants of that participant; and

a broadcast component that receives data from a neighbor participant using the communications network and that sends the received data to its other neighbor participants to effect the broadcasting of the data to each participant of the . . . broadcast channel, wherein the network is m -regular and m -connected, where m is the number of neighbor participants of each participant, and further wherein the number of participants is at least two greater than m thus resulting in a non-complete graph.

Id. at 29:12–25, 29:43–60.

D. Asserted Grounds of Unpatentability

Petitioner asserts that claims 1–18 are unpatentable based on the following grounds (Pet. 6):

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