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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**DECLARATION OF DR. PAUL FRANCIS, Ph.D.**

I, Dr. Paul Francis, Ph.D., declare as follows:

1.     I am a researcher and tenured faculty at the Max Planck Institute for Software Systems in Kajerslautern and Saarbrücken, Germany. Before joining the Max Planck Institute, I held research or faculty positions at Cornell University, ACIRI, NTT Software Labs, Bellcore, and MITRE, and was Chief Scientist at two Silicon Valley startups. I received my Ph.D. from University College London (1994) in Computer Science. I received a B.S. in Electrical Engineering (1980) from Colorado State University.

2.     My professional *curriculum vitae*, including my publications and patents, is submitted as Exhibit 1006.

3.     I am over the age of eighteen, and have personal knowledge of the facts stated in this declaration.

4.     I am being paid $1000 per hour to compensate for my time preparing this declaration. My compensation in no way depends on the substance of my testimony or the outcome of this or any proceeding.

5.     I am the author of *Yallcast: Extending the Internet Multicast Architecture* (the "Yallcast paper"). Ex.1005.

6.     I included the date I finalized the Yallcast paper (September 30, 1999) on the first page of the paper.

7.      The Yallcast paper describes the architecture and protocols for host-based content distribution, which I originally named Yallcast.  I am the inventor of Yallcast, and was the organizer of the Yallcast project.  I started the Yallcast project and first wrote the Yallcast paper when I was at NTT Software Labs in Tokyo, Japan.

8.      I also created a website (www.yallcast.com) to share information about my Yallcast project including the Yallcast paper with the public ("Yallcast website").  Ex. 1007.

9.      While I do not recall the exact date the Yallcast website was first completed, consistent with my goal to publicize the work, I believe I made it publicly accessible in or around September 1999.

10.     It was my practice to document changes made to the Yallcast website. For example, on the Yallcast project home page I noted, on December 15, 1999, that I added new information regarding Yallcast documentation and mailing lists. *Id*.

11.     On the Yallcast website, I provided various Yallcast documentation, including the Yallcast paper, as well as relevant specifications and slides for talks. Exhibit 1008.  Consistent with my goal to publicize my work, I believe I updated

the Yallcast website with new documentation shortly after, if not the same day, as a document was created, finalized, or updated.

12.     I made the Yallcast paper available in multiple formats, including post script, on the Yallcast website. I added the Yallcast paper to the Yallcast website shortly after (probably the same day or within a few days) that I finalized the paper (i.e., September 30, 1999). I verified my recollection that the Yallcast paper was completed on September 30, 1999 by checking the metadata of the post script file, which states "CreationDate: Thu Sep 30 17:02:29 1999". Ex. 1009.

13.     The archived copy of the Yallcast website also identifies an earlier (September 22, 1999) version of the Yallcast paper. Ex. 1008. Consistent with my goal to publicize my work, I believe the earlier version of the Yallcast paper would have been placed on the Yallcast website on or within a few days after September 22, 1999.

14.     I also set up mailing lists and list services for updating people interested in Yallcast. Ex. 1010.

15.     On December 15, 1999, I created a couple of online communities on eGroup, one called Yallcast Announcements and another called Yallcast Discuss. Exs. 1011-1012. I used these groups as another way to share information about Yallcast.

16.     I gave several presentations about Yallcast, including in 1999.  *See* Exs. 1013-1014.  In particular, I recall giving a seminar in 1999 on Yallcast at the University of Michigan.  Exhibit 1013, notice of November 3, 1999 seminar at the University of Michigan).

17.     At these seminars in 1999, I would point the attendees to the Yallcast website, where they could download the Yallcast paper.  Exs. 1015-1016.

18.     Early in 2000, I changed the name of Yallcast to Yoid ("Your Own Internet Distribution").

19.     I also created a new website for Yoid (www.icir.org/yoid).  Ex. 1017. This website was similar to the Yallcast website, but with some updates.

20.     I published Yoid documentation on this website, including the paper titled, *Yoid: Extending the Internet Multicast Architecture* (the "Yoid paper").  Ex. 1019.  I made the Yoid paper available on the Yoid website around April 2, 2000. Ex. 1018.

21.     The only difference between the Yallcast paper and the Yoid paper is the name change from Yallcast to Yoid.  Ex. 1019 at p. 4.  I made this notation to alert those who were already familiar with Yallcast that had been a name change, but nothing else.

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