

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BUNGIE, INC.,
Petitioner

v.

ACCELERATION BAY, LLC,
Patent Owner

Case No. IPR2016-00934
Patent 6,701,344 B1

**PATENT OWNER PRELIMINARY RESPONSE TO PETITION
PURSUANT TO 37 C.F.R. §42.107**

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I. INTRODUCTION

Petitioner, in two petitions filed on the same day, seeks *inter partes* review of all of the claims (i.e., claims 1–19) in U.S. Patent No. 6,701,344 B1 (the “344 Patent”), which issued to The Boeing Company on March 2, 2004, based on an application filed in the USPTO on July 31, 2000. Petitioner seeks to join an instituted *inter partes* review proceeding—IPR2015-01972—filed by Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Inc., 2K Sports, Inc. and Rockstar Games, Inc. (the “Original Petitioners”), but Petitioner raises an additional ground not previously considered by the Board.¹ This preliminary response focuses solely on this new proposed ground. *See Travelocity.com L.P. v. Conos Techs., LLC*, CBM2014-00082, Paper 12 at 10 (P.T.A.B. Oct. 16, 2014) (“[N]othing may be gleaned from the Patent Owner’s challenge or failure to challenge the grounds of unpatentability for any particular reason.”).

The ‘344 Patent is one of several patents obtained by Boeing directed to novel computer network technology, developed by inventors Fred Holt and Virgil Bourassa more than sixteen years ago, that solved critical scalability and reliability problems associated with the real-time sharing of information among

¹ The additional ground raised by Petitioner is also raised in IPR2016-00931 filed by the Original Petitioners the day before the instant petition was filed.

multiple widely distributed computers.² This innovative technology enabled large-scale, unlimited online collaborations with numerous participants continually joining and leaving—with applications ranging from aircraft design development to multi-player online games. A core feature of the patented technology as claimed in the '344 Patent is the *m*-regular, incomplete graph network topology.

The instant petition attacks the validity of the '344 Patent on obviousness grounds based on the non-patent Shoubridge reference and the alleged knowledge of a POSITA. While Petitioner relies in on the instituted grounds from IPR2015-01972 to form its proposed Ground 1, proposed Ground 2 presents an obviousness challenge to claim 12 of the '344 Patent, a challenge that was not explicitly raised

² In addition to the instant petition and another petition (IPR2016-00933), which also targets the '344 patent, Petitioner also filed two other sets of dual petitions seeking *inter partes* review of two other patents obtained by Boeing that concern the computer network technology invented by Fred Holt and Virgil Bourassa: U.S. Patent No. 6,714,966 (IPR2016-00935 and IPR2016-00936), and U.S. Patent No. 6,829,634 (IPR2016-00963 and IPR2016-00964). All six petitions filed by Petitioner in its three sets of dual petitions rely on the same three references and seek joinder to instituted proceedings.

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