

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., and
ROCKSTAR GAMES, INC.,
Petitioner,

v.

ACCELERATION BAY, LLC,
Patent Owner.

Case IPR2016-00727
Patent 6,829,634 B1

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

PETTIGREW, *Administrative Patent Judge*.

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

I. INTRODUCTION

Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Inc., 2K Sports, Inc., and Rockstar Games, Inc. (collectively, “Petitioner”) filed a Petition for *inter partes* review of claims 19–24 of U.S. Patent No. 6,829,634 B1 (Ex. 1201, “the ’634 patent”). Paper 1 (“Pet.”). Acceleration Bay, LLC (“Patent Owner”) filed a Preliminary Response. Paper 12 (“Prelim. Resp.”). 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 a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of any of claims 19–24 of the ’634 patent.

A. 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 11, 2–3.

Petitioner previously filed two petitions (IPR2015-01964 and IPR2015-01996) for *inter partes* review of claims 1–18 of the ’634 patent. *Id.* at 4. We instituted review in both of those proceedings, which remain pending. *See Activision Blizzard, Inc. v. Acceleration Bay LLC*, IPR2015-01964 (PTAB Mar. 31, 2016) (Paper 10); *Activision Blizzard, Inc. v. Acceleration Bay LLC*, IPR2015-01996 (PTAB Mar. 31, 2016) (Paper 8). *Inter partes* reviews of related patents also are pending: U.S. Patent No. 6,714,966 B1 (IPR2015-01951 and IPR2015-01953) and U.S. Patent No. 6,701,344 B1 (IPR2015-01970 and IPR2015-01972).

B. The ’634 Patent

The ’634 patent relates to a “broadcast technique in which a broadcast channel overlays a point-to-point communications network.” Ex. 1201, 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:

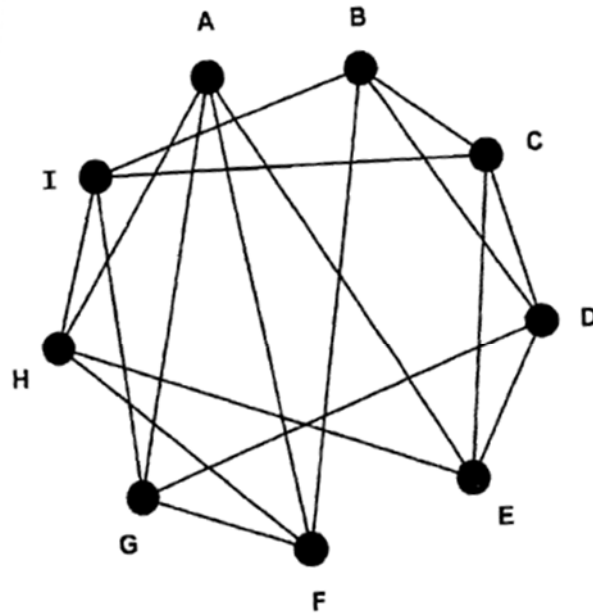


Fig. 1

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.

The '634 patent describes a process for adding nodes, or participants, to a broadcast channel. *Id.* at 5:45–7:53. The computer seeking connection to the network locates and contacts a portal computer that is fully connected to the network. *Id.* at 5:62–67. The portal computer then directs the identifying of computers to which the seeking computer will connect, i.e.,

computers that will be the seeking computer's neighbors. *Id.* at 5:67–6:3. The seeking computer then connects to each of the identified neighbors. *Id.* at 6:3–5.

C. Illustrative Claim

Petitioner challenges claims 19–24 of the '634 patent. Claim 19 is independent and is illustrative of the claimed subject matter:

19. A non-routing table based computer-readable medium containing instructions for controlling communications of a participant of a broadcast channel within a network, by a method comprising:

locating a portal computer;

requesting the located portal computer to provide an indication of neighbor participants to which the participant can be connected;

receiving the indications of the neighbor participants; and

establishing a connection between the participant and each of the indicated neighbor participants, wherein a connection between the portal computer and the participant is not established, wherein a connection between the portal computer and the neighbor participants is not established, further wherein the network is *m*-regular and *m*-connected, where *m* is the 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.

Id. at 30:20–39. Each of claims 20–24 depends directly from claim 19.

D. Asserted Grounds of Unpatentability

Petitioner asserts that claims 19–24 are unpatentable based on the following grounds (Pet. 6):

References	Basis	Challenged Claim(s)
Obraczka ¹ and Shoubridge ²	§ 103(a)	19–24
Obraczka, Obraczka Thesis, ³ and Shoubridge	§ 103(a)	19–24
DirectPlay ⁴ and Shoubridge	§ 103(a)	19–22 and 24
DirectPlay, Shoubridge, and Dénes ⁵	§ 103(a)	23

II. DISCUSSION

A. Claim Construction

In an *inter partes* review, we construe claim terms in an unexpired patent according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016) (upholding the use of the broadest reasonable interpretation standard). Consistent with the broadest reasonable construction, claim terms are

¹ Katia Obraczka et al., *A Tool for Massively Replicating Internet Archives: Design, Implementation, and Experience*, IEEE PROCEEDINGS OF THE 16TH INT’L CONF. ON DISTRIBUTED COMPUTING SYS. 657–64 (1996) (Ex. 1224) (“Obraczka”).

² Peter J. Shoubridge & Arek Dadej, *Hybrid Routing in Dynamic Networks*, 3 IEEE INT’L CONF. ON COMMS. CONF. REC. 1381–86 (1997) (Ex. 1205) (“Shoubridge”).

³ Katia Obraczka, *Massively Replicating Services In Wide-Area Internetworks* (Ph.D. Thesis, University of Southern California) (Dec. 1994) (Ex. 1225) (“Obraczka Thesis”).

⁴ Bradley Bargaen & Peter Donnelly, *Inside DirectX®: In-Depth Techniques for Developing High-Performance Multimedia Applications* (1998) (Ex. 1203) (“DirectPlay”).

⁵ Tamás Dénes, “*Evolution*” by *Vertex of Even-order Regular Graphs*, MATEMATIKAI LAPOK 365–77 (1979) (Ex. 1228) (“Dénes”). Petitioner has provided a certified translation of Dénes from Hungarian into English. See Exs. 1228, 1229.

presumed to have their ordinary and customary meaning as understood by a person of ordinary skill in the art in the context of the entire patent disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

1. “*m*-regular”

Petitioner proposes the term “*m*-regular,” recited in independent claim 19, means “each node is connected to exactly *m* other nodes.” Pet. 8 (citing Ex. 1201, 4:64–65, 15:32–41). Patent Owner does not offer a construction of this term. Prelim. Resp. 10. For purposes of this Decision, we agree Petitioner’s proposed construction accords with the broadest reasonable construction consistent with the specification, which, for example, describes a graph in which each node is connected to four other nodes as a 4-regular graph. Ex. 1201, 4:64–65.

2. “*non-complete graph*”

Petitioner proposes the term “non-complete graph,” recited in independent claim 19, be construed as a “graph in which at least two nodes are not connected to each other,” and cites claims of the ’634 patent as support. Pet. 8 (citing Ex. 1201, 29:23–25, 29:58–60). Patent Owner does not offer a construction of this term. Prelim. Resp. 10. We observe that claim 19 itself defines a non-complete graph as the “result[]” when each participant is connected to *m* neighbors and “the number of participants is at least two greater than *m*.” Ex. 1201, 30:28–29. For purposes of this Decision, we are not persuaded the term “non-complete graph” requires any further definition beyond what is recited in the claims.

3. “*m-connected*”

Petitioner proposes the term “m-connected,” recited in independent claim 19, means “dividing the network into two or more separate parts would require the removal of at least m nodes.” Pet. 8 (citing Ex. 1201, 5:1–5). Patent Owner does not offer a construction of this term. Prelim. Resp. 10. The portion of the specification cited by Petitioner describes the 4-connected graph as having the property that it would take the failure of at least 4 nodes to divide the graph into disjoint subgraphs. Ex. 1201, 5:1–5. Consequently, we agree for purposes of this Decision that Petitioner’s proposed construction accords with the broadest reasonable construction consistent with the specification.

4. “*non-routing table based*”

Petitioner proposes that the term “non-routing table based,” recited in independent claim 19, modifies “instructions” and means “a set of instructions that are implemented without the use of routing tables.” Pet. 8 (citing Ex. 1201, 2:46–47). Patent Owner does not offer a construction of this term. Prelim. Resp. 10. For purposes of this Decision, we adopt Petitioner’s proposed construction as the broadest reasonable construction consistent with the specification, which states that “[e]mbodiments of the invention deal with a non-routing table based method for broadcasting messages in a network.” Ex. 1201, 2:46–47.

B. Asserted Obviousness over Obraczka and Shoubridge

Petitioner contends claims 19–24 are unpatentable under 35 U.S.C. § 103(a) as obvious over the combination of Obraczka and Shoubridge. Pet. 11–36. Relying on the testimony of Dr. David R. Karger, Petitioner explains how the references allegedly teach or suggest all of the claim

limitations and contends that a person having ordinary skill in the art would have been motivated to combine the references. *Id.* (citing Ex. 1219).

Patent Owner counters that the asserted combination fails to disclose certain limitations of independent claim 19 and that the Petition fails to provide adequate motivation for combining the references. Prelim. Resp. 23–29, 35–40.

1. Summary of Obraczka

Obraczka discloses a scalable and efficient tool for replicating Internet information services. Ex. 1224, 657.⁶ The tool includes a process, flood-d, which aggregates nodes into replication groups. *Id.* For each replication group, flood-d calculates a logical topology over which information updates travel. *Id.* Every group member measures available bandwidth and propagation delay to the other group members. *Id.* at 657–58. Based on these measurements, flood-d builds *k*-connected, logical topologies for the group. *Id.* at 658. Obraczka explains that a single designated site, the group master, generates topologies for the group by running the flood-d process. *Id.* at 660. Obraczka’s replication tool uses flooding to propagate topology updates to all members of a group. *Id.* at 659.

Obraczka also describes a procedure for adding a site to a group. *Id.* at 660. When a new site joins a group, it sends a join request to an existing group member. *Id.* When the existing group member receives the join request, it floods the join request out to all sites in the group. *Id.* “A site is not part of the group until the master distributes a new topology that

⁶ Unless otherwise indicated, we cite to the original document pagination of the asserted prior art references.

contains the site. This naturally gives the master control over group membership.” *Id.*

2. Summary of Shoubridge

Shoubridge describes techniques for routing messages to all the participants in a communications network. Ex. 1205, 1381. Specifically, Shoubridge models a communication network as a graph in which “[e]ach node functions as a source of user traffic entering the network where traffic can be destined to all other nodes within the network.” *Id.* at 1382. In a specific example, Shoubridge describes a “64 node network with connectivity of degree 4” modeled as a “large regular graph forming a manhattan grid network that has been wrapped around itself as a torus.” *Id.* at 1383.

Shoubridge describes routing algorithms that determine the shortest path between source and destination nodes. *Id.* at 1381. Such algorithms “are typically used in static or quasi-static networks” and “require periods of network stability so routing tables can settle to reflect true shortest paths.” *Id.* Shoubridge also addresses flooding algorithms that broadcast user traffic through a network by attempting all paths to a destination and operate without the use of routing tables. *Id.* According to Shoubridge, flooding is effective “in very dynamic networks where destination nodes are highly mobile or topological changes occur very frequently and therefore the network connectivity is uncertain.” *Id.* Shoubridge describes a routing protocol called “constrained flooding,” described as “the most efficient way to flood an entire network.” *Id.* at 1382. In constrained flooding, packets are identified uniquely with sequence numbers, so that a packet received at a node is rebroadcast on all links except the link on which it was received, and

if a packet revisits a node with the same sequence number, it is discarded.
Id. at 1383.

Shoubridge describes simulations using both constrained flooding and minimum hop algorithms that use routing tables. *Id.* at 1382–84. Ultimately, Shoubridge proposes a hybrid routing model in which constrained flooding is used if routing tables are unable to provide a next node entry for forwarding user traffic, but minimum hop is used if a valid next node entry exists. *Id.* at 1384–85. In this model, “[f]looding occurs only for the parts of the network where routing tables are uncertain and only for the periods of time when the uncertainty persists.” *Id.* at 1385.

3. Analysis

Petitioner relies primarily on Obraczka for teaching the method steps of independent claim 19, citing Shoubridge only for its description of an m-regular, m-connected, non-complete network that uses non-routing table based instructions. Pet. 24–32. For the first step of claim 19, “locating a portal computer,” Petitioner cites Obraczka’s description of how a new participant seeking to join a replication group contacts an existing group member and sends a join request. *Id.* at 24 (citing Ex. 1224, 660 ¶ 5). According to Petitioner, the contacted existing group member is a “portal computer” as recited in the claim because the new site gains access to the broadcast channel through that computer. *Id.* at 24–25.

With respect to the second step, Petitioner contends that a person of ordinary skill in the art would have recognized that Obraczka’s “join request is a request that the located portal computer ‘provide an indication of neighbor participants to which the participant can be connected,’” as recited in claim 19, because the portal computer (i.e., the contacted existing group

member) “responds to the join request message with a topology update message for a proposed, new k -connected topology.” *Id.* at 26 (citing Ex. 1224, 659 ¶ 7, 660 ¶ 5, 662 ¶ 1; Ex. 1219 ¶¶ 129–30). Because the topology update message identifies the new broadcast channel topology for the replication group, Petitioner contends, the topology update message includes an identification of the k (e.g., two) neighbors to which the new site will be connected when the new topology is implemented. *Id.* (citing Ex. 1224, 661 ¶ 2, 662 ¶ 2; Ex. 1219 ¶ 128). Petitioner further contends that “[t]he new group membership and topology information [are] distributed to all participants before the new topology takes effect, confirming receipt by the seeking participant.” *Id.* (citing Ex. 1224, 659 ¶ 7, 660 ¶ 5; Ex. 1219 ¶ 129).

Patent Owner argues Petitioner fails to show that Obraczka discloses “requesting the located portal computer to provide an indication of neighbor participants to which the participant can be connected,” as required by claim 19. Prelim. Resp. 25–26. We agree with Patent Owner. As discussed, Petitioner identifies the existing group member contacted by a new site wishing to join a replication group in Obraczka as the claimed “portal computer.” Pet. 24. Petitioner further asserts that the existing group member responds to a join request from the new site with a topology update message that allegedly identifies neighbors to which the new site can connect. *Id.* at 26. As Patent Owner points out, however, the group master, not the contacted existing group member, updates the topology to include the new site and distributes the new topology to the group members. Ex. 1224, 660 ¶ 5; see Prelim. Resp. 25. Although Petitioner alleges that the contacted group member responds to the join request with a topology update

message, the cited passages of Obraczka do not support that proposition. *See* Pet. 26 (citing Ex. 1224, 659 ¶ 7, 660 ¶ 5, 662 ¶ 1). Thus, a new site sending a join request to an existing group member cannot be requesting the existing group member “to provide an indication of neighbor participants to which the participant can be connected,” as required by claim 19, because only the group master in Obraczka can perform that function. *See* Prelim. Resp. 25.

For at least this reason, Petitioner has not shown sufficiently that the combination of Obraczka and Shoubridge teaches or suggests all of the limitations of independent claim 19. Accordingly, we determine the information presented does not show a reasonable likelihood that Petitioner would prevail in establishing that any of claims 19–24 would have been obvious over Obraczka and Shoubridge.

C. Asserted Obviousness over Obraczka, the Obraczka Thesis, and Shoubridge

Petitioner also contends claims 19–24 are unpatentable under 35 U.S.C. § 103(a) as obvious over Obraczka, the Obraczka Thesis, and Shoubridge. Pet. 11–36. The Obraczka Thesis provides a detailed description of a tool for replicating Internet information services. Ex. 1225, Abstract. With respect to claim 19, Petitioner’s analysis is the same as its analysis based on the combination of Obraczka and Shoubridge, with one exception. For the “locating a portal computer” limitation, Petitioner further relies on a description in the Obraczka Thesis of a “location service” for finding a current group member. *See* Pet. 25 (citing Ex. 1225, 7 ¶ 1). Petitioner, however, does not cite the Obraczka Thesis in connection with the “requesting” limitation, or explain how the cited location service

addresses the deficiency identified above. *See id.* at 25–27. Therefore, for the same reasons discussed in the previous section, we determine the information presented does not show a reasonable likelihood that Petitioner would prevail in establishing that any of claims 19–24 would have been obvious over Obraczka, the Obraczka Thesis, and Shoubridge.

D. Asserted Obviousness Based on DirectPlay and Shoubridge

Petitioner contends claims 19–22 and 24 are unpatentable under 35 U.S.C. § 103(a) as obvious over the combination of DirectPlay and Shoubridge, and claim 23 is unpatentable as obvious over the combination of DirectPlay, Shoubridge, and Dénes. Pet. 36–60. Relying on the testimony of Dr. Karger, Petitioner explains how the references allegedly teach or suggest all of the claim limitations and contends that a person having ordinary skill in the art would have been motivated to combine the references. *Id.* (citing Ex. 1219). Patent Owner counters that the asserted combinations fail to disclose certain limitations of independent claim 19 and that the Petition fails to provide adequate motivation for combining the references. Prelim. Resp. 23–29, 35–40.

1. Summary of DirectPlay

DirectPlay describes an application program interface (“API”) for providing medium-independent communications for multiplayer games over computer networks. Ex. 1203, 15, 19.⁷ Figure 18-3 of DirectPlay is reproduced below:

⁷ For DirectPlay (Ex. 1203), we cite to the exhibit pagination rather than the original document pagination.

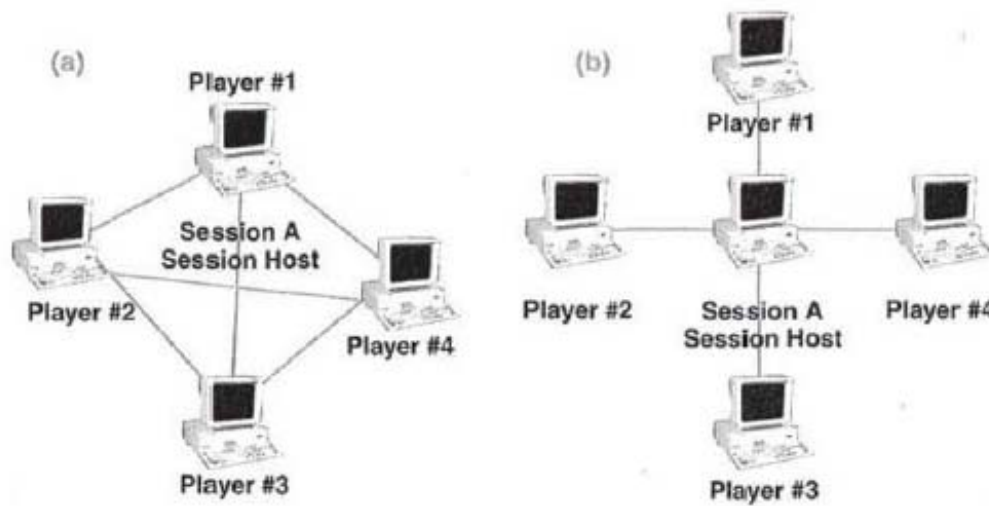


Figure 18-3.
A DirectPlay session (physical view).

Id. at 23. Figure 18-3 depicts two network topologies that may be used for a multiplayer gaming session. *Id.* Figure 18-3(a) represents a Peer-to-Peer gaming session, in which Player #1 creates the session and becomes the session host for the session. *Id.* Players #2, #3, and #4 may connect to Player #1 and receive a list of the other DirectPlay objects (i.e., players). *Id.* “Because each DirectPlay object knows about the other objects, they route messages directly to one another rather than through the session host. So the resulting session is peer-to-peer” *Id.* Figure 18-3(b) represents an alternative network topology relying on a client-server configuration.

Id. at 24.

DirectPlay also provides a “matchmaking service” in which players gather to identify game sessions to which they want to connect. *Id.* at 24, 98. Players use “lobby clients,” which could be web-based applications, to meet in a virtual lobby and set up networked game sessions. *Id.* at 24, 98–100. “Lobbies can offer a theme park environment . . . with features and games appropriate for children.” *Id.* at 100. Once players decide to play a

game, the lobby launches the game application simultaneously on the players' computers to form a networked gaming session. *Id.* at 24.

2. Analysis

Petitioner relies on DirectPlay for teaching the method steps of independent claim 19, citing Shoubridge primarily for its description of an m-regular, m-connected, non-complete network that uses non-routing table based instructions. Pet. 43–55. Petitioner contends a person of ordinary skill in the art would have been motivated to combine the teachings of DirectPlay with those of Shoubridge for three reasons. *Id.* at 39–42. First, Petitioner submits that DirectPlay discloses an interface for providing multiplayer games that could run over a variety of networks, and “Shoubridge discloses a network topology and networking protocol—flooding over a 64-node, 4-regular torus graph—with which DirectPlay could be used.” *Id.* at 40 (citing Ex. 1203, 22, 27; Ex. 1205, 1383 ¶¶ 2–8; Ex. 1219 ¶ 222). Second, Petitioner argues that DirectPlay addresses the problem of broadcasting messages to multiple participants, and Shoubridge similarly discloses a technique—constrained flooding—to send messages to all participants in a network. *Id.* at 40–41 (citing Ex. 1203, 20, 22, 72, 73, 123; Ex. 1205, 1382 ¶ 1–1383 ¶ 1, 1383 ¶ 4; Ex. 1219 ¶ 225). Third, Petitioner asserts that DirectPlay teaches the need for a reliable network, and Shoubridge discloses that flooding is a reliable routing strategy for large networks that operate in a very dynamic environment, “such as some subset of hundreds or thousands of players joining or leaving a game session.” *Id.* at 41–42 (citing Ex. 1205, 1384 ¶ 5; Ex. 1219 ¶ 227).

Patent Owner contends that Petitioner fails to provide adequate motivation for combining DirectPlay and Shoubridge in the manner asserted

to achieve the claimed invention. Prelim. Resp. 29–37. We are persuaded by Patent Owner’s argument. All of the reasons offered by Petitioner for why a person of ordinary skill in the art would have combined the teachings of DirectPlay and Shoubridge relate to Shoubridge’s disclosure of flooding a network to broadcast messages to all participants. Shoubridge, however, describes flooding as effective in “very dynamic networks.” Ex. 1205, 1381. In contrast, Shoubridge explains that routing-table based algorithms such as minimum hop typically are used in “static or quasi-static networks.” *Id.* Although Petitioner suggests that a network with players joining or leaving a game session would be highly dynamic, Petitioner does not cite any portion of DirectPlay that characterizes its network as highly dynamic. *See* Pet. 42. Rather, as Patent Owner asserts, DirectPlay appears to contemplate a static or quasi-static environment in which a virtual lobby allows a potential participant to search for other participants with similar skills or interests and then sets up a game session for the participants. *See* Prelim. Resp. 34, 37, 38; *see also* Ex. 1203, 24 (“A player can search for players . . . and set up a game. The lobby takes it from there, . . . launching the application simultaneously on everyone’s computer.”). Thus, Petitioner has not shown that DirectPlay teaches the type of network for which Shoubridge describes flooding as an effective and reliable routing method (i.e., a very dynamic network). Accordingly, we are not persuaded a person of ordinary skill in the art would have been motivated to apply Shoubridge’s teaching of constrained flooding to DirectPlay.

Moreover, Shoubridge compares constrained flooding to routing-table based algorithms such as minimum hop using simulations. Ex. 1205, 1383–84. As Patent Owner notes, Shoubridge concludes that, at least with the

64-node network that was simulated, “flooding results in very low network utili[z]ation, and therefore better routing strategies need to be sought.” Ex. 1205, 1384; *see* Prelim. Resp. 36. Shoubridge ultimately proposes a hybrid routing model in which constrained flooding is used only temporarily and only in parts of the network where routing tables are uncertain for a period of time. Ex. 1205, 1385. Thus, Shoubridge teaches an approach that uses a combination of routing tables and constrained flooding for its 4-regular, 4-connected, 64-node network, which Petitioner maps to the m-regular, m-connected network limitation recited in claim 19. *See id.*; Pet. 54–55. Therefore, we agree with Patent Owner that applying Shoubridge’s teachings to a network, such as DirectPlay’s, that is not highly dynamic would result in a routing-table based approach, contrary to the “non-routing table based” recitation in the preamble of claim 19. *See* Prelim. Resp. 30, 34, 37. To the extent that claim language is limiting, we concur with Patent Owner that a person of ordinary skill in the art would not have combined DirectPlay and Shoubridge in a manner that would satisfy such a limitation. *See id.* at 37.

For at least the foregoing reasons, we determine the information presented does not show a reasonable likelihood that Petitioner would prevail in establishing that claims 19–22 and 24 would have been obvious over the combination of DirectPlay and Shoubridge, or that claim 23 would have been obvious over the combination of DirectPlay, Shoubridge, and Dénes.

III. CONCLUSION

For the foregoing reasons, we determine that the information presented does not establish a reasonable likelihood that Petitioner would

prevail in showing that claims 19–24 of the '634 patent are unpatentable on the grounds asserted in the Petition.

IV. ORDER

Accordingly, it is:

ORDERED that the Petition is denied as to all challenged claims, and no trial is instituted.

FOR PETITIONER:

Andrew R. Sommer
Gregg Duffey
Michael M. Murray
Michael A. Tomasulo
WINSTON & STRAWN LLP
asommer@winston.com
gduffey@winston.com
mmurray@winston.com
mtomasulo@winston.com

FOR PATENT OWNER:

James Hannah
Michael Lee
Shannon Hedvat
KRAMER LEVIN NAFTALIS & FRANKEL LLP
jhannah@kramerlevin.com
mhlee@kramerlevin.com
shedvat@kramerlevin.com