

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DK CROWN HOLDINGS INC.,
Petitioner,
v.

DIOGENES LIMITED,
Patent Owner.

CASE IPR2023-00268
U.S. PATENT NO. 11,200,779

PETITIONER'S DEMONSTRATIVE EXHIBITS FOR ORAL ARGUMENT

Pursuant to the Board's January 15, 2025 Order Trial Hearing (Paper 36),
Petitioner DK Crown Holdings Inc. submits the following demonstratives for use at
the oral argument scheduled for February 20, 2025.

Dated: February 12, 2025

Respectfully submitted,

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Petitioner's Presentation

DK Crown Holdings Inc., a Delaware Corporation, v. Diogenes Limited



IPR2023-00268 (U.S. Patent No. 11,200,779)

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I. Summary

IPR2023-00268 (U.S. Patent No. 11,200,779)

Summary of Grounds

- **Ground 1:**

Claims 1-3, 5-10, 16-18, and 21-25 are anticipated by Scott under 35 U.S.C. § 102.

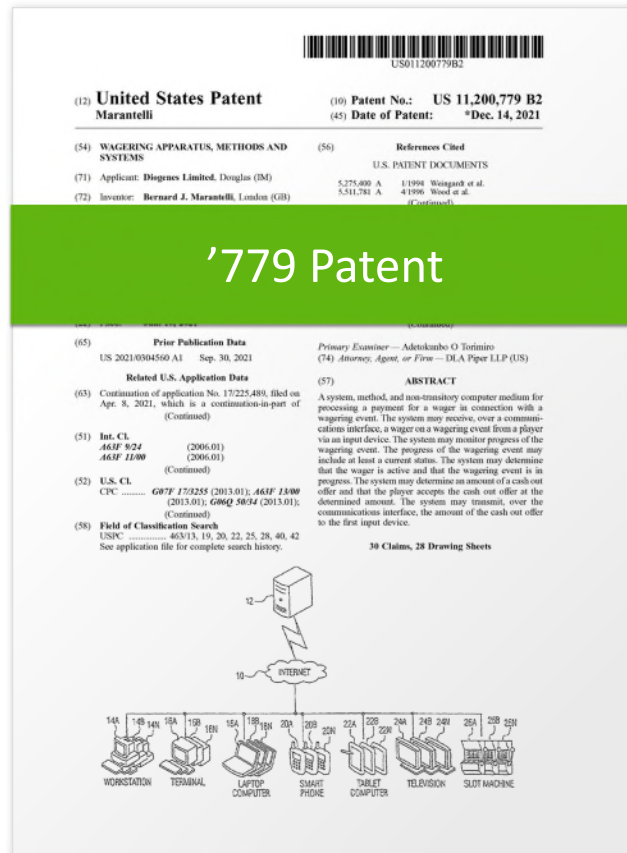
- **Ground 2:**

Claims 1-3, 5-10, 16-18, and 21-25 are obvious over Scott in view of the general knowledge of POSITA under 35 U.S.C. § 103.



5)

U.S. Patent No. 11,200,779 (“ ’779 Patent ”)



CLAIM 1

“A system comprising:

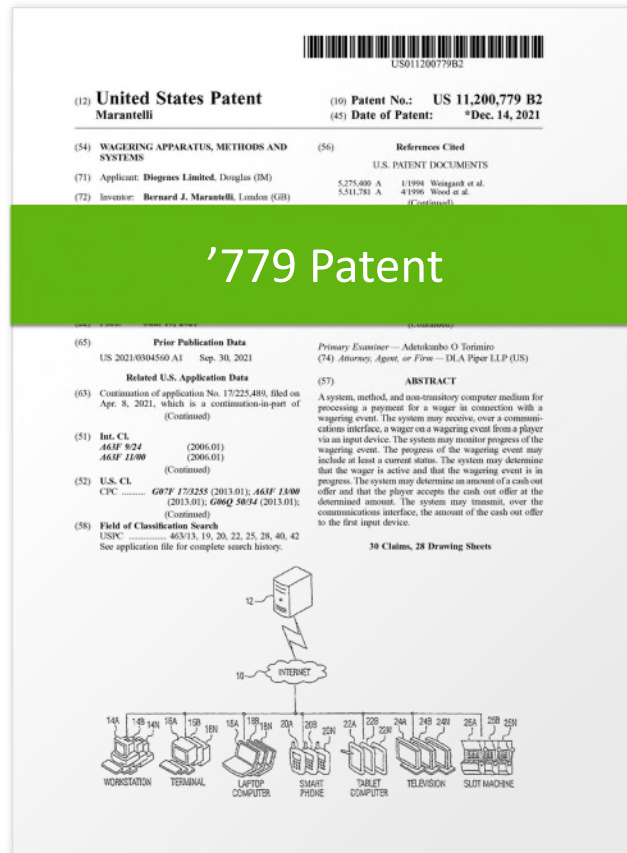
a processor operatively coupled to a memory configured to store computer-readable instructions that, when executed by the processor, cause the processor to:”

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event;

recalculate, by the system controller, the wager information in real time based on the continuously retrieved data;

continuously evaluate, by the system controller, the recalculated wager information;”

U.S. Patent No. 11,200,779 (“’779 Patent”)



CLAIM 16

“A **system** for conducting a wagering event among one or more participants in real time, the system comprising:

a system controller comprising a trading engine module;”

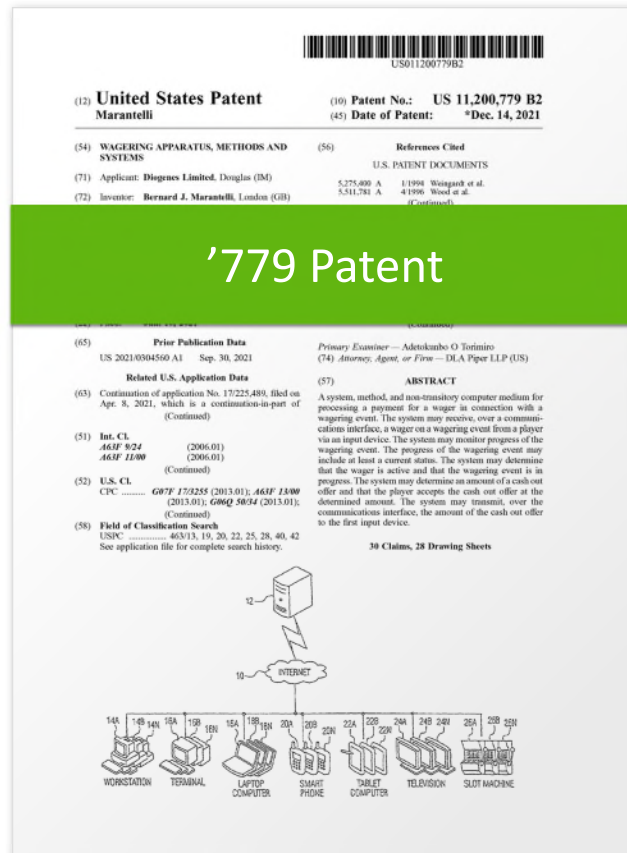
“the **system controller configured to:**”

“**continuously retrieve** data in **real time** related to a progress of the wagering event;

recalculate the **wager information in real time based on the continuously retrieved data;**

continuously evaluate the recalculated wager information;”

U.S. Patent No. 11,200,779 (“’779 Patent”)



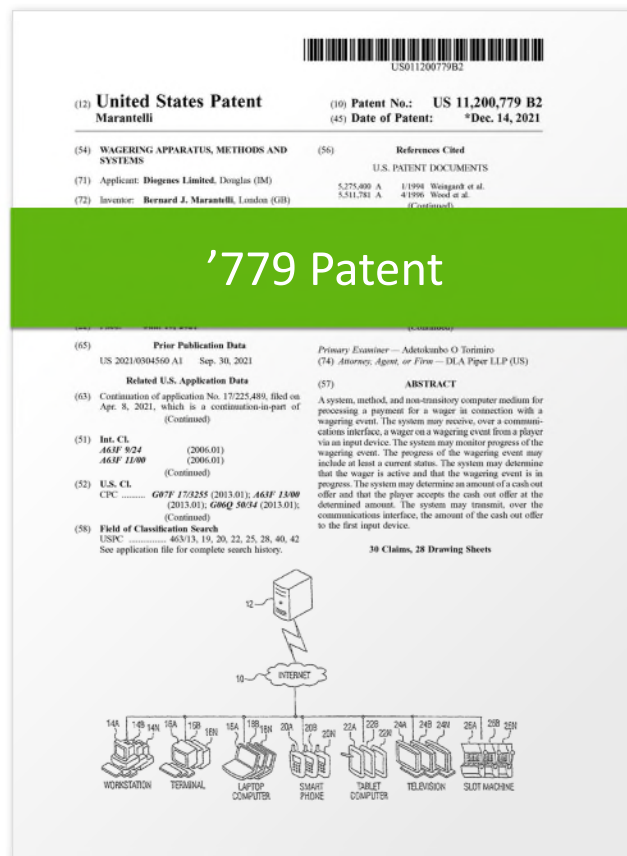
CLAIM 16

“receive, **by the trading engine module**, a plurality of wagers **on the wagering event** from the plurality of input devices via the communications interface, the plurality of wagers input by a plurality of participants via the user interfaces of respective input devices from the plurality of input devices”

CLAIM 18

“The system of claim 16, wherein **the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more** probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales, stocks, celebrity gossip, movies, reality TV, football (“soccer”), American football, Australian rules football, baseball, cricket, basketball, golf, hockey, auto racing, legends, rugby, wrestling, surfing, mixed and martial arts.”

U.S. Patent No. 11,200,779 (“ ’779 Patent ”)



CLAIM 5

“The system of claim 1, wherein **the wager comprises** one or more of an accumulator, parlay, **fixed odds single** or fixed odds multiple **wager** comprising one or more combinations, wherein the one or more combinations are selectable by at least one of a participant, a third party, and the system controller,”

CLAIM 7

“The system of claim 1, wherein **the wager comprises** one or more of **fixed odds single wagers**, multiple wagers, full cover wagers, full cover wagers with singles, ‘Any to Come’ (ATC) or ‘if cash’ wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, tote wagering, fixed-odds wagering, accumulator or parlay wagering, fixed odds, a pool, progressive, fixed pool, variable pool or guaranteed pool.”

CLAIM 23

“The system of claim 16, wherein **the plurality of wagers** comprise one or more of **fixed odds single wagers**, multiple wagers, full cover wagers, full cover wagers with singles, ‘Any to Come’ (ATC) or ‘if cash’ wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, tote wagering, fixed-odds wagering, accumulator or parlay wagering, fixed odds, a pool, progressive, fixed pool, variable pool or guaranteed pool.”

II. “Continuously” and “Real Time” Limitations

A. Claim Construction

B. Invalidity - Individual Limitations

“Continuously” and “Real Time”

CLAIM 1

“A **system** comprising:

a **processor** operatively coupled to a memory configured to **store computer-readable instructions that, when executed by the processor, cause the processor to:**”

“**continuously retrieve**, by the system controller, data in **real time** related to a progress of the wagering event;

recalculate, by the system controller, the **wager information in real time based on the continuously retrieved data**;

continuously evaluate, by the system controller, the recalculated wager information;”

CLAIM 16

“A **system** for conducting a wagering event among one or more participants in real time, the system comprising:

a system controller comprising a trading engine module;”

“the **system controller configured to:**”

“**continuously retrieve** data in **real time** related to a progress of the wagering event;

recalculate the **wager information in real time based on the continuously retrieved data**;

continuously evaluate the recalculated wager information;”

Issues in Dispute

1. The claims do not require a repeated, regular polling operation.
2. The claims do not exclude discrete operation.

“Continuously” and “Real Time”

DRP Claim Construction

- The construction of key terms is provided by the DRP and the Board.

1[e] 16[i]	“continuously retrieve . . . data . . . related to a progress of the wagering event”	“repeatedly retrieving data related to the progress of the wagering event as developments occur that may affect the odds of the wager.”
1[e]-[f] 16[i]-[j]	“retrieving data and recalculating wager information ‘in real time’”	“retrieving or recalculating while the wagering event is occurring, and with sufficient frequency to promptly capture developments that may affect the odds of the event.”

- Paper 14, DRP at 14, 21; Paper 20, ID at 13-15

“Continuously” and “Real Time”

PO's Modifications

- PO's edits to the construction and claims.

sports

by a repeated, regular
polling operation

1. A system comprising:
a processor operatively coupled to a memory configured to store computer-readable instructions that, when executed by the processor, cause the processor to:
receive, by a trading engine module of a system controller, a wager on a ~~wagering~~ event from one or more input devices via a communications interface, the wager input via a user interface of the one or more input devices;
store, by the system controller, the wager in a record within a database, the record comprising wager information for one or more wagers associated with one or more participants;
continuously retrieve, by the system controller, data in real time related to a progress of the ~~wagering~~ event;
recalculate, by the system controller, the wager information in real time based on the continuously retrieved data;
continuously evaluate, by the system controller, the recalculated wager information;

determine, by the system controller, that a participant of the one or more participants is eligible to win an award based on one or more of the wager and a potential outcome of the wagering event;
generate, by the system controller, an option in real time for the participant to one or more of fully cash out of the wager or partially cash out of the wager prior to a conclusion of the wagering event for at least a portion of the award;
cause, by the system controller, the option to be presented to the participant via the user interface of the one or more input devices;
receive, by the system controller, a selection of the option for the participant from the one or more input devices prior to conclusion of the wagering event; and
cause, by the trading engine module, the at least the portion of the award to be presented to the participant, such that the user interface displays one or more of a confirmation that the option has been selected and a value of the at least the portion of the award.

excluding discrete operation wherein the system is only triggered to retrieve information at predetermined discrete points

“Continuously” and “Real Time”

Repeated, Regular Polling Operation is Not Required

continuously retrieve, by the system controller, data in real time related to a progress of the wagering event;

- PO and Petitioner disagree over the implications of the DRP and Board’s claim construction for limitation 1[e]/[i].
- PO seeks to deviate from the construction by introducing ‘considerations’ and other new limitations into the “continuously” limitation.

“Continuously” and “Real Time”

The Parties’ Positions

- Petitioner agrees with the construction adopted by the Board.

- PO, while claiming to accept the DRP Decision, proposes a new construction directed to “sports”.

– Paper 28, PO Response at 22

“The parties’ experts agree the ’779 Patent is ***primarily directed*** to sports wagering.”

“The claims of the ’779 Patent . . . should therefore be ***understood in view of*** their application to a ‘wagering event’ that includes a sporting event.”

“[T]wo key considerations ***must inform the meaning of*** ‘continuously retrieve . . . in real time[.]’”

- Paper 28, PO Response at 21, 22, and 22 (emphases added)

“Continuously” and “Real Time”

PO’s “Considerations”

- PO attempts to avoid the claim construction by alleging the claims “must account for ... live sporting events.”
- PO proposes “considerations” to account for live sports.

Given this context, two key considerations must inform the meaning of “continuously retrieve . . . in real time”: (1) the claimed system must be suitable for events that are external to the system (externality), and (2) the claimed system must capture time-sensitive, fluid developments in wagering events (fluid developments).

- Paper 28, PO Response at 22

“Continuously” and “Real Time”

PO’s “considerations”

- PO then alleges the “considerations” necessitate the claim language to require a “repeated, regular polling operation.”

Knowing this context from the specification, a POSITA would understand that “continuously retrieve . . . data in real time” **requires** retrieving data by a **repeated, regular polling operation**, at regular intervals, that is sufficiently frequent to promptly capture relevant developments in the wagering event as they occur. *See* EX-2007 at ¶ 74.

“Continuously” and “Real Time”

PO Lacks Expert’s Support

- PO’s new construction, limiting the claims to a polling operation, lacks support from its expert. PO inexplicably converts its expert Dr. Olaf Vancura’s use of “suitable” into “require.”

Vancura - PO Expert

73. In keeping with the DRP’s definition of “continuously retrieve... in real time,” given the external nature of wagering events contemplated by the ’779 Patent, and understanding the importance of fluid developments like the passage of in-game time, a POSITA would understand a repeated polling function is suitable for “continuously retrieve... in real time” for a sporting event whose outcome is dependent on time. Since time is fluid, as time elapses during a game there is no

- Ex. 2007, Vancura Second Dec. at ¶ 73

PO Response

PO’s expert explains that the POSITA would understand “continuously retrieve . . . data in real time related to a progress of the wagering event” to require data retrieval by a repeated, regular polling operation that is sufficiently frequent to promptly capture relevant developments in the wagering event as they occur, and that a system that retrieves data only at discrete time points of the wagering event, such as by a trigger, does not satisfy this element. EX-2007 at ¶¶ 73–74.

- Paper 28, PO Response at 20, 24 citing Ex. 2007, Vancura Second Dec. ¶¶ 73–74

“suitable” ≠ “require”

“Continuously” and “Real Time”

The Origins of “Polling”

- Specification never discloses a “repeated, regular polling operation” for wagering event data
- It arises solely as a “suitable” way to achieve “continuously retriev[ing]”

¹ Petitioner correctly notes that “polling” is not a word the DRP uses. It is the word PO’s expert uses to describe the repeated, regular operation called for by the DRP’s express construction: it satisfies the requirement for a “frequency” and the exclusion of only discrete operation at points of the wagering event. Paper 14 at 19 and 21.

- Paper 34, PO Sur-Reply at 4

“Continuously” and “Real Time”

The Origins of “Polling”

Only use of “polls” or “polling” is in entirely different context.

- The instances of “polls” or “polling” in the '779 Patent are related to sending one message to a group for the purposes of voting.
- There is no discussion of repeatedly performing a polling operation to capture game data. PO is injecting this *new* use to serve its argument.

mits the counter-offer to system controller. In some embodiments, wagering input device polls participants to the crowd-funded wager to determine whether to accept the buyout offer or counter-offer. Such process has been dis-

- Ex. 1001, '779 Specification at 50:22-25

of the buyout offer. The message transmitted to each participant wagering input device acts as a polling mechanism to determine whether to accept or reject the buyout offer. For

- Ex. 1001, '779 Specification at 49:40-43

“Continuously” and “Real Time”

Petitioner accepted and applied the DRP construction

- Petitioner included a table taking the exact language from the DRP Decision.
- PO is attempting to relitigate the DRP Decision’s construction by converting sufficient frequency into polling.
- Petitioner has remained consistent, since PO’s expert hatched the term, that polling is one way of meeting the claims but not the only way.
- PO’s overly limiting proposed construction should be rejected.

Term	DRP Construction
“continuously retrieve ... data ... related to a progress of the wagering event”	“encompass[es] ‘repeatedly retrieving data related to the progress of the wagering event as developments occur that may affect the odds of the wager’” - DRP Decision, 14
“retrieving data and recalculating wager information ‘in real time’”	“encompass[es] retrieving or recalculating while the wagering event is occurring, and with sufficient frequency to promptly capture developments that may affect the odds of the event” - DRP Decision, 21

- Paper 33, Petitioner Reply at 5

“Continuously” and “Real Time”

The Claims Are NOT Limited to PO’s Preferred Embodiments

The Federal Circuit has already resolved whether a claim is limited to a commercial implementation or the broader language of the claim.

“For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.”

SuperGuide Corp. v. DirecTV Enterprises, Inc.,
358 F.3d 870, 875 (Fed. Cir. 2004)

Paper 33, Petitioner Reply at 8



“When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art.”

In re Theresa,
720 F. App’x 634, 637 (Fed. Cir. 2018)

Paper 33, Petitioner Reply at 8



“Continuously” and “Real Time”

PO Focuses on “Polling” Embodiment

- PO alleges that polling is the only way its claims can be *implemented*.
- PO is attempting to place a burden on Petitioner to propose an alternative way to *implement* the claims in a commercial embodiment.

Petitioner argues that the '779 Patent's “continuously retrieve ... in real time” claim element does not call for a polling operation.¹ But neither Petitioner nor its expert can identify any other retrieval method that satisfies the DRP's construction.

Despite its criticism of PO's expert, Petitioner has not identified any implementation besides polling that would satisfy the DRP's construction. Its best

The Board should decline Petitioner's request to read out portions of the DRP's construction of “continuously retrieve ... in real time.”

- Paper 34, PO Sur-Reply at 4, 7, 8

“Continuously” and “Real Time”

Claims are Not Limited to Live Sports Embodiments

- The Challenged Claims Do Not Require “Live Sports” or A “Live Sports” Embodiment
- PO tries to defend its inclusion of “Live Sports” in the claims by claiming it flows from the DRP construction.
- The claims include a wide variety of non-sporting events that would include different system requirements.

The claims of the '779 Patent—including the disputed phrase “continuously retrieve . . . data in real time related to a progress of the wagering event”—should therefore be understood in view of their application to a “wagering event” that includes a sporting event.

- Paper 28, PO Response at 22

expert admits. EX1059 (Vancura Tr.), 65:21-66:16. The claimed “wagering events” include poker, roulette, blackjack, keno, bingo, and other casino games disclosed by Scott. *See id.*; *see also* DRP Decision, 20 (listing alternative “wagering events” including “slot machines, keno, [and] poker” included within the scope of the

- Paper 33, Petitioner Reply at 7-8

“Continuously” and “Real Time”

The Construction is Settled

- Even if the record provided evidence which could support PO’s new construction it is foreclosed from doing so in this forum.
- Neither PO nor its expert identify any factual or procedural errors in the DRP’s construction.

“The Director accordingly may review final PTAB decisions and, upon review, may issue decisions himself on behalf of the Board.”



United States v. Arthrex, Inc.,
594 U.S. 1, 25 (2021)

not include any periodic “polling” requirement. DRP Decision, 14, 21. The DRP’s construction is binding here.⁵ PO’s contradictory construction is therefore foreclosed.

- Paper 33, Petitioner Reply at 6

“Continuously” and “Real Time”

Discrete Operation is NOT Excluded

The DRP settled the issue with discrete operation by providing a claim construction.

- PO and Petitioner disagree over the implications of the construction.
- The focus of the DRP construction is on whether the data retrieval *is responsive to developments* that occur.
- Whether the continuous retrieval of data occurs simultaneously with a discrete time point is not excluded by the claim.

wager.” This construction does not encompass retrieving data on a pre-determined time schedule (i.e., discrete time points of the wagering event) that is independent of the occurrence of developments that may affect the odds, such as capturing data at halftime of a sporting event. Similarly, we

- Paper 14, DRP at 14

sporting event. We determine, however, that this example of a non-continuous system does not evidence an intent to exclude from the scope of the claims any system or method that performs calculations at “discrete time points.” This example illustrates only that the claim term “continuous” does not encompass determining cash out value at certain discrete time points, such as halftime or other predetermined time points in the event.

- Paper 14, DRP at 14

Thus, the DRP (1) rejected a construction of “continuous ... in real time” that excludes discrete operation, (2) set forth a construction that encompasses promptly retrieving information that may affect the odds of the wager, and (3) found that the evidence supports a finding that Scott’s value engine satisfied this limitation.⁴

- Paper 33, Petitioner Reply at 5

“Continuously” and “Real Time”

The Parties’ Positions

- PO’s construction focuses whether the presence of elements in the prior art *remove* the prior art from the scope of the claims.

wager.” This construction does not encompass retrieving data on a pre-determined time schedule (i.e., discrete time points of the wagering event) that is independent of the occurrence of developments that may affect the odds, such as capturing data at halftime of a sporting event. Similarly, we

-Paper 14, DRP at 14

- When applying the Board/DRP construction whether the data retrieval happens to occur at the same time as a discrete event *is not dispositive*.

Board/DRP/Petitioner	PO
Data retrieval responsive to developments that affect the odds	Data retrieval simultaneous with discrete events
Board/DRP/Petitioner’s constructions what is within the scope of the claims	PO frames the construction as what is NOT within the scope of the claims

“Continuously” and “Real Time”

PO’s “conflation” argument was previously addressed.

- PO is repeating the same mistakes by insisting the claims *exclude* discrete operation.
- PO alleges Petitioner conflates the different applications of the word “discrete.”
- PO alleges that Petitioner “does not even attempt” to grapple with the DRP’s finding on “(b) [d]iscrete time points of the wagering event.”

(a) Discrete time points *in computer operation* — which the DRP says are within the scope of the claims: Paper 14 at 15; and

(b) Discrete time points *of the wagering event* — which the DRP says are outside the scope of the claims: Paper 14 at 14 and 19.

necessarily done at some discrete point. Paper 14 at 15. However, the DRP also found that “continuously retrieve ... in real time” does *not* encompass retrieval only at predetermined discrete time points *of the wagering event*, such as halftime or the end of a period. Paper 14 at 19.

- Paper 34, PO Sur-Reply at 3-4

“Continuously” and “Real Time”

Discrete Operation is NOT Excluded

Paper 9, Majority Op. 14–15. This construction does not specify what is meant by “discrete time points,” which may create confusion because, as the Dissent points out, operations performed by a computer necessarily perform tasks at discrete time points based on executing instructions according to the computer’s clock speed. *See* Paper 9, Dissenting Op. 4. Thus, taken literally, the construction that the claims preclude performing a task at discrete time points would exclude any computer-based system from the scope of the claim, which is at odds with the claim language explaining that the steps are carried out by a processor executing computer-readable instructions. *See* Ex. 1001, 51:16–18 (claim 1).

- Paper 14, DRP at 15-16

- PO alleges Petitioner conflates the different applications of the word “discrete.”
- The DRP addressed this argument by stating the implications of the literal usage of “discrete” conflict with the operations of a computer.
- The DRP construction excludes neither usage.

“Continuously” and “Real Time”

Petitioner’s reply addressed discrete time points of the wagering event

- PO alleges that Petitioner “does not even attempt to grapple with the” DRP’s finding on “(b) [d]iscrete time points of the wagering event.”
- PO’s overbroad allegation is inconsistent with Petitioner’s consistent references to discrete time points of the wagering event.
- The Reply sets out how Scott retrieves data as developments occur that may affect the odds of the wager.

Even if the Board were to apply PO’s flawed construction, the claims are unpatentable because PO’s argument that Scott only discloses data retrieval at “predetermined discrete points” is factually incorrect. POR 32. Like the ’779 Patent specification, Scott discloses that its system may have discrete or continuous operation, or both. POR, 30-33; EX1006, ¶[0067]; EX1001, 17:52-57. Specifically, Scott states that a cash value may be presented after “each card or other game symbol is dealt to a player” or “[a]lternatively, current cash value may be determined and presented at the end of each dealing stage of the game.” EX1006, ¶[0067].

- Paper 33, Petitioner Reply at 12

II. “Continuously” and “Real Time” Limitations

A. Claim Construction

B. Invalidity - Individual Limitations

1. Applying the DRP/Board’s Construction to Scott

Invalidity – Individual Limitations

“continuously retrieve ... data in real time”

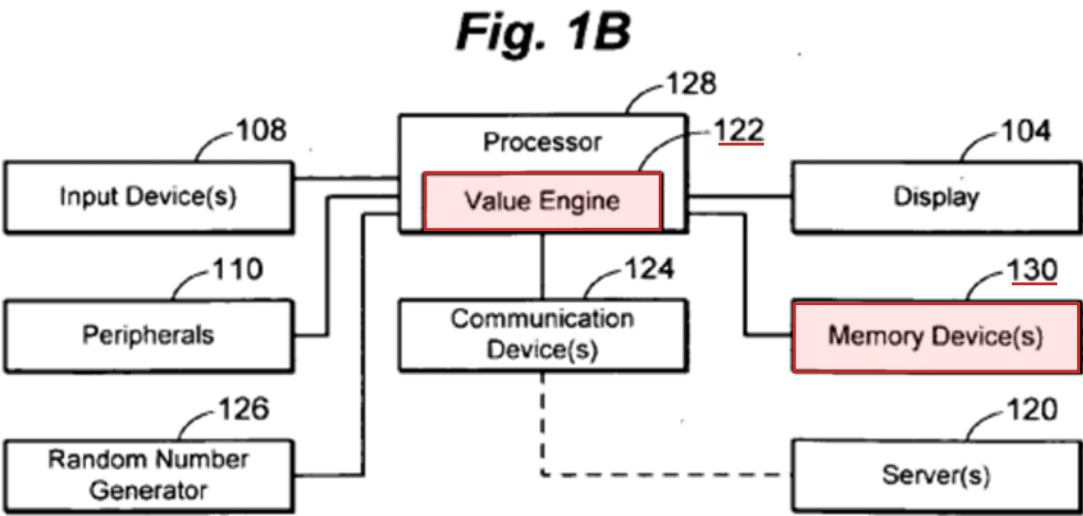
Scott

'779 Patent Claims 1 and 16

1[e]/16[i] “continuously retrieve [...] data in real time related to a progress of the wagering event”

Undisputed:

- Scott discloses retrieving “data” that is “related to a progress of the wagering event”
- Scott satisfies these portions of 1[e]/16[i]



Data retrieved by the value engine

[0058] In operation, the value engine 122 may evaluate game information to determine a current cash value. For example, in one embodiment, the value engine 122 may receive game information identifying the game symbols or indicia the player currently has, the odds the player will win (or lose), the amount the player has wagered, or various combinations thereof. As shown in FIG. 2, the value engine 122 may obtain or be provided this information from another element of the gaming machine. For example, the value engine 122 may retrieve game information from a memory device 130 of the gaming machine.

Related to the progress of the wagering event

“A POSITA would have understood that “game information” ... is “data...related to a progress of the wagering event” *because*, for example, the current game information relates at least to a current status of the wagering game.”

- Ex. 1007, Crevelt Dec. at ¶101 (emphasis added)

- Ex. 1006, Scott at ¶[0058]

Invalidity – Individual Limitations

“continuously retrieve ... data in real time”

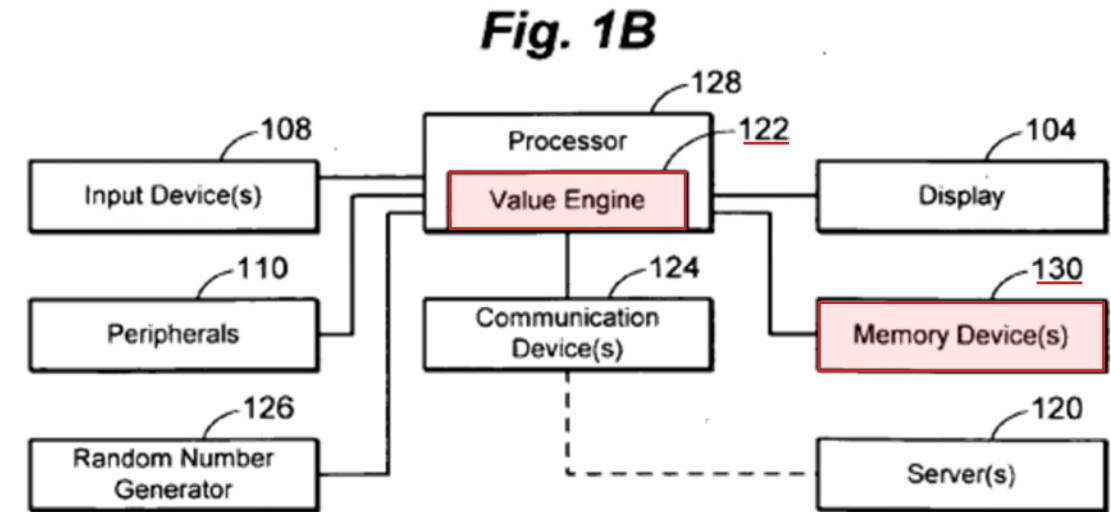
Scott

'779 Patent Claims 1 and 16

1[e]/16[i] “continuously retrieve [...] data in real time related to a progress of the wagering event”

Undisputed:

- Scott discloses retrieving “data” that is “related to a progress of the wagering event”
- Scott satisfies these portions of 1[e]/16[i]



Data retrieved by the value engine

[0083] At a step 508, additional information may be received or retrieved by the value engine. For example, the amount wagered, cards or symbols remaining to be dealt, credits remaining, and other information related to a wagering game may be collected at the value engine. This information may be used in determining a current cash value. For example, since a winning award may vary based on the amount wagered, the current cash value may also vary based on the amount wagered. In one or more embodiments, the current cash value may be greater for larger wagers and smaller for smaller wagers.

Related to the progress of the wagering event

“A POSITA would have understood that “game information” ... is “data...related to a progress of the wagering event” *because*, for example, the current game information relates at least to a current status of the wagering game.”

- Ex. 1007, Crevelt Dec. at ¶101 (emphasis added)

- Ex. 1006, Scott at ¶[0083]

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

104. A POSITA would understand that these steps 504 and 508 for retrieving the player’s current game indicia and additional game information are performed continuously because they are invoked as part of the continuously looped process illustrated in FIG. 4 and are performed in real time because they are part of the process for generating a current cash value that is performed in real-time.

- Retrieval is continuous
- Scott allows the player to continue to play the game while an offer is presented

- Ex. 1007, Crevelt Dec. at ¶104

Continuously Retrieve	DRP Construction
With respect to “continuously” retrieving such information “in real time,” Scott discloses that “[t]his information may be used in determining a current cash value,” and “current cash value may be determined and presented....in real time or in substantially real time” as each event occurs during the wagering game, such as “as each individual playing card or slot symbol is revealed” during the wagering game. <i>Id.</i> ¶¶ [0083], [0067]. That is, in addition to being a real time	“repeatedly retrieving data related to the progress of the wagering event as developments occur that may affect the odds of the wager.” - Paper 14, DRP at 14

- Pet., at 39

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- The *current* cash value must be real time in order to *remain current*.

- Ex. 1006, Scott at ¶[0081]; Ex. 1007, Crevelt Dec. at ¶ 99

incoming wagers and make multiple determinations in real time.”). In fact, Scott explains that such continuous and real-time determinations are advantageous because, for example, “some events that occur during a wagering game may change the odds or other characteristics of a game without changing the game symbols or indicia.” *Id.* at ¶[0036].

- Ex. 1007, Crevelt Dec. at ¶97 citing Ex. 1006, Scott at ¶[0036]

Real Time Disclosure in Scott	DRP Construction
[0067] It is contemplated that the current cash value may be presented at stages of the game. For example, <u>current cash value may be determined and presented after each card or other game symbol is dealt to a player.</u> <u>This may occur in real time or in substantially real time.</u> For example, <u>as each individual playing card or slot symbol is revealed, a new current cash value may be calculated.</u> This provides an animated	“<u>retrieving or recalculating</u> while the wagering event is occurring, and with sufficient frequency to promptly <u>capture developments that may affect the odds</u> of the event” - Paper 14, DRP at 21

- Pet., at 27, 39, 40, 41

Invalidity – Individual Limitations

“continuously retrieve ... data in real time”

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- Scott discloses different *developments that affect the odds* can initiate a change in the odds and the current cash value.

[0036] It can be seen from the above example, that determination of a current cash value can be triggered by various events. This is advantageous in that some events that occur during a wagering game may change the odds or other characteristics of a game without changing the game symbols or indicia. For example, in the keno example, the odds of a player winning may be altered when each subsequent number is revealed, even though each number is not marked on the player's keno card (i.e., the player's keno card remains unchanged).

[0082] FIG. 5 is a flow diagram illustrating how current cash value may be determined by an exemplary value engine. In general, the process may begin by the value engine receiving various game information from which it may generate a current cash value. At a step 504, one or more game symbols or indicia belonging to a player may be received by the value engine. For example, a player's hand of cards, slot symbols, keno numbers, or bingo numbers may be received or retrieved by the value engine. It is contemplated that only the symbol's available to the player may be considered the player's symbols. For example, only held cards in a poker game, marked numbers in a keno game, or slot symbols along one or more active paylines may be considered the player's symbols. The other symbols may be considered unavailable since they would not be usable to form a winning hand/outcome according to the rules of the underlying wagering game. In one exemplary embodiment, a processor of the gaming machine may provide the player symbols to the value engine. In addition or alternatively, as described above, the player's symbols may be retrieved from a memory device.

- Ex. 1006, Scott at ¶[0036]

Invalidity – Individual Limitations

“continuously retrieve ... data in real time”

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

Scott discloses the current cash value is dynamic and is presented based on the current status of the game

- Scott discloses a poker example for how to calculate current cash value *based on the current status of the game*.
- Scott discloses the process continues for the course of the game.

[0065] FIGS. 3A-3B illustrate that the current cash value is dynamic and may be based on the current situation of the game being played. To illustrate, in FIG. 3A the player has four cards to a royal flush and thus is close to achieving the royal flush. As such, the value engine has determined a current cash value for this set of cards 304 as 30 credits. In FIG. 3B, the player requires two cards to achieve a royal flush.

- Ex. 1006, Scott at ¶[0065]

[0081] It is noted that the process of presenting current cash value for a player's game symbols may continue with newly presented game symbols until the game is over at decision step 412 or until the player accepts a current cash value for his or her set of symbols at decision step 432.

- Ex. 1006, Scott at ¶[0081]

Invalidity – Individual Limitations

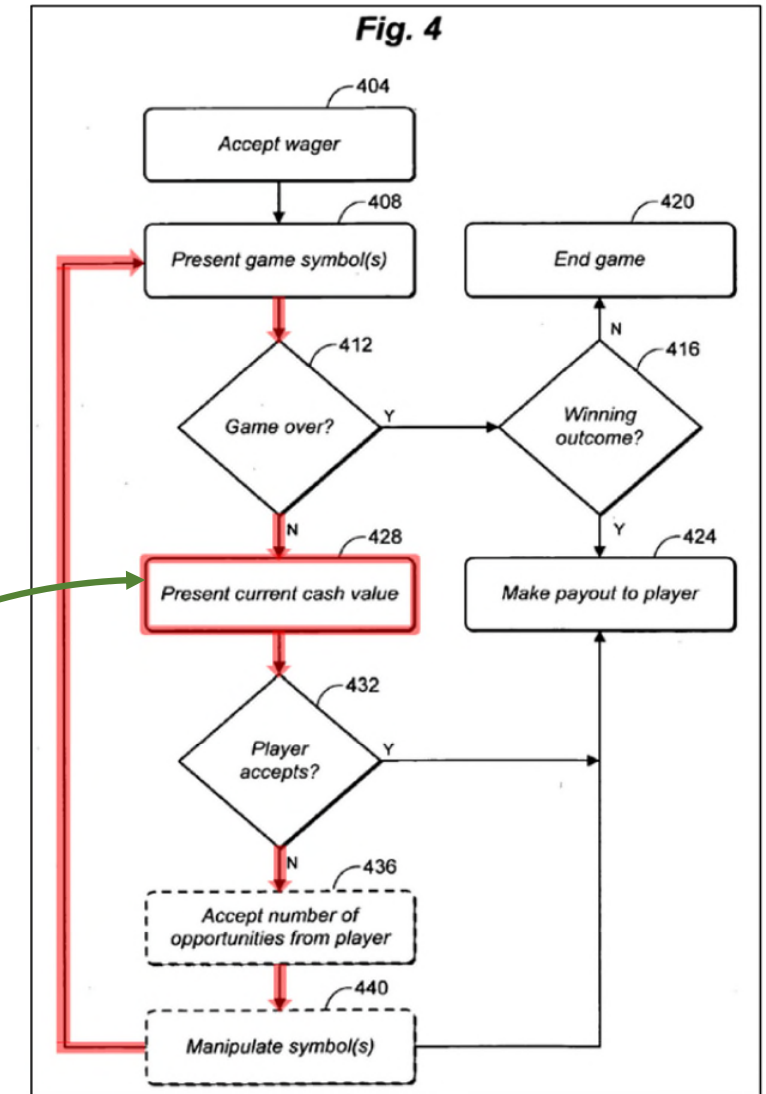
“continuously retrieve ... data in real time”

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- Scott further discloses the process is continuous because it is performed in in a loop.
- Ex. 1006, Scott at ¶[0081]
- If the player does not accept the game continues with new game symbols in step 408.
- Ex. 1006, Scott at ¶[0081]
- Retrieval, recalculation, and evaluation occur within Step 428 between step 408 presentation of game symbols and presenting a *current cash value*.
- Ex. 1006, Scott at ¶[0081]
- The only way out of the loop is the game ends or the player accepts the current cash value.
- Ex. 1006, Scott at ¶[0081]



- Pet., at 40

Invalidity – Individual Limitations

“continuously retrieve ... data in real time”

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- Figure 5 illustrates a sub step of Figure 4. Figure 5 is the process initiated within Figure 4 to “generate current cash value.”

At step 428 in the continuous loop, highlighted above, “a current cash value for the player’s current game symbols may be generated and presented by the value engine of the gaming machine.” *Id.* ¶[0073]. The process “illustrating how current cash value may be determined” by the value engine is illustrated in FIG. 5 below, and as mentioned above, this process “may occur in real time or in substantially real time.” *Id.* ¶¶[0082], [0067].

- Pet., at 40-41

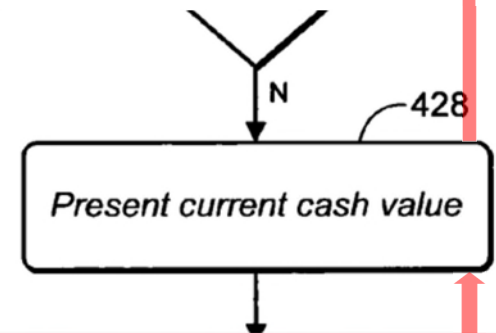
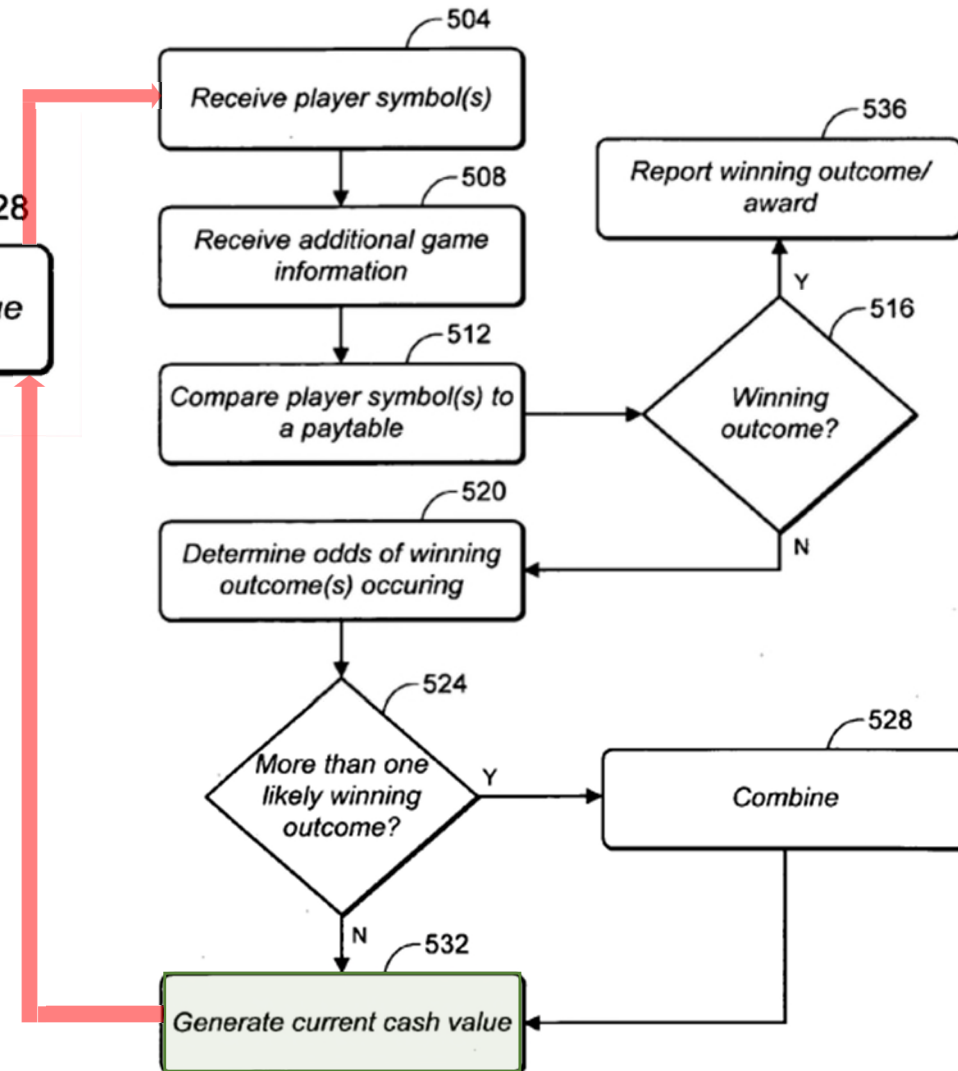


Fig. 4 Partial

Fig. 5



Invalidity – Individual Limitations

“continuously retrieve ... data in real time”

Scott

'779 Patent Claims 1 and 16

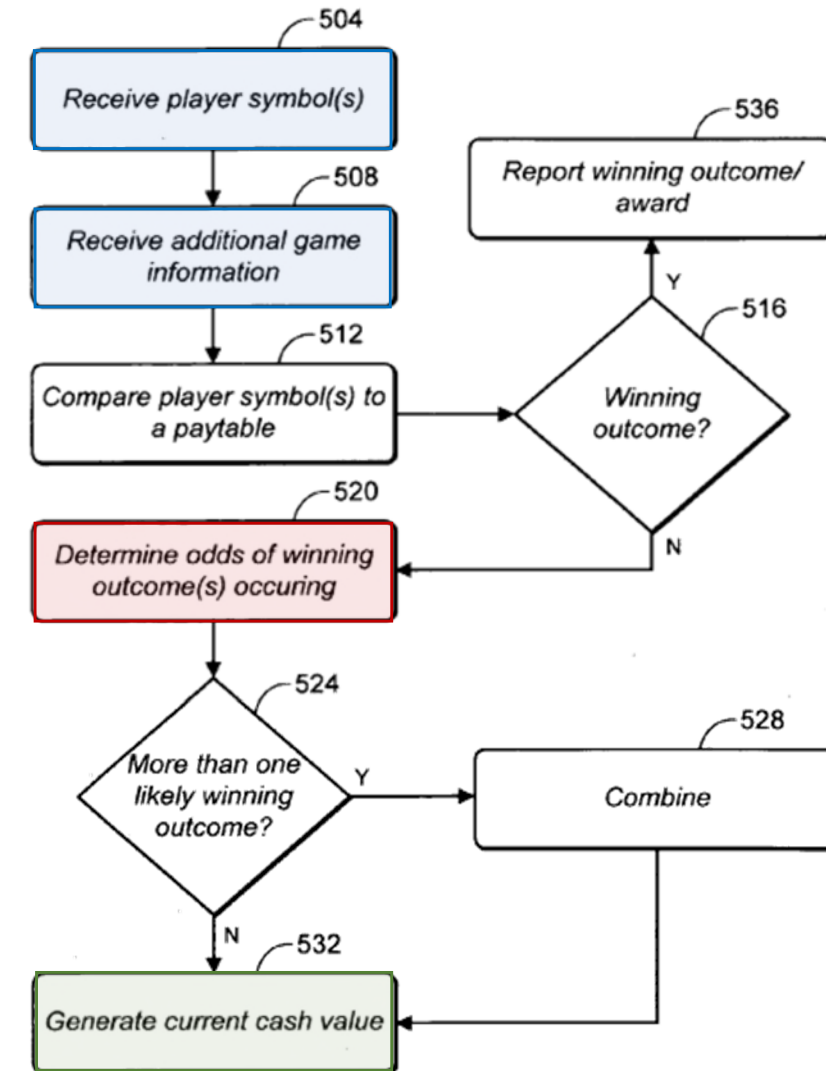
“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- Figure 5 *must* be carried out as quickly as the loop is performed in Figure 4. Performing Figure 5 within Figure 4 is **retrieval**, **recalculation**, and **evaluation** at a sufficient frequency to capture developments that may affect the odds of the wager.

cash value.”). That is, a POSITA would understand that the background processes, such as retrieving the game information, for performing the primary process of determining the current cash value continuously as each event occurs in real time must also be performed continuously as each event occurs in real time in order to satisfy the primary process. Indeed, any delay or interruption in the background process would propagate to introduce delays or interruptions in the primary process.

- Ex. 1007, Crevelt Dec. at ¶99

Fig. 5



Invalidity – Individual Limitations

“continuously retrieve ... data in real time”

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- Scott explicitly discloses discrete or continuous operation, or both.
- Ex. 1006, Scott at ¶[0067]
- Petitioner’s expert compared Scott’s disclosure to the '779 Specification’s nearly identical disclosure.
- Ex. 1007, Crevelt Dec. at ¶¶122, 137
- The DRP Decision credited Petitioner’s expert with this comparison and based its claim construction in part on the '779 Specifications nearly identical disclosure.
- Paper 14, DRP at 17 citing Ex. 1001, '779 Specification at 17:52-57; Ex. 1006, Scott at ¶[0067]; Ex. 1007, Crevelt Dec. at ¶¶122, 137

[0067] It is contemplated that the current cash value may be presented at stages of the game. For example, current cash value may be determined and presented after each card or other game symbol is dealt to a player. This may occur in real time or in substantially real time. For example, as each individual playing card or slot symbol is revealed, a new current cash value may be calculated. This provides an animated presentation which may be engaging to players. Alternatively, current cash value may be determined and presented at the end of each dealing stage of a game. For example, in a video poker game, current cash value may be presented after the initial deal, after one or more cards are held, or after one or more replacement cards are dealt (assuming the game is not over after the replacement cards are dealt).

- Ex. 1006, Scott at ¶[0067]

determining the appropriate value). The server system 12 may make this determination at any time, such as, and without limitation, at certain discrete time points of a wagering event (e.g., halftime of a sporting event) or it may continuously evaluate the wagering event and incoming wagers and make multiple determinations in real time.

- Ex. 1001, '779 Specification at 17:52-57

Invalidity – Individual Limitations

“continuously retrieve ... data in real time”

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- DRP decision already made factual findings that Scott has a discrete and continuous mode of operation.
- As noted by Petitioner’s expert, Scott discloses operation at discrete time points and continuous operation.
- PO does not persuasively rebut this evidence in the Response or Sur-reply.

We disagree with the construction of “continuously” performing a task, which “exclude[s] performing that task at discrete time points.” See Paper 9, Majority Op. 14–15. This construction does not specify what is

¶¶ 122 (citing Ex. 1006 ¶ 67, Ex. 1001, 17:52–57), 137 (same)). But this testimony merely distinguishes between Scott’s “real time and continuous evaluation” and evaluating at discrete time points according to a predetermined time schedule, such as “at the end of each dealing stage of a game.” Ex. 1007 ¶¶ 122 (citing Ex. 1006 ¶ 67, Ex. 1001, 17:52–57), 137 (same). Therefore, neither Mr. Crevelt’s testimony, nor the passages he

- Paper 14, DPR at 15, 17

137. Also similar to the '779 Patent, Scott juxtaposes a “real time” and continuous determination of the current cash value against the “alternative[]” of determining the current cash value at discrete time points during the game, such as “at the end of each dealing stage of a game.” ¶[0067]; see also '779 Patent at 17:52–57 (“The server system 12 may make this determination at any time, such as, and

- Ex. 1007, Crevelt Dec. at ¶137

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- PO’s chief critique is that Scott operates “only at discrete points in response to triggers.”

- Paper 28, PO Response at 30

- But the DRP already indicated that this behavior was included in the construction of “continuous.”

On the present record, we understand the cited portions of Scott to describe an embodiment in which the game presents a current cash offer after each occurrence of an event during the game that affects the odds, such as after each card or game symbol is dealt to the player, and continues the game unless the player accepts the cash out offer.

- Paper 14, DRP at 24

- “[N]othing in the DRP’s construction excludes ‘triggering events’ from satisfying its construction, so long as those triggers ‘repeatedly’ and ‘promptly’ capture developments that ‘may affect odds.’”

- Paper 33, Petitioner Reply at 12 citing Paper 14, DPR at 14-15, 21

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- On Sur-reply, PO alleges that Petitioner ignores the DRP’s construction of real time.
- Paper 34, PO Sur-Reply at 4
- Petitioner met its burden as to how Scott meets the DRP’s construction of real time.
- Pet., at 38-42; Paper 33, Petitioner Reply at 2-3
- Petitioner showed Scott’s continuous loops in Figure 4 and the disclosure the current cash value may be determined and presented in real time or in substantially real time satisfies the limitations.
- Pet., at 38-42; Paper 33, Petitioner Reply at 2-3

each event occurs that could possibly impact wagering odds. Thus, as the Board found, “Scott discloses that, as the game progresses, its value engine receives and evaluates game symbols or indicia presented to the player in a repeating cycle [and therefore] Scott’s value engine continuously retrieves data, in real time....” Paper 20 (ID), 22-23.

- Paper 33, Petitioner Reply at 3

and 5 are somehow “not necessarily continuous.” POR, 33. This is inconsistent with Scott’s teachings. Figures 4 and 5 of Scott show general “flow diagram[s]” illustrating operation of a “value engine” and “determination of *current cash value*.” Pet., 40 (loop depicted in red); EX1006, ¶[0071]-[0077]; Paper 20 (ID), 22-23. And

- Paper 33, Petitioner Reply at 13

Invalidity – PO Sur-Reply

“continuously retrieve ... data in real time”

Scott

'779 Patent Claims 1 and 16

“continuously retrieve, by the system controller, data in real time related to a progress of the wagering event”

- PO’s final argument ignores that Scott expressly recites operation in “real time”

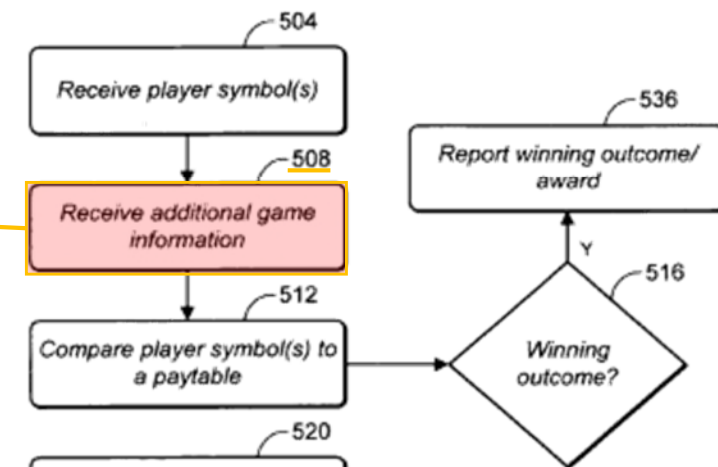
As a fallback, Petitioner’s Reply asks the Board to infer — based on Scott’s reference to a “current cash value” — that Scott “necessarily retrieves data in ‘real time.’” Paper 33 at 13. But even if the Board accepts that Scott’s cash value is “current” at the time it is presented, it is undisputed that Scott is silent about retrieving data “continuously ... in real time.” Petitioner’s Reply concedes this — Scott’s “current” cash value simply accounts for value at a discrete point of Scott’s games, *i.e.*, “**up to that point.**” Paper 33 at 13 (emphasis added). All Petitioner says

- Paper 34, PO Sur-Reply at 8

[0067] It is contemplated that the current cash value may be presented at stages of the game. For example, current cash value may be determined and presented after each card or other game symbol is dealt to a player. This may occur in real time or in substantially real time. For example, as each individual playing card or slot symbol is revealed, a new current cash value may be calculated. This provides an animated

- Ex. 1006, Scott at ¶[0067]

Fig. 5



III. The “Wagering Event” Limitations

A. Claim Construction

B. Invalidity - Individual Limitations

The “Wagering Event”

CLAIM 16

“A **system** for conducting **a wagering event** among one or more participants in real time, the system comprising:

a system controller comprising **a trading engine module;**”

“the **system controller configured to:**”

...

“receive, **by the trading engine module**, a plurality of wagers **on the wagering event** from the plurality of input devices via the communications interface, the plurality of wagers input by a plurality of participants via the user interfaces of respective input devices from the plurality of input devices” ...

CLAIM 18

“The system of claim 16, wherein **the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more** probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales, stocks, celebrity gossip, movies, reality TV, football (“soccer”), American football, Australian rules football, baseball, cricket, basketball, golf, hockey, auto racing, legends, rugby, wrestling, surfing, mixed and martial arts.”

Issues in Dispute

1. The meaning of the wagering event is inclusive of one or more wagering events.
2. Scott discloses a multiplayer configuration, a single trading engine with a plurality of players.

The “Wagering Event”

The Parties’ Positions

		Petitioner	Patent Owner
16[a]	“a wagering event among one or more participants”	More than one bettor placing wagers on one or more wagering events	More than one bettor placing wagers on the same wagering event
16[b]/[g]	“a trading engine module” “receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices”	One or more trading engine modules receiving wagers from more than one bettor	One trading engine module receiving wagers from more than one bettor

- Petitioner’s construction is inclusive of one or more, aligns with the plain language and the specification, and is consistent with precedent.

- PO has not provided sufficient evidence to rebut the presumption that ‘a’ means one or more.

The “Wagering Event”

PO’s Claim Construction

PO complains new claim construction arguments are raised in Petitioner’s Reply. **PO is wrong.**

1. Petitioner is responding to PO’s flawed “ordinary grammatical construction” argument by citing controlling authority. (Petitioner couldn’t have known that PO would not apply or know controlling law).
2. PO is allowed to fully respond under the Federal Circuit *Axonics* precedent.

As a matter of ordinary grammatical construction, “**the** wagering event” of Element 16[g] must refer to the antecedent “**a** wagering event” of Element 16[a]. Both terms refer on their face to a singular wagering event, upon which multiple (“a plurality of”) participants place wagers according to Element 16[g]. Petitioner’s

- Paper 28, PO Response at 38

“[W]e have continued to recognize that a petitioner is entitled ... to respond to new claim construction arguments made by a patent owner.”

“[T]he petitioner must be afforded a reasonable opportunity in reply to present argument and evidence under that new construction.”



Axonics, Inc. v. Medtronic, Inc.,
75 F.4th 1374, 1382-83 (Fed. Cir. 2023)

The “Wagering Event”

Presumption for one *or more* Wagering Events

The POR asserts a claim construction contrary to the law.

- PO contends that Claim 16 requires multiple bettors to place wagers on the same wagering event.
- “on their face” is insufficient context to overcome the one or more presumption.

As a matter of ordinary grammatical construction, “the wagering event” of Element 16[g] must refer to the antecedent “a wagering event” of Element 16[a]. Both terms refer on their face to a singular wagering event, upon which multiple (“a plurality of”) participants place wagers according to Element 16[g]. Petitioner’s

- Paper 28, PO Response at 38

The “use of ‘a’ or ‘an’ before a noun naming an object requires that the phrase be construed to mean ‘one or more’ unless the context sufficiently indicates otherwise.”

ABS Glob., Inc. v. Cytonome/St, LLC,
84 F.4th 1034, 1040 (Fed. Cir. 2023)
(quoting *Lite-Netics, LLC v. Nu Tsai Cap. LLC*,
60 F.4th 1335, 1345 (Fed. Cir. 2023).

Paper 33, Petitioner Reply at 14



The “Wagering Event”

Insufficient Evidence – Wagering Event

PO’s sports examples are not sufficient to rebut the presumption.

- PO focuses on sports examples to the exclusion of other embodiments in the specification and claims.
- PO ignores that dependent claim 18, and thus by necessity independent claim 16, covers non-sports events including virtual games, slot machines, keno, poker, video games, lotteries, card games, stocks, politics, and reality tv.

conducted “*among*” them. Whether the “wagering event” they bet on comprises more than one event (*e.g.*, the World Series) is immaterial. A wagering event cannot

events,” as Petitioner urges—for example, in a parlay, where the bettors may be wagering on the outcome of two or more sporting events—the rest of the claim must

18. The system of claim 16, wherein the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales, stocks, celebrity gossip, movies, reality TV, football (“soccer”), American football, Australian rules football, baseball, cricket, basketball, golf, hockey, auto racing, legends, rugby, wrestling, surfing, mixed and martial arts.

- Ex. 1001, '779 Specification at claim 18

- Paper 34, PO Sur-Reply at 10-11

The “Wagering Event”

Presumption is NOT overcome – Wagering Event

- The context of the claims does not rebut the presumption, but in fact reinforces it.
- Claim 18 which depends from claim 16 covers single wagering events and one or more wagering events.
- The claim language makes clear “wagering event” is meant to be inclusive of all manner of pluralities of events.

“one or more of”

“an entire event”

“multiple independent events”

“compilation of related events”

18. The system of claim 16, wherein the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales, stocks, celebrity gossip, movies, reality TV, football (“soccer”), American football, Australian rules football, baseball, cricket, basketball, golf, hockey, auto racing, legends, rugby, wrestling, surfing, mixed and martial arts.

- Ex. 1001, '779 Specification at claim 18

The “Wagering Event”

PO Fails to Support Its Construction – Wagering Event

- PO repeats its attempt to overly narrow the claims.
- On Sur-reply, PO changes its argument from “the wager event” meaning “one wagering event” to “the wagering event” meaning “a *common, or shared*, wagering event ... conducted ‘*among*’ multiple participants.
- Neither ‘common’ nor ‘shared’ appears in the claims.
- PO seeks a *narrow* claim construction for its claims in order to the avoid prior art.

arguments are both off target. Claim 16 is directed to “[a] system for conducting a wagering event *among* one or more participants in real time,” wherein “a *plurality of wagers on the wagering event*” are “input by a *plurality of participants*.” EX-1001 at 54:1-15 (emphasis added). The system is configured to, *inter alia*, determine

- Paper 34, PO Sur-Reply at 10

to that subset of bettors. Read in full and in context, Claim 16 is directed to a system where multiple bettors place wagers on a *common, or shared*, wagering event that is conducted “*among*” them. Whether the “wagering event” they bet on comprises

- Paper 34, PO Sur-Reply at 10

III. The “Wagering Event” Limitations

A. Claim Construction

B. Invalidity - Individual Limitations

1. Applying Petitioner’s Construction to Scott
2. Applying PO’s Construction to Scott

Scott

'779 Patent Claim 16

“receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices via the communications interface”

		Petitioner	Patent Owner
16[a]	“a wagering event among one or more participants”	More than one bettor placing wagers on one or more wagering events	More than one bettor placing wagers on the same wagering event
16[b]/[g]	“a trading engine module” “receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices”	One or more trading engine modules receiving wagers from more than one bettor	One trading engine module receiving wagers from more than one bettor

- Under Petitioner's construction, Scott discloses or suggests the claims because of the multiplayer configurations.
- Under PO’s construction, Scott discloses or suggests the claims because of gaming machines or gaming servers, central determinant games, or a marketplace.

Invalidity – Individual Limitations

“the wagering event”
“the trading engine”

Scott

'779 Patent Claim 16

“receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices via the communications interface”

- Under the controlling legal authority, the presumption that ‘a’ means ‘one or more’ has not been rebutted.
- Under the correct interpretation PO’s argument falls apart.

Wagering Event

That is precisely what Scott discloses. The Petition identifies Scott’s configuration involving multiple players (*i.e.*, “a player ... selling [a] hand to another player”) in keno, bingo, poker, card, and slot games, where “one or more trading engine modules collectively receive a plurality of wagers,” as meeting the “plurality” elements. EX1006, ¶[0096]; Pet., 29-38, 79-82.

- Paper 33, Petitioner Reply at 15-16
citing Ex. 1006, Scott at ¶[0096]; Pet., at 29-38, 79-82

The “use of ‘a’ or ‘an’ before a noun naming an object requires that the phrase be construed to mean ‘one or more’ unless the context sufficiently indicates otherwise.”



ABS Glob., 84 F.4th at 1040

Trading Engine Module

“plurality” elements. EX1006, ¶[0096]; Pet., 29-38, 79-82. Moreover, the Petition and Mr. Crevelt⁷ demonstrate that accommodating multiple players in Scott’s system also would have been obvious as a matter of common sense given Scott’s disclosure of multiplayer wagering games like keno, bingo, and lotteries, and Scott’s express disclosure of networked, central determinant, multiplayer gaming systems. Pet., 85-86; EX1007, ¶¶81, 158, 160, 182-184. ’

- Paper 33, Petitioner Reply at 16 citing Pet., at 85-86; Ex. 1007,
Crevelt Dec. at ¶¶81, 158, 160, 182-184

Invalidity – Individual Limitations

“the wagering event”
“the trading engine”

Scott

'779 Patent Claim 16

“receive, by the trading engine module a plurality of wagers on the wagering event from the plurality of input devices via the communications interface”

- Even under PO’s flawed interpretation Scott discloses a *singular* trading engine module which receives wagers from a *plurality* of input devices on a *single* wagering event.
- Scott discloses gaming machines and gaming servers.
 - Gaming machines – player makes inputs and views
 - Gaming servers – back end central control node for multiple gaming machines
- Petitioner’s expert stated it would be obvious for each gaming machine in a multi gaming machine system (i.e., multiple players) to communicate with a central controller.
 - Paper 33, Petitioner Reply at 17 citing Ex. 1007, Crevelt Dec. at ¶84; Ex. 1006, Scott at ¶[0055]

[0055] The gaming machine 100 may be configured as a stand-alone device or be in communication with one or more external devices at one or more times, such as through one or more communication devices 124. For example, the gaming machine 100 may be configured as a client-type device and obtain game code or game outcome information from a remote server 120 through network or other communications. These one or more gaming servers 120 may be configured to perform accounting, player tracking, bonusing, game generation, random number generation, or other functions. To illustrate, in some embodiments, the gaming machine 100 need not have a random number generator 126 since such functionality may be provided by a gaming server 120.

- Ex. 1006, Scott at ¶[0055]

- The system couldn’t operate a central game if each gaming machine was operating independently.

Invalidity – Individual Limitations

“the wagering event”
“the trading engine”

Scott

'779 Patent Claim 16

“receive, by the trading engine module a plurality of wagers on the wagering event from the plurality of input devices via the communications interface”

- Even under PO’s flawed interpretation Scott discloses a *singular* trading engine module which receives wagers from a *plurality* of input devices on a *single* wagering event.
- Scott discloses central determinant games.
- A central control server for game play is required for class II games. The central server *must* run the game.
- In the class II scenario, the trading engine or central server would run the game with the players interfacing through the terminals.

[0055] The gaming machine 100 may be configured as a stand-alone device or be in communication with one or more external devices at one or more times, such as through one or more communication devices 124. For example, the gaming machine 100 may be configured as a client-type device and obtain game code or game outcome information from a remote server 120 through network or other communications.

- Ex. 1006, Scott at ¶[0055]

[0044] The gaming machine 100 may be configured to present various styles or configurations of games having the inventive features described herein. These may include games in Class III, such as video poker games, keno, slot-type games, and blackjack or other card, dice or various other games now known or later developed, as well as games in Class II, including central determinant games such a video lottery, bingo and bingo-based games, and other games now known or later developed. The games may also be skill based

- Ex. 1006, Scott at ¶[0044]

Invalidity – PO Sur-Reply

“the wagering event”
“the trading engine”

Scott

'779 Patent Claim 16

“receive, by the trading engine module a plurality of wagers on the wagering event from the plurality of input devices via the communications interface”

- PO misunderstands the Petition and conflates the use of the phrase ‘input devices’ in Scott, the Petition, and the Petitioner Reply.

receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices via the communications interface, the plurality of wagers input by a plurality of participants via the user interfaces of respective input devices from the plurality of input devices.

- Ex. 1001, '779 Specification at Claim 16

Petition at 24 and the portions of Scott cited therein (including Fig. 1B) are explicitly about an *individual* “exemplary gaming machine having the value engine.” EX-1006 at [0025], [0040], [0050], and Fig. 1B. Petitioner now says, “Scott also discloses a singular trading engine module receiving wagers from a plurality of input devices....” Paper 33 at 16-17. However, this conclusion is based on a misunderstanding of Scott’s disclosure. The “input devices” of Scott are not multiple

- Paper 34, PO Sur-Reply at 11-12

- PO’s Sur-reply takes Petitioner’s conclusion sentence, which references ‘779 *claim language*, and twists it into a citation to Scott’s use of ‘input devices.’
- Petitioner’s Reply never takes the position Scott having multiple input devices on its gaming machines is the basis for there being multiple gaming machines.

Invalidity – Individual Limitations

“the wagering event”
“the trading engine”

Scott

'779 Patent Claim 16

“receive, by the trading engine module a plurality of wagers on the wagering event from the plurality of input devices via the communications interface”

- Even under PO's flawed interpretation Scott discloses a *singular* trading engine module which receives wagers from a *plurality* of input devices on a *single* wagering event.
- Scott discloses a marketplace which is a parallel concept to the description of cashing out in the '779 Specification.

[0096] In a similar vein, it is contemplated that a player may sell his or her symbols in one or more embodiments. For example, a player having achieved a particular set of symbols (e.g., playing card or slot symbols) may decide that he or she is better off selling the hand to another player than to take the current cash value or to attempt to achieve a winning outcome from the symbols. It is contemplated that the player may

- Ex. 1006, Scott at ¶[0096]

Between legs, and preferably after several of the games or matches have been completed, but potentially also during the course of an event for example at the half-time of a match or event, players with “live” tickets may be offered the option of selling all or a portion of their tickets back to the system operator (or alternatively, directly or indirectly through the system operator, or directly to, any designated third party, such as, without limitation, one or more third party operator(s), business entity or entities such as a merchant(s), one or more other persons, etc.) or to retain their tickets and see whether their correct score predictions will unfold for the remaining games. As should be understood, any reference to system operator herein should be construed to apply equally to any third party as an alternative, even if not specifically mentioned. The buy-out option will prefer-

- Ex. 1001, '779 Specification at 20:63-21:10

As another alternative embodiment, it is contemplated that the system operator could facilitate the ability of members of the public to buy and sell active tickets like in the manner of a person to person betting exchange, such as, without limitation, of the type offered by Betfair. Thus, it is also

- Ex. 1001, '779 Specification at 24:40-44

Invalidity – Individual Limitations

“the wagering event”
“the trading engine”

Scott

'779 Patent Claim 16

“receive, by the trading engine module a plurality of wagers on the wagering event from the plurality of input devices via the communications interface”

- PO argues Petitioner attempts to “re-hash” its “marketplace” argument.
- The *trading* engine, as it is used throughout the '779 Specification, is precisely about ‘trading’ or ‘exchanging’ wagers—either (1) player to system operator or (2) player to player.

[0096] In a similar vein, it is contemplated that a player may sell his or her symbols in one or more embodiments. For example, a player having achieved a particular set of symbols (e.g., playing card or slot symbols) may decide that he or she is better off selling the hand to another player than to take the current cash value or to attempt to achieve a winning outcome from the symbols. It is contemplated that the player may

- Ex. 1006, Scott at ¶[0096]

Between legs, and preferably after several of the games or matches have been completed, but potentially also during the course of an event for example at the half-time of a match or event, players with “live” tickets may be offered the option of selling all or a portion of their tickets back to the system operator (or alternatively, directly or indirectly through the system operator, or directly to, any designated third party, such as, without limitation, one or more third party operator(s), business entity or entities such as a merchant(s), one or more other persons, etc.) or to retain their tickets and see whether their correct score predictions will unfold for the remaining games. As should be understood, any reference to system operator herein should be construed to apply equally to any third party as an alternative, even if not specifically mentioned. The buy-out option will prefer-

- Ex. 1001, '779 Specification at 20:63-21:10

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- Ex. 1001, '779 Specification at 24:40-44

Scott

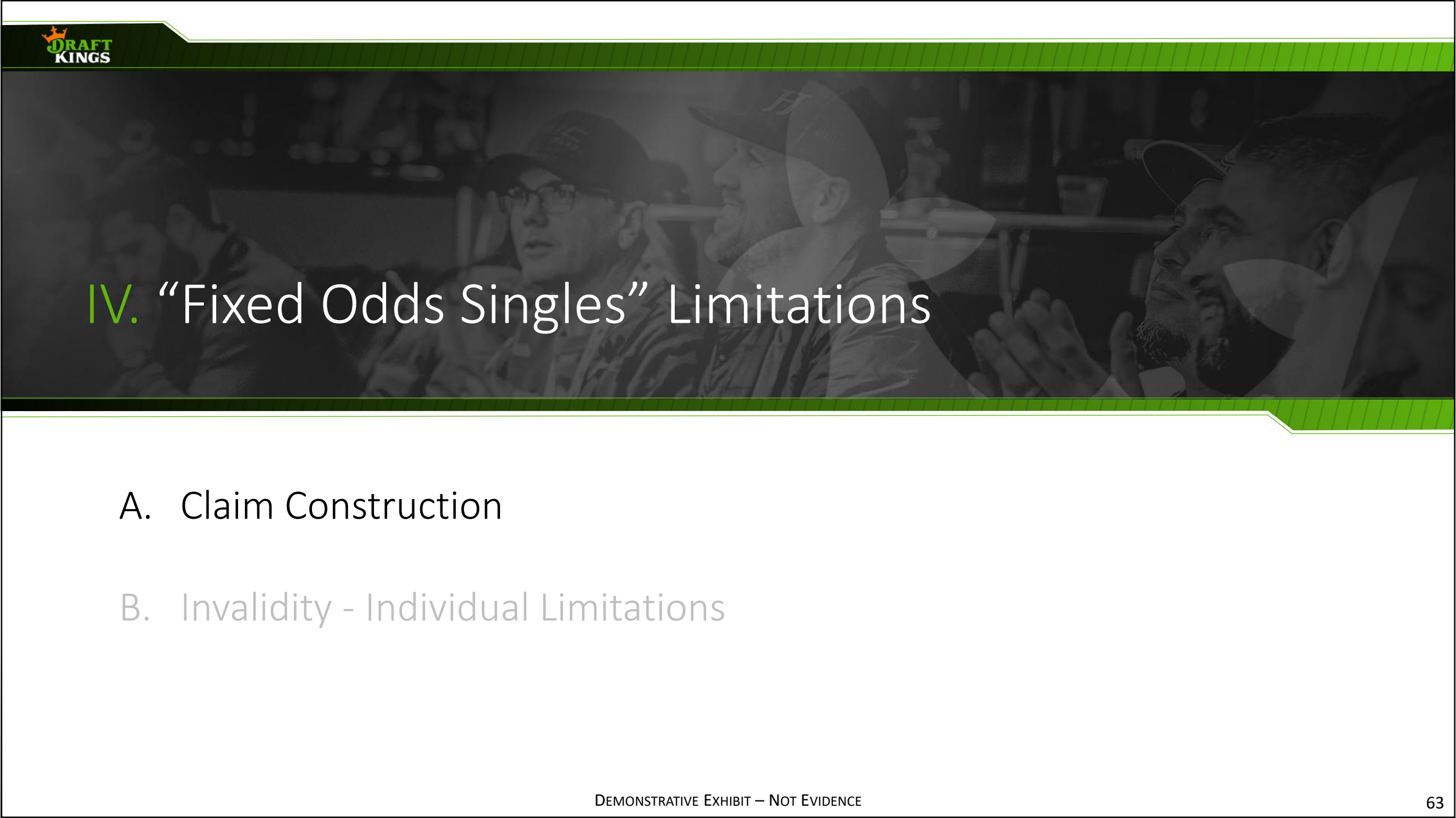
'779 Patent Claim 16

“receive, by the trading engine module a plurality of wagers on the wagering event from the plurality of input devices via the communications interface”

- Dwight Crevelt provides evidence that a POSITA would understand the multiplayer embodiment of Scott would meet the requirements of limitation 16[g].

197. In my opinion, although this claim limitation is very similar but not strictly identical to limitation [1c], Scott discloses limitation [16g] for the same reasons explained above regarding similar limitation [1c], which are herein incorporated by reference. Indeed, a POSITA would have understood that, in the multiplayer embodiment of Scott, each of the trading engine modules would operate as described above regarding limitation [1c], such that the “*the plurality of wagers*” are “*input by a plurality of participants via the user interfaces of their respective input devices from the plurality of input devices*” and the one or more trading engine modules collectively “*receive....a plurality of wagers on the wagering event from the plurality of input devices.*”

- Ex. 1007, Crevelt Dec. at ¶160

A dark, grayscale background image showing several men in a workshop or construction setting. They are wearing hard hats and safety glasses, and appear to be looking at something off-camera with interest. The image is partially obscured by a green diagonal line pattern at the top and bottom of the slide.

IV. “Fixed Odds Singles” Limitations

A. Claim Construction

B. Invalidity - Individual Limitations

“Fixed Odds Singles”

CLAIM 5

“The system of claim 1, wherein **the wager comprises** one or more of an accumulator, parlay, **fixed odds single** or fixed odds multiple **wager** comprising one or more combinations, wherein the one or more combinations are selectable by at least one of a participant, a third party, and the system controller,”

CLAIM 7

“The system of claim 1, wherein **the wager comprises** one or more of **fixed odds single wagers**, multiple wagers, full cover wagers, full cover wagers with singles, ‘Any to Come’ (ATC) or ‘if cash’ wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, tote wagering, fixed-odds wagering, accumulator or parlay wagering, fixed odds, a pool, progressive, fixed pool, variable pool or guaranteed pool.”

CLAIM 23

“The system of claim 16, wherein **the plurality of wagers** comprise one or more of **fixed odds single wagers**, multiple wagers, full cover wagers, full cover wagers with singles, ‘Any to Come’ (ATC) or ‘if cash’ wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, tote wagering, fixed-odds wagering, accumulator or parlay wagering, fixed odds, a pool, progressive, fixed pool, variable pool or guaranteed pool.

Issues in Dispute

1. The plain and ordinary meaning of the “fixed odds singles.”
2. Under the plain and ordinary meaning, Scott discloses a wager that is a “fixed odds single.”

“Fixed Odds Singles”

The Parties’ Positions

- Petitioner maintains that the term “fixed odds single” refers to a wager where the odds of winning are fixed, and the wager is on a single outcome.
- PO focuses on limiting the term to sports wagering.
- PO contends “fixed odds single” limits the wager *payout* with a *fixed multiplier*.

Agree

Single = Wager is on a single outcome

Disagree

Petitioner: Odds of winning are fixed

PO: Payout is fixed

“Fixed odds” is the term whose plain and ordinary meaning is in dispute.

“Fixed Odds Singles”

PO’s argument Falls Short of Supporting Its Construction

- PO contends that “fixed odds single” means a bettor is offered a fixed multiplier for wagering on a given outcome, and the multiplier (and therefore the potential payout) is fixed at the time the bettor places the wager.”
- PO attempts to support its position by citing to general knowledge of a POSITA, the ’779 Patent Specification, and extrinsic evidence.
- PO forms its argument by accusing Petitioner of “*deliberately ignoring* the proper approach to claim construction.”

In short, every relevant source of interpretive aid—the POSITA’s general understanding, the ’779 Patent’s specification, and the extrinsic evidence as to the meaning of “fixed odds wagering” generally—supports this understanding of the plain and ordinary meaning of “fixed odds single”.

- Paper 28, PO Response at 49-50

Petitioner deliberately ignores both the proper approach to claim construction and PO’s expert’s testimony regarding the POSITA’s knowledge. PO’s expert explains why, properly construed, “fixed odds single” and the other bet types enumerated in these claims are unitary terms of art that a POSITA would understand as denoting sportsbook or racebook wagers — none of which are disclosed in Scott. See EX-2007 at ¶¶ 45-46, 81-90, 125-128, and 136.

- Paper 34, PO Sur-Reply at 14

“Fixed Odd Singles”

Petitioner’s Construction is Consistent With Settled Law

Contrary to PO’s dramatic allegation Petition’s approach is consistent with Federal Circuit law.

“[W]e have emphasized the importance of intrinsic evidence in claim construction, we have also authorized district courts to rely on extrinsic evidence, which consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.”

Phillips v. AWH Corp.,
415 F.3d 1303, 1317 (Fed. Cir. 2005) (cleaned up)



the “payout,” not the odds, are fixed. POR, 45. But PO’s construction is wrong as it is inconsistent with the ’779 Patent’s specification, which discloses “*fixed-odds* betting terminals.” EX1001, 12:36. Fixed-odds terminals supported “fixed odds

provided that game. Moreover, as discussed above, the challenged claims are not limited to sports wagering and instead include casino games (*supra* §II.A.3.a), so there is no basis in the intrinsic record to depart from the meaning of the term ascribed by Mr. Crevelt.

- Paper 33, Petitioner Reply at 20

“Fixed Odds Singles”

Dr. Vancura's Testimony is Inconsistent With His Own Patent

- PO contends POSITA agree that the term fixed odds is limited to fixed payout bets in sports wagering.
- PO's own expert does not agree in his own patent.

The 'base games' in Dr. Vancura's patent are non-sports wagering events. Dr. Vancura has previously described the payout of casino games as 'fixed odds' despite PO's insistence otherwise.

- Dr. Vancura is an inventor on US Application No. 12/874,029.

- Ex. 1060, Vancura U.S. Patent Application
Publication no. 2012/0052935 at 1

[0025] The method, apparatus, and computer program product described herein may be utilized with a variety of games. The base game and bonus game can be selected from games such as slots, poker, blackjack, bingo, etc. Further, the base game and the bonus game can be selected from games considered Class II or Class III. In one embodiment, the same

[0037] In one embodiment, the base game offers a variety of prizes such as fixed odds prizes that depend on obtaining a predetermined arrangement of symbols. Accordingly, a set of paylines is provided upon which the prizes may be won.

- Ex. 1060, Vancura U.S. Patent Application
Publication no. 2012/0052935 at 16, 17

“Fixed Odds Singles”

Petitioner and PO’s Experts Disagree

- Petitioner’s expert provides context for the meaning of fixed odds single.
- Electronic casino games (slots, bingo, roulette) *must* have prior known or fixed odds of winning because the house needs to win over a period of time.
- Casino games odds are fixed by standards/regulations.



or later developed.”). A POSITA would know that all bingo cards have the same odds of winning no matter what numbers are on them at the initiation of the game, and therefore the wager on a bingo game would be a “*fixed odds single*” wager when placed because the odds of winning are fixed, and the wager is on a single outcome—obtaining “BINGO.” Therefore, Scott’s disclosure of wagering on a bingo game

¶[0077]. The same is true with respect to slot games; a POSITA would know that slot games adhere to fixed odds, often due to applicable regulations, and that the wager is on a single outcome.

- Ex. 1007, Crevelt Dec. at ¶160

4.5.5 Random Event Probability. For games that incorporate a random event or an element of chance that affects the outcome, the mathematical probability of any chance event occurring for a paid game shall be constant, unless otherwise denoted by the game artwork.

- Paper 33, Petitioner Reply at 19 citing Ex. 1062, GLI Standards for Gaming Devices at 58

“Fixed Odds Singles”

'779 Specification

PO's Selective Citation to Sports

- PO contends the specification supports its interpretation of fixed odds.
- PO is wrong. The specification does not connect fixed odds singles with only sports betting examples.

The present disclosure is directed to a new betting product developed for a wide range of applications, including any event where betting may be utilized or even scenarios where play is just for fun, such as, and without limitation, any type of actual or virtual sporting event or any type of game; for

- Ex. 1001, '779 Specification at 3:66-4:3

or an elongated rectangle. The wager stations 14 and wager terminals 16 may be any sort of integrated products or stand alone terminals or devices, such as, for instance and without limitation, one for a casino or betting shop, such as in the nature of a fixed odds betting terminal (“FOBT”) or a Best Gaming Technology (“BGT”) Self service terminal, as examples. Any other suitable types of products or devices

- Ex. 1001, '779 Specification at 12:32-38

18. The system of claim 16, wherein the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales, stocks, celebrity gossip, movies, reality TV, football (“soc-

- Ex. 1001, '779 Specification at claim 18

“Fixed Odds Singles”

'779 Specification

PO's Construction Improperly Excludes Embodiments

The Specification contemplates the “wagering stations,” include FOBT's which support fixed odds casino games.

- Dr. Vancura's testimony supports a broader interpretation.
- Scott recites casino games which are found on FOBT's.

Q. In fact, the claims of the '779 Patent could be interpreted to include casino games, correct?

...

[A.] I would say, in light of dependent claim 3, for example, yes.

- Ex. 1059, Vancura Tr. at 667-167

or an elongated rectangle. The wager stations 14 and wager terminals 16 may be any sort of integrated products or stand alone terminals or devices, such as, for instance and without limitation, one for a casino or betting shop, such as in the nature of a fixed odds betting terminal (“FOBT”) or a Best Gaming Technology (“BGT”) Self service terminal, as examples. Any other suitable types of products or devices

- Ex. 1001, '779 Specification at 12:32-38

Q. And [FOBTs] would have ... supported fixed odds wagers?

...

[A.] I believe so, yes. That's my understanding.

- Ex. 1059, Vancura Tr. at 90:10-14

Q. Did some FOBTs provide casino games?

...

[A.] That's my understanding.

- Ex. 1059, Vancura Tr. at 91:3-7

“Fixed Odds Singles”

'779 Specification

PO's Construction Improperly Excludes Embodiments

Despite the '779 Specification contemplating FOBTs as an embodiment and the claims specifically including a wide variety of games, PO is unable to explain how Bingo is excluded.

- Dr. Vancura's testimony supports the broader interpretation.
- Scott discloses Bingo and other casino games.

or an elongated rectangle. The wager stations 14 and wager terminals 16 may be any sort of integrated products or stand alone terminals or devices, such as, for instance and without limitation, one for a casino or betting shop, such as in the nature of a fixed odds betting terminal (“FOBT”) or a Best Gaming Technology (“BGT”) Self service terminal, as examples. Any other suitable types of products or devices

- Ex. 1001, '779 Specification at 12:32-38

including “casino games,” “*bingo*,” and “roulette”). PO fails to explain why the term “fixed odds” would exclude bingo when the '779 Patent's *fixed-odds* terminals provided that game. Moreover, as discussed above, the challenged claims are not

- Paper 33, Petitioner Reply at 20

Extrinsic Evidence Shows Connection to FOBTs

- Petitioner’s extrinsic evidence clarifies the history of the term and supports a broader interpretation.
- Around the turn of the century, FOBTs appeared in betting shops which were traditionally the venue of *sports betting*.
- FOBT’s are *fixed odds* and provide opportunities for roulette and other casino games in spaces previously exclusive to horse racing and sports betting.

regulators. When the Gambling Review Body was deliberating at the turn of the century this type of machine was a newcomer. Officially known then – and still referred to by most people – as fixed odds betting terminals (FOBTs) or fixed odds betting machines (FOBMs), they started to appear in high street betting shops. They are machines on which can be played fixed odds and betting games. Some of the first such games offered in betting shops looked very much like lotteries, and *Camelot* raised objections. In fact, unlike a lottery, the size of winnings is fixed and is not dependent on the number of winning players.³⁴ FOBMs can now offer a variety of pure-chance games including virtual forms of bingo and what look just like casino games, such as roulette. Hence casino

- Ex. 1058, An unsafe bet Jim Orford (2011) at 28

“fixed odds betting terminals (FOBTs) ... started to appear in high street betting shops. They are machines on which can be played fixed odds and betting games.”

“Fixed Odds Singles”

Extrinsic Evidence

Extrinsic Evidence Shows Connection to FOBTs

- Petitioner’s extrinsic evidence clarifies the history of the term and supports a broader interpretation.
- FOBT’s were placed alongside traditional sports betting opportunities.
- The ’779 Specification appears targeted for implementation in betting shops where sports betting *and* casino game wagers occur.

in his well-informed book *Gambling*, is that FOBMs ‘... have changed the face of high-street bookmaking. They have enabled the bookie to bypass laws that for years prevented them from hosting casino-style games.’³⁷ By redesignating

- Ex. 1058, An unsafe bet Jim Orford (2011) at 28

as part of the accepted, modern gambling scene. This is a perfect example of how gambling opportunities have snowballed. It was argued that they were not offering casino games because they were machine controlled; also fixed odds and prev

“fixed odds and a large maximum stake made it look as if they were suitable for a venue previously dedicated to horse race and other sports betting.”

- Ex. 1058, An unsafe bet Jim Orford (2011) at 28, 29

“Fixed Odds Singles”

Extrinsic Evidence

Extrinsic Evidence Shows Connection to FOBTs

- Petitioner’s extrinsic evidence clarifies the history of the term and supports a broader interpretation.
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“fixed odds and a large maximum stake made it look as if they were suitable for a venue previously dedicated to horse race and other sports betting.”

- Ex. 1058, An unsafe bet Jim Orford (2011) at 28, 29

Away (“H/D/A”) markets. A prominent United Kingdom based betting and gaming company recently reported that 84% of its retail (i.e. in betting shops) soccer bets were coupon based accumulators. Almost 90% of those are on four-fold and above. A four-fold is four selections, so 90%

- Ex. 1001, ’779 Specification at 1:41-45

or an elongated rectangle. The wager stations 14 and wager terminals 16 may be any sort of integrated products or stand alone terminals or devices, such as, for instance and without limitation, one for a casino or betting shop, such as in the nature of a fixed odds betting terminal (“FOBT”) or a Best

- Ex. 1001, ’779 Specification at 12:32-36

“Fixed Odds Singles”

Petitioner’s Evidence Demonstrates a Broader Meaning

- “[E]very relevant source of interpretive aid” does not “support[PO’s] understanding.”

1. the POSITA’s general understanding



Petitioner’s expert Dwight Crevelt disagrees.

PO’s expert has used “fixed odds” to describe the same Casino games as Scott.

2. the ‘779 Patent’s specification



PO selectively cherry picks only sporting event examples from the specification to allege fixed odds singles is limited to sports.

PO ignores the specification’s use of “fixed odds betting terminals.”

3. the extrinsic evidence as to the meaning of “fixed odds wagering” generally



Extrinsic evidence cannot overwrite examples in the specification.

Gaming Lab Industries and *An Unsafe Bet*, Jim Orford provide context for why fixed odds are necessary for casino games.

PO’s extrinsic evidence is solely focused on sports wagering and ignores the broader scope of the claims.

“Fixed Odds Singles”

Plain and Ordinary Meaning

- In its Sur-Reply PO now argues “fixed odds single” is a “unitary term” with a special meaning.

In addressing Claims 5, 7, and 23, Petitioner’s Reply again focuses entirely on the isolated phrase “fixed odds,” obscuring the real issue: the construction of “*fixed odds single*” and whether that claim element is disclosed by Scott, which it is not.

PO criticizes Petitioner for over emphasizing part of the phrase in ‘isolation.’ Yet PO’s supporting evidence does not use the phrase as a “unitary term[.]”

“fixed probability” interpretation of “fixed odds.”³ However, Petitioner fails to establish how any of these exhibits would impact the POSITA’s understanding of “fixed odds” in the context of the claim element “fixed odds single” and the ’779 Patent as a whole. If anything, Petitioner’s new exhibits highlight a difference

and PO’s expert’s testimony regarding the POSITA’s knowledge. PO’s expert explains why, properly construed, “fixed odds single” and the other bet types enumerated in these claims are unitary terms of art that a POSITA would understand as denoting sportsbook or racebook wagers — none of which are disclosed in Scott.

- Paper 34, PO Sur-Reply at 14, 15

“Fixed Odds Singles”

'779 Specification

“Fixed Odds Singles is NOT a Unitary Term”

in crowdfunding the proposed wager. The proposed wager may cover (but is not limited to) wagers for a single simple bet, wagers for a complex exotic bet in a single event, and complex exotic bets across multiple events (e.g., pool, fixed odds accumulator, or parlay). The system controller may

- Ex. 1001, '779 Specification at 38:10-14

other manner as may be desired. Notably, for example and without limitation, the terms wagers, wagering, bets and betting as referenced herein may include, without limitation and for illustration purposes only, single wagers, multiple wagers, full cover wagers, full cover wagers with singles, 'Any to Come' (ATC) or 'if cash' wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, fixed-odds wagering, and any other variations known in the art, etc., alone and in any desired combinations. For

- Ex. 1001,

'779 Specification at 25:45-53

mented. As another illustrative example, as described elsewhere herein, an award paid out to a winner/winners may also, where desired, be fixed (e.g. payout determined in advance and independent of the number of players participating or amounts paid in by participants), variable (e.g., payout determined by the amount paid in by participants) and/or guaranteed (e.g., payout determined in advance and takes into consideration amounts paid in by participants, and with a “host” being responsible for any overlay or shortage required to be paid to arrive at the guaranteed amount). As

- Ex. 1001, '779 Specification at 32:39-48

Turning to the specification: “fixed odds single” is ***not a unitary term*** and is in fact often broken into separate words.

A syndicate may be treated as if it were a single player by the wagering systems and methods described above. Syndicates may engage in wagering events such as lotto, keno, slots, random number generator games, fantasy betting, games involving fixed odds (both single and multiples), games involving fixed odd multiples containing multiple permutations or 'system' bets with multiple lines, pools including exotics like quartet bets on single leg events, pools with multi-leg events, or any of the other wagering events described herein.

- Ex. 1001, '779 Specification at 36:41-50

“Fixed Odds Singles”

'779 Specification

“Fixed Odds Singles is NOT a Unitary Term”

wagering may be contrasted with fixed-odds wagering (common in sports wagering), in which odds (or perhaps a point spread) are agreed to by the bettor and the party taking the bet and are not affected by the bets placed by other bettors.

EX-2010 at H8518 (emphasis added).

- Paper 28, PO Response at 49

understanding. GLI describes “fixed odds wagering” as follows:

Fixed Odds Wagers – Wager types where the payout is to be fixed at the time the wager is placed. If the predictions are correct, the odds are first multiplied by each other and then by the amount of the wager.

EX-2008 at 7, 80.

- Paper 28, PO Response at 49

Turning to the extrinsic evidence: “fixed odds single” is ***not a unitary term*** and is in fact often broken into separate words.

IV. “Fixed Odds Singles” Limitations

A. Claim Construction

B. Invalidity - Individual Limitations

1. Applying Petitioner’s Construction to Scott
2. Applying PO’s Construction to Scott

“fixed odds single” – Petitioner’s interpretation – odds of winning are fixed

- A casino *must* by regulation and business practice operate gaming machines which have fixed odds of winning.
- If the odds were variable, then a casino could lose money for a game format over time.
- PO alleges that the odds for bingo are not fixed but are merely calculable.
- PO’s example assumes the bingo game has a (1) a single central pot and (2) player can only bet buy purchasing cards.

Casinos are not in the business of losing money

Invalidity – Individual Limitations

“fixed odds single”

Scott

'779 Patent Claims 5, 7, and 23

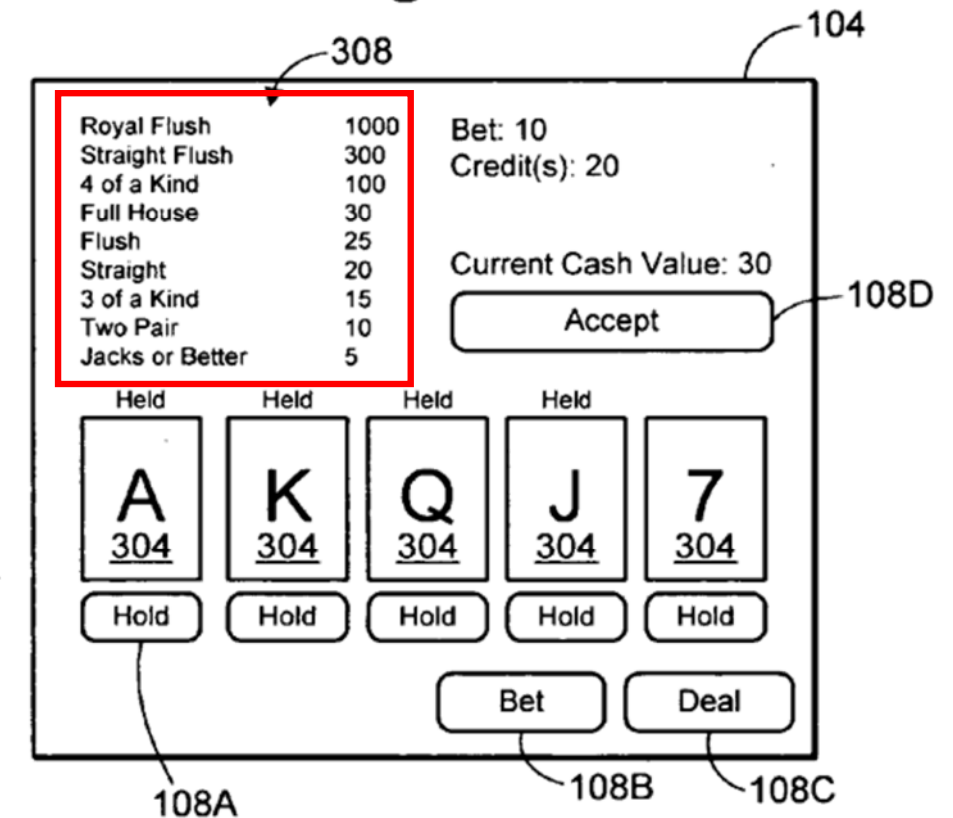
“fixed odds single” – PO’s interpretation – payout is fixed

PO contends that a “fixed odds single” is a game “where a bettor is offered a *fixed multiplier* for wagering on a given outcome, and the multiplier (and therefore the potential payout) is fixed *at the time the bettor places the wager.*” POR, 46. In

- Paper 33, Petitioner Reply at 21

- Even under PO’s flawed construction, Scott discloses a fixed payout fixed odds single.
- Scott discloses Figure 3A which includes a payable with a fixed multiplier on a given outcome.
- Gaming regulations require these multiplier paytables to be displayed.

Fig. 3A



Invalidity – Individual Limitations

“fixed odds single”

Scott

'779 Patent Claims 5, 7, and 23

“fixed odds single” – PO’s interpretation – payout is fixed

- Dr. Vancura is aware of and testified to numerous casino game examples with payouts that operate on multipliers of the underlying wager.

Q. Are you aware of any casino games where the payout is based on a multiplier of the underlying wager?

A. Yes.

Q. What are some examples of those games?

A. I would say -- I mean I would say slot machines typically function that way. That's what a pay table represents.

- Ex. 1059, Vancura Tr. at 32:2-9

Q. Are there any other games that might function where the payout is based on a multiplier of the underlying wager?

A. Yeah. I would say -- I would say a number of casino games function in that way or have parts of them that function in that way.

- Ex. 1059, Vancura Tr. at 32:16-21

Invalidity – Individual Limitations

“fixed odds single”

Scott

'779 Patent Claims 5, 7, and 23

“fixed odds single” – PO’s interpretation – payout is fixed

Game	Disclosure in Scott	Corresponding Admission from Dr. Vancura That Game is “Fixed Odds” Under His Construction
Blackjack	EX1006, Scott at ¶[0044]	EX1059, Vancura Tr. at 33:1-2 (admitting “blackjack” would have “payout [] based on a multiplier of the underlying wager”), 33:18-24 (same); EX1060, US20120052935 at ¶¶[0025], [0037] (describing “fixed odds prizes” for base games including “blackjack”)
Slots	EX1006, Scott at ¶[0035]	EX1059, Vancura Tr. at 32:2-9 (admitting “slot machines” have “payout [] based on a multiplier of the underlying wager”); EX1060, US20120052935 at ¶¶[0025], [0037] (describing “fixed odds prizes” for base games including “slots”)
Bingo	EX1006, Scott at ¶[0035]	EX1060, US20120052935 at ¶¶[0025], [0037] (describing “fixed odds prizes” for base games including “bingo”)
Poker	EX1006, Scott at ¶[0010]	EX1060, US20120052935 at ¶¶[0025], [0037] (describing “fixed odds prizes” for base games including “poker”)
Class III games (e.g., roulette)	EX1006, Scott at ¶[0044]	EX1059, Vancura Tr. at 32:16-33:6 (admitting “roulette” would have a “payout [] based on a multiplier of the underlying wager”); 35:20-21 (“if I’m betting on a single number in roulette, that would be fixed odds, 35 to 1”); 65:21-66:16.

Invalidity – Individual Limitations

“fixed odds single”

Scott

'779 Patent Claims 5, 7, and 23

“fixed odds single” – PO’s interpretation – payout is fixed

- Scott discloses a wide variety of games.

[0044] The gaming machine 100 may be configured to present various styles or configurations of games having the inventive features described herein. These may include games in Class III, such as video poker games, keno, slot-type games, and blackjack or other card, dice or various other games now known or later developed, as well as games in Class II, including central determinant games such a video lottery, bingo and bingo-based games, and other games now known or later developed. The games may also be skill based or include one or more skill components. In one embodiment, certain game outcomes may be designated as winning outcomes. Awards may be provided for winning outcomes, such as monetary payments (or representations thereof, such as award of credits), prizes or the like. As is well known in the

- Ex. 1006, Scott at ¶[0044]

[0035] The value engine is advantageous in that it adds a new element to wagering games that is compatible with a wide variety of wagering games. It is contemplated that the value engine may be used with any wagering game where game symbols or indicia (e.g., playing card symbols, slot symbols, keno numbers, bingo numbers, etc . . .) are revealed in subsequent stages or steps of a game. For example, in a keno type game, the value engine may generate a cash value for a player’s keno card based on the numbers the player currently has marked. The value engine may reevaluate the keno card as additional numbers are marked to determine a cash value as each keno number is revealed and/or as individual numbers are marked on the keno card.

- Ex. 1006, Scott at ¶[0035]

[0010] The gaming machine may present various games, such as poker games, card games, or slot games. For example, it is noted that the payable may comprise one or more poker hands and the game symbols may be numbered playing card symbols. Alternatively, the payable may comprise one or more sets of slot symbols and the game symbols in such case may be slot symbols.

- Ex. 1006, Scott at ¶[0010]

V. Appendix - Challenged Claims

Appendix – Challenged Claims

1[a]	A system comprising:	1[h]	determine, by the system controller, that a participant of the one or more participants is eligible to win an award based on one or more of the wager and a potential outcome of the wagering event,
1[b]	a processor operatively coupled to a memory configured to store computer-readable instructions that, when executed by the processor, cause the processor to:	1[i]	generate, by the system controller, an option in real time for the participant to one or more of fully cash out of the wager or partially cash out of the wager prior to a conclusion of the wagering event for at least a portion of the award;
1[c]	receive, by a trading engine module of a system controller, a wager on a wagering event from one or more input devices via a communications interface, the wager input via a user interface of the one or more input devices;	1[j]	cause, by the system controller, the option to be presented to the participant via the user interface of the one or more input devices;
1[d]	store, by the system controller, the wager in a record within a database, the record comprising wager information for one or more wagers associated with one or more participants;	1[k]	receive, by the system controller, a selection of the option for the participant from the one or more input devices prior to conclusion of the wagering event; and
1[e]	continuously retrieve, by the system controller, data in real time related to a progress of the wagering event;	1[l]	cause, by the trading engine module, the at least the portion of the award to be presented to the participant, such that the user interface displays one or more of a confirmation that the option has been selected and a value of the at least the portion of the award.
1[f]	recalculate, by the system controller, the wager information in real time based on the continuously retrieved data;		
1[g]	continuously evaluate, by the system controller, the recalculated wager information;		

Appendix – Challenged Claims

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| 2 | The system of claim 1, wherein the communications interface comprises one or more of: the Internet, an intranet, an extranet, a cellular network, a wired or wireless network, a networked communication system, a cloud-based system, an autonomic system, a client-server based system, a grid based system, a mainframe based system, a utility based system, a peer-to-peer based system, a cloud gaming based system, and a computer network. | 5 | The system of claim 1, wherein the wager comprises one or more of an accumulator, parlay, fixed odds single or fixed odds multiple wager comprising one or more combinations, wherein the one or more combinations are selectable by at least one of a participant, a third party, and the system controller, and wherein at any time before completion of the wagering event, at least one further offer is initiated to any number of the one or more participants remaining eligible to win the at least one award. |
| 3 | The system of claim 1, wherein the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales, stocks, celebrity gossip, movies, reality TV, football (“soccer”), American football, Australian rules football, baseball, cricket, basketball, golf, hockey, auto racing, legends, rugby, wrestling, surfing, mixed and martial arts. | 6 | The system of claim 1, wherein the award comprises one or more of a credit, a ticket, an electronic notice that is redeemable by the participant, a funding of an account of the participant, monetary awards, a designated monetary amount, a percentage of the designated monetary amount, nonmonetary awards, a prize, a payment, a designated currency, virtual currency, tokens, coupons, services, personal property, real property, virtual property, assets, investments, negotiable instruments, commodities, food, lodging, entertainment, alleviation of obligations, gaming opportunities and wager enhancement. |
| | | 7 | The system of claim 1, wherein the wager comprises one or more of fixed odds single wagers, multiple wagers, full cover wagers, full cover wagers with singles, ‘Any to Come’ (ATC) or ‘if cash’ wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, tote wagering, fixed-odds wagering, accumulator or parlay wagering, fixed odds, a pool, progressive, fixed pool, variable pool or guaranteed pool. |

Appendix – Challenged Claims

8[a]	The system of claim 1, wherein the computer readable instructions, when executed by the processor, further cause the processor to one or more of:
8[b]	upon receiving the selection of the option, one or more of by the system controller:
8[c]	the participant to continue to participate in the wagering event with at least a portion of the wager, generate a new wager for the participant, relinquish rights of the participant in at least a portion of the wager, and one or more of transfer, sell or put out for bid or auction at least a portion of one or more of an entitlement, right, or ownership of the participant in at least a portion of the wager to a third party or another participant.
9	The system of claim 1, wherein an amount of the award is variable and based on one or more of a calculated probability, an originator of the wager, a negotiation, a bidding process, an auction, the one or more participants, and a third party.
10[a]	The system of claim 1, wherein the one or more input devices comprise one or more of:
10[b]	a wagering station, a wagering terminal, a hand held device, a mobile device, a wireless device, a computing system, a smart phone, a telephone, a tablet or desktop computer, a PDA, an interactive television, an internet connected device, and a cashier system.

Appendix – Challenged Claims

16[a]	A system for conducting a wagering event among one or more participants in real time, the system comprising:	16[k]	continuously evaluate the recalculated wager information,
16[b]	a system controller comprising a trading engine module;	16[l]	determine that one or more participants of the plurality of participants is eligible to win an award based on their respective one or more wagers and a potential outcome of the wagering event
16[c]	a database;	16[m]	generate one or more options in real time for the one or more participants to cash out prior to a conclusion of the wagering event for at least a portion of the award
16[d]	a plurality of input devices each having a user interface; and	16[n]	cause the one or more options to be presented to the one or more participants via the user interfaces of the respective one or more input devices
16[e]	a communications interface for facilitating communications between the system controller and the plurality of input devices;	16[o]	receive a selection of an option from the one or more options for a participant from at least one input device from the one or more input devices prior to conclusion of the wagering event, and
16[f]	the system controller configured to:	16[p]	cause the at least the portion of the award to be presented to the a least one participant, such that the user interface displays one or more of a confirmation that the option has been selected and a value of the at least the portion of the award.
16[g]	receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices via the communications interface, the plurality of wagers input by a plurality of participants via the user interfaces of respective input devices from the plurality of input devices		
16[h]	store the plurality of wagers in a record within the database, the record comprising wager information for the plurality of wagers associated with the plurality of participants		
16[i]	continuously retrieve data in real time related to a progress of the wagering event		
16[j]	recalculate the wager information in real time based on the continuously retrieved data		

Appendix – Challenged Claims

17	The system of claim 16, wherein the communications interface comprises one or more of: the Internet, an intranet, an extranet, a cellular network, a wired or wireless network, a networked communication system, a cloud-based system, an autonomic system, a client-server based system, a grid based system, a mainframe based system, a utility based system, a peer-to-peer based system, a cloud gaming based system, and a computer network.	22	The system of claim 16, wherein the award comprises one or more of a credit, a ticket, an electronic notice that is redeemable by the participant, a funding of an account of the participant, monetary awards, a designated monetary amount, a percentage of the designated monetary amount, nonmonetary awards, a prize, a payment, a designated currency, virtual currency, tokens, coupons, services, personal property, real property, virtual property, assets, investments, negotiable instruments, commodities, food, lodging, entertainment, alleviation of obligations, gaming opportunities, and wager enhancement.
18	The system of claim 16, wherein the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales, stocks, celebrity gossip, movies, reality TV, football (“soccer”), American football, Australian rules football, baseball, cricket, basketball, golf, hockey, auto racing, legends, rugby, wrestling, surfing, mixed and martial arts.	23	The system of claim 16, wherein the plurality of wagers comprise one or more of fixed odds single wagers, multiple wagers, full cover wagers, full cover wagers with singles, ‘Any to Come’ (ATC) or ‘if cash’ wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, tote wagering, fixed-odds wagering, accumulator or parlay wagering, fixed odds, a pool, progressive, fixed pool, variable pool or guaranteed pool.
21	The system of claim 16, wherein an amount of the award is variable and based on one or more of a calculated probability, an originator of the wager, a negotiation, a bidding process, an auction, the plurality of participants, and a third party.		

Appendix – Challenged Claims

24[a]	The system of claim 16, wherein the system controller is further configured to:	25[a]	The system of claim 16, wherein the plurality of input devices comprise one or more of:
24[b]	upon receiving the selection of the option, one or more of terminate the participant's participation in the wagering event, allow the participant to continue to participate in the wagering event with at least a portion of the wager, generate a new wager for the participant, relinquish rights of the participant in at least a portion of the wager, and one or more of transfer, sell, or put out for bid or auction at least a portion of one or more of an entitlement, right, or ownership of the participant in at least a portion of the wager to a third party or another participant.	25[b]	a wagering station, a wagering terminal, a hand held device, a mobile device, a wireless device, a computing system, a smart phone, a telephone, a tablet or desktop computer, a PDA, an interactive television, an internet connected device, and a cashier system.

CERTIFICATE OF SERVICE

The undersigned hereby certifies on this 12th day of February 2025, that true and correct copies of the foregoing **PETITIONER'S DEMONSTRATIVE EXHIBITS FOR ORAL ARGUMENT** were served in their entirety on the following parties via electronic mail:

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