

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 IPR2015-01964¹
Patent 6,829,634 B1

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

PETTIGREW, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

¹ Bungie, Inc., who filed a Petition in IPR2016-00963, has been joined as a petitioner in this proceeding.

I. INTRODUCTION

In this *inter partes* review, instituted pursuant to 35 U.S.C. § 314, Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Inc., 2K Sports, Inc., Rockstar Games, Inc., and Bungie, Inc. (collectively, “Petitioner”) challenge claims 1–18 (“the challenged claims”) of U.S. Patent No. 6,829,634 B1 (Ex. 1001, “the ’634 patent”), owned by Acceleration Bay, LLC (“Patent Owner”). We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, Petitioner has not shown by a preponderance of the evidence that the challenged claims are unpatentable.

A. Procedural History

Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Inc., 2K Sports, Inc., and Rockstar Games, Inc., filed a Petition for *inter partes* review of claims 1–18 of the ’634 patent. Paper 2 (“Pet.”). Patent Owner filed a Preliminary Response. Paper 7 (“Prelim. Resp.”). On March 31, 2016, we instituted an *inter partes* review of claims 1–18 of the ’634 patent on the following grounds: (1) claims 10, 15, and 18 as anticipated under 35 U.S.C. § 102(a)² by Lin,³ and (2) claims 1–18 as obvious under 35 U.S.C. § 103(a) over Lin. Paper 10, 20 (“Dec.”).

² The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) (“AIA”), amended 35 U.S.C. §§ 102 and 103. Because the ’634 patent has an effective filing date before the effective date of the applicable AIA amendments, we refer to the pre-AIA versions of 35 U.S.C. §§ 102 and 103.

³ Meng-Jang Lin, et al., *Gossip versus Deterministic Flooding: Low Message Overhead and High Reliability for Broadcasting on Small*

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Subsequent to institution, Bungie, Inc. filed a Petition and Motion for Joinder with the instant proceeding. *Bungie, Inc. v. Acceleration Bay, LLC*, IPR2016-00963, Papers 2, 3. On June 23, 2016, we instituted an *inter partes* review and granted the Motion, joining Bungie, Inc. as a petitioner in this *inter partes* review. Paper 24.

Thereafter, Patent Owner filed a Patent Owner Response (“PO Resp.”). Paper 33 (confidential), Paper 102 (redacted). Petitioner filed a Reply to the Patent Owner Response (“Pet. Reply”). Paper 57 (confidential), Paper 107 (redacted). Patent Owner also filed a Contingent Motion to Amend requesting substitution of various claims in the event certain claims in the ’634 patent were found to be unpatentable. Paper 31 (“Mot. Am.”). Petitioner filed an Opposition to Patent Owner’s Contingent Motion to Amend. Paper 56. Patent Owner then filed a Reply in support of its Contingent Motion to Amend. Paper 69.

Petitioner filed a Motion to Exclude, Paper 74 (“Pet. Mot. Exc.”), Patent Owner filed an Opposition, Paper 84 (confidential), Paper 103 (redacted), and Petitioner filed a Reply, Paper 95. Patent Owner also filed a Motion to Exclude, Paper 78 (“PO Mot. Exc.”), Petitioner filed an Opposition, Paper 87 (“Pet. Opp. Mot. Exc.”), and Patent Owner filed a Reply, Paper 97.

An oral hearing was held on December 7, 2016.⁴ A transcript of the hearing has been entered into the record. Paper 101 (“Tr.”).

Networks, Technical Report No. CS1999-0637 (Univ. of Cal. San Diego, 1999) (Ex. 1004 (Ex. B)) (“Lin”).

⁴ A consolidated hearing was held for this proceeding and IPR2015-01951, IPR2015-01953, IPR2015-01970, IPR2015-01972, and IPR2015-01996. See Paper 83 (hearing order).

B. Related Matters

Petitioner identifies the following pending judicial matters as relating to the '634 patent: *Activision Blizzard, Inc. v. Acceleration Bay LLC*, Case No. 3:16-cv-03375 (N.D. Cal., filed June 16, 2016); *Electronic Arts Inc. v. Acceleration Bay LLC*, Case No. 3:16-cv-03378 (N. D. Cal., filed June 16, 2016); *Take-Two Interactive Software, Inc. v. Acceleration Bay LLC*, Case No. 3:16-cv-03377 (N.D. Cal., filed June 16, 2016); *Acceleration Bay LLC v. Activision Blizzard, Inc.*, Case No. 1:16-cv-00453 (D. Del., filed June 17, 2016); *Acceleration Bay LLC v. Electronic Arts Inc.*, Case No. 1:16-cv-00454 (D. Del., filed June 17, 2016); and *Acceleration Bay LLC v. Take-Two Interactive Software, Inc.*, Case No. 1:16-cv-00455 (D. Del., filed June 17, 2016). Paper 22, 2–3.

Petitioner and Patent Owner also identify five other petitions for *inter partes* review filed by Petitioner challenging the '634 patent and similar patents: IPR2015-01996 (the '634 patent); IPR2015-01951 and IPR2015-01953 (U.S. Patent No. 6,714,966 B1); and IPR2015-01970 and IPR2015-01972 (U.S. Patent No. 6,701,344 B1). Pet. 4; Paper 4, 1. Trials were instituted in those proceedings as well.

C. 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:

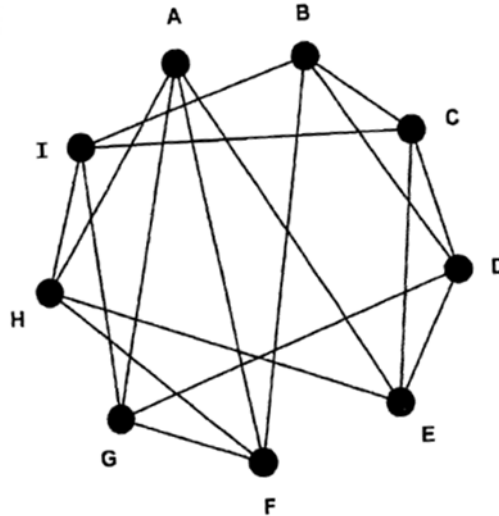


Fig. 1

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

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