

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BUNGIE, INC.,  
Petitioner,

v.

ACCELERATION BAY, LLC,  
Patent Owner.

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Case IPR2016-00936  
Patent 6,714,966 B1

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

FINK, *Administrative Patent Judge*.

DECISION  
Institution of *Inter Partes* Review  
*37 C.F.R. § 42.108*  
Petitioner's Motion for Joinder  
*37 C.F.R. § 42.122(b)*

## I. INTRODUCTION

### *A. Background*

On April 22, 2016, Bungie, Inc. (“Petitioner” or “Bungie”) filed a Petition requesting an *inter partes* review of claims 1–12, 16, and 17 of U.S. Patent 6,714,966 B1 (Ex. 1101, “the ’966 patent”). Paper 2 (“Pet.”). On the same day, Petitioner filed a Motion for Joinder pursuant to 35 U.S.C. § 315(c), seeking to join this proceeding with *Activision Blizzard, Inc., et al. v. Acceleration Bay, LLC*, Case IPR2015-01953 (“the 1953 IPR”). Paper 3 (“Mot.”). In the 1953 IPR, which was requested by Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Inc., 2K Sports, Inc., and Rockstar Games, Inc. (“the Activision Petitioners”), we instituted *inter partes* review of claims 1–11, 16 and 17 of the ’966 patent, but we did not institute *inter partes* review of claims 12–15 of the ’966 patent. *See 1953 IPR*, slip op. at 17, 19, 20, 24 (PTAB Mar. 24, 2016) (Paper 8).

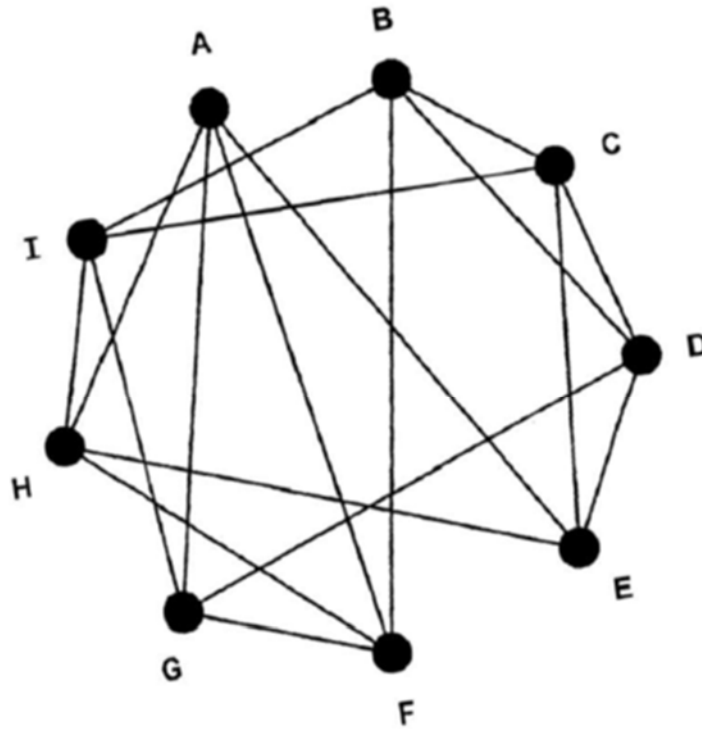
Acceleration Bay, LLC (“Patent Owner”) filed a Preliminary Response to Bungie’s Petition. Paper 10 (“Prelim. Resp.”). Patent Owner also filed an Opposition to the Motion for Joinder. Paper 9 (“Opp.”).

Upon consideration of the Petition and Preliminary Response, we institute an *inter partes* review of claims 1–11, 16 and 17 of the ’966 patent, and we grant Bungie’s Motion for Joinder. We exercise our discretion, under 35 U.S.C. § 325(d), to deny institution of *inter partes* review as to claim 12.

### *B. The ’966 Patent*

The ’966 patent relates to a “broadcast technique in which a broadcast channel overlays a point-to-point communications network.” Ex. 1101, 4:3–5. The communication network consists of a graph of point-to-point

connections between host computers or nodes. *Id.* at 4:23–26. Figure 1 of the '966 patent is reproduced below:



*Fig. 1*

Figure 1 illustrates a broadcast channel represented by a “4-regular, 4-connected” graph. *Id.* at 4:48–49. 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 4:38–39, 4:49–53. A node in a 4-regular graph can only be disconnected if all four of the connections to its neighbors fail. *Id.* at 4:39–42. 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 4:42–47.

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 4:30–32. Each computer that receives the message sends it to its other neighbors, such that the message is propagated to each computer in the network. *Id.* at 4:32–38. The minimum number of connections needed to traverse any two computers in the network is known as the “distance” between them, while the maximum of the distances in the network is called the “diameter” of the broadcast channel. *Id.* at 4:57–5:3. In Figure 1, the diameter is 2 because a message originating at any node (e.g., A) traverses no more than 2 connections to reach every other node. *Id.* at 5:3–6.

### *C. Illustrative Claims*

Among the claims challenged by Petitioner, claims 1, 13, and 16 are independent. Claim 1, which is illustrative of the claimed subject matter, and claim 12, which depends from claim 1, are reproduced below:

1. A computer network for providing an information delivery service for 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 and wherein each participant sends data that it receives from a neighbor participant to its other neighbor participants, further wherein the network is m-regular, where m is the exact 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.

12. The computer network of claim 1 wherein the interconnections of participants form a broadcast channel for a topic of interest.

Ex. 1101, 30:2–12, 30:36–38.

#### *D. Related Matters*

Petitioner and Patent Owner identify the following pending judicial matters as relating to the '966 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; Mot. 2; Paper 8, 1. Petitioner indicates it is not a party to the underlying district court proceedings. Pet. 4; Mot. 2.

In the 1953 IPR, we instituted an *inter partes* review of claims 1–7, 11, and 16 of the '966 patent on the ground of anticipation under 35 U.S.C. § 102(a) by Shoubridge,<sup>1</sup> and claims 6–10 and 17 of the '966 patent on the ground of obviousness under 35 U.S.C. § 103(a) over Shoubridge. Recently, in IPR2016-00932 (“the 932 IPR”), we denied another petition filed by the Activision Petitioners directed to claim 12 of the '966 patent. *Activision Blizzard, Inc., et al. v. Acceleration Bay, LLC*, Case IPR2016-00932 (PTAB June 23, 2016) (Paper 13) (“932-Decision”).

In addition, claims 1–12, 16, and 17 of the '966 patent are the subject of *inter partes* review in *Activision Blizzard, Inc., et al. v. Acceleration Bay*,

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<sup>1</sup> Peter J. Shoubridge & Arek Dadej, *Hybrid Routing in Dynamic Networks*, 3 IEEE INT'L CONF. ON COMMS. CONF. REC. 1381-86 (Montreal, 1997) (Ex. 1105) (“Shoubridge”).

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