

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.,
ROCKSTAR GAMES, INC., and
BUNGIE, INC.,
Petitioner,

v.

ACCELERATION BAY, LLC,
Patent Owner.

Case IPR2015-01996¹
U.S. Patent No. 6,829,634

PATENT OWNER'S MOTION FOR OBSERVATIONS

¹ Bungie, Inc., who filed a Petition in IPR2016-00964, has been joined as a petitioner in this proceeding.

Patent Owner Finjan, Inc. submits the following observations of the October 30, 2016 cross-examination of David Karger (Ex. 2109) and October 27, 2016 cross-examination of Mr. Gerard Grenier (Ex. 2110):

I. Dr. Karger's Cross-Examination

1. In Exhibit 2109, Pg. 74, line 16-Pg. 75, line 18, the witness testified:

Q. Do you see that claim 10 requires a broadcast channel?

A. Yes, I do.

Q. What's a broadcast channel?

A. It's a channel for broadcasting information.

Q. Can you elaborate what you mean by "channel"?

A. A channel is the thing which carries information.

Q. What do you mean by the thing that carries communication?

A. Well, again, channel is one of these plain and ordinary meaning terms. It means a thing which carries things. You often talk about communication channels. A broadcast channel is a communication channel that is used for broadcasting.

Q. My question was, what do you mean by the thing that carries communications?

Q. Can you elaborate what you mean by "the things"?

A. No. That's just sort of an example of the plain and ordinary meaning of
channel, right? You're talking about the channel. So the
channel is a thing.

This testimony is relevant because it shows that Dr. Karger cannot elaborate on his understanding of the claim terms, namely "broadcast channel." At most, Dr. Karger used the non-descriptive term "thing" or "things" and cannot elaborate what he means by a "thing" or "things."

2. In Exhibit 2109, Pg. 84, lines 2-12, the witness testified:

Q. Do you see that broadcast component has the term
"component" in it?

A. Uh-huh.

Q. What does component mean?

A. That's a plain and ordinary meaning. A component is a part
of something.

Q. Can you elaborate? What do you mean by a component is a
part of something?

A. Things are often made up of more than one component.
Each of those components are a part of the thing.

In Exhibit 2109, Pg. 86, line 15- Pg. 87, line 9, the witness testified:

Q. I'm trying to understand what you mean by something?

A. Yes.

Q. I'm asking, does something mean anything?

A. Again, these -- these are plain and ordinary meaning English terms. They mean what we all understand them to mean.

Q. So sitting here today, can you elaborate what something means when you say a component is something that is part of something?

A. Just according to its plain and ordinary meaning.

Q. Can you elaborate beyond stating just according to its plain and ordinary meaning?

A. It means what it means.

This testimony is relevant because it shows that Dr. Karger cannot elaborate on his understanding of the claim terms, namely "broadcast component." At most, Dr. Karger used the term "something" and cannot elaborate what he means by "something."

3. In Exhibit 2109, Pg. 132, line 23-Pg.133, line14, the witness testified:

Q. Do you see that claim 10 requires an indication of four neighbor participants of that participant?

A. Yes, I do.

Q. You cannot tell me the plain and ordinary meaning of "indication," correct?

A. Well, again, "indication" is another term with a plain and ordinary meaning. It is something which indicates.

Q. So indication means something that indicates. That's the definition you

applied; is that correct?

A. Yes. An indication is something that indicates.

Q. Can you elaborate, what do you mean by "something"?

A. Plain and ordinary meaning.

In Exhibit 2109, Pg. 134, lines 3-9, the witness testified:

Q. Sitting here today, you cannot tell me what the plain and ordinary meaning of something that you apply, correct?

A. The plain and ordinary meaning of "something" is something. People who know English understand what "something" means.

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