

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BUNGIE, INC.
Petitioner,

v.

ACCELERATION BAY, LLC,
Patent Owner.

Case IPR2017-01600
Patent 6,910,069 B1

Before SALLY C. MEDLEY, MARC S. HOFF, and
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

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

I. INTRODUCTION

Bungie, Inc. (“Petitioner”) filed a Petition for *inter partes* review of claims 1–5, 7, 8, and 11–13 of U.S. Patent No. 6,910,069 B1 (Ex. 1001, “the ’069 patent”). Paper 2 (“Pet.”). Acceleration Bay, LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Petitioner filed a Reply to the Preliminary Response. Paper 10 (“Reply”).

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 does not show there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of any of claims 1–5, 7, 8, and 11–13 of the ’069 patent.

A. Related Matters

The parties identify the following pending judicial matters as relating to the ’069 patent: *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); *Acceleration Bay LLC v. Take-Two Interactive Software, Inc.*, Case No. 1:16-cv-00455 (D. Del., filed June 17, 2016). Pet. 28; Paper 3, 1.

Claims 1–17 of the ’069 patent were challenged previously by different petitioners in IPR2016-00726. The Board denied institution in that proceeding. IPR2016-00726, Paper 11 (PTAB Sept. 9, 2016).

B. The '069 Patent

The '069 patent relates to a “broadcast technique in which a broadcast channel overlays a point-to-point communications network.” Ex. 1001, 4:5–6. The communication network consists of a graph of point-to-point connections between host computers or nodes. *Id.* at 4:25–28. Figure 1 of the '069 patent is reproduced below:

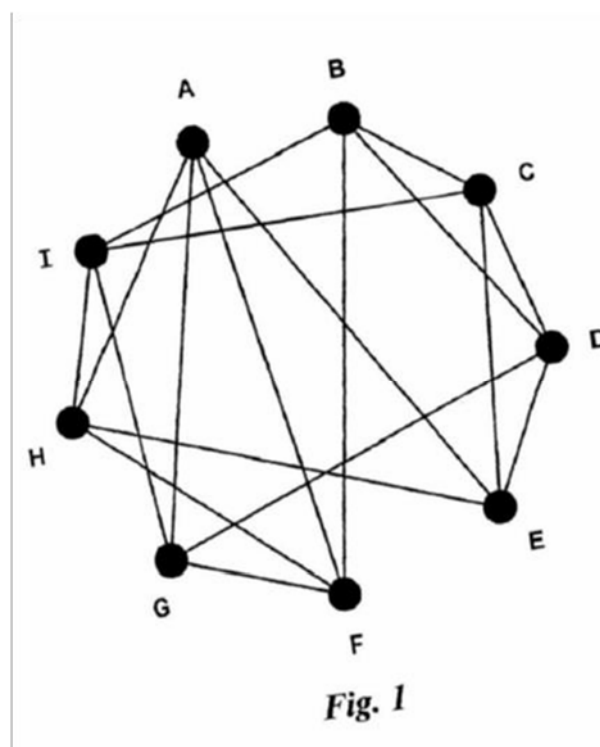


Figure 1 illustrates a broadcast channel represented by a “4-regular and 4-connected” graph. *Id.* at 4:50–51. The graph of Figure 1 is “4-regular” because each node is connected to exactly four other nodes (e.g., node A is connected to nodes E, F, G, and H). *Id.* at 4:40–41, 4:51–55. A node in a 4-regular 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 connect to the broadcast channel, a seeking computer locates a computer that is connected to the broadcast channel and then establishes a connection with a number of computers connected to the broadcast channel. *Id.* at Abstract.

Figures 3A and 3B of the '069 patent are reproduced below.

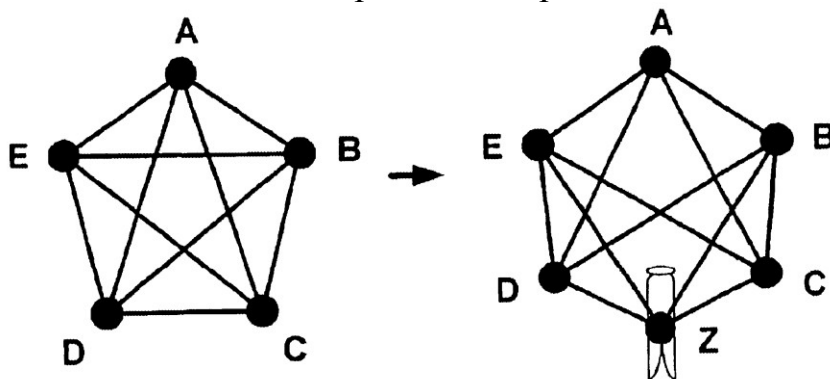


Fig. 3A

Fig. 3B

Figures 3A and 3B illustrate a process of connecting a new computer Z to the broadcast channel. *Id.* at 2:51–52. Figure 3A illustrates the broadcast channel of a 4-regular graph, where each of the computers is already connected to four computers. *Id.* at 5:55–57. Some of the connections between computers need to be broken so that the seeking computer can connect to four computers. In one embodiment, two pairs of computers that are connected to each other are identified. *Id.* at 5:57–61. Each of these pairs breaks the connection between them, and then each of the four computers (two from each pair) connects to the seeking computer. *Id.* at 5:61–64. The above figures show this concept, illustrating seeking

computer Z connecting to the broadcast channel. Computers B and E and computers C and D are the two identified pairs of computers that are identified as neighbors for new computer Z. *Id.* at 5:67–6:2. The connection between each of these pairs is broken, and a connection between computer Z and each of computers B, C, D, and E is established. *Id.* at 6:2–6:5.

C. Illustrative Claim

Petitioner challenges claims 1–5, 7, 8, and 11–13. Independent claim 1 is illustrative of the claimed subject matter:

1. A computer-based, non-routing table based, non-switch based method for adding a participant to a network of participants, each participant being connected to three or more other participants, the method comprising:

identifying a pair of participants of the network that are connected wherein a seeking participant contacts a fully connected portal computer, which in turn sends an edge connection request to a number of randomly selected neighboring participants to which the seeking participant is to connect;

disconnecting the participants of the identified pair from each other; and

connecting each participant of the identified pair of participants to the seeking participant.

Ex. 1001, 28:48–62.

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