

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTIVISION BLIZZARD, INC.,
Petitioner

v.

MILESTONE ENTERTAINMENT, LLC,
Patent Owner

Case No. IPR2025-0708
U.S. Patent No. 8,529,336

**DECLARATION OF DWIGHT CREVELT IN SUPPORT OF
PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 8,529,336**

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I. INTRODUCTION

1. I, Dwight Crevelt, have been retained by Activision Blizzard, Inc. (“Activision”) to provide an analysis of the scope and content of U.S. Patent No. 11,501,336 relative to the state of the art at the time of the earliest application to which the ’336 patent claims priority. My analysis relates to claims 1, 3, 4, 5, 12, 13, 18-20, 22, 24-26, 29, 42, 44-47, and 50. I have also been retained to provide analysis regarding what a person of ordinary skill in the art (“POSITA”) would have understood at the time of the earliest application underlying the ’336 patent.

2. This declaration summarizes the opinions I have formed to date. I reserve the right to modify or amend my opinions, if necessary, based on further review and analysis of information that I receive subsequent to the filing of this declaration, including in response to positions taken by Milestone Entertainment, LLC (“Milestone”) or its experts that I have not yet seen, including any secondary considerations evidence that Milestone or its expert may consider and present.

3. It is my opinion that claims 1, 3, 4, 5, 12, 13, 18-20, 22, 24-26, 29, 42, 44-47, and 50 of the ’336 patent are invalid based on the following grounds.

Ground 1	Claims 1, 3, 4, 5, 12, 13, 18-20, 22, 24-26, 29, 42, 44-47, and 50 are obvious under 35 U.S.C. § 103 over Kelly683 ¹ (Ex. 1005) alone or in view of the knowledge of a person of ordinary skill in the art.
Ground 2	Claims 1, 3, 4, 5, 12, 13, 18-20, 22, 24-26, 29, 42, 44-47, and 50 are obvious under 35 U.S.C. § 103 over Walker ² (Ex. 1006) in view of Schneier143 ³ (Ex. 1008)

II. EXPERIENCE, QUALIFICATIONS, AND STATUS AS AN INDEPENDENT EXPERT

4. I am an expert in the field of design and operation of gaming machines and systems for the casino industry.

5. I am the founder and presently president of Crevelt Computer System, Inc., a gaming business consulting and engineering development company that is located and incorporated in Las Vegas, Nevada. I founded Crevelt Computer in 1977. Although I discuss my expert qualifications in more detail below, I also attach as Ex. 1004 a recent and complete curriculum vitae, which details my educational and professional background.

¹ U.S. Patent No. 8,172,683 to Kelly et al. (“Kelly683”).

² U.S. Patent App. Pub. No. 2004/0002369 to Walker et al. (“Walker”).

³ U.S. Patent No. 5,970,143 to Schneier et al. (“Schneier143”).

6. My formal, post-high school education started at the University of Las Vegas in 1973. I continued my education at the U.S. Naval Academy from 1975 to 1977. I then attended Iowa State University, where I received my Bachelor of Science degree in Computer Engineering in 1979.

7. My professional experience in the casino gaming industry started in 1974, when I joined Gamex Industries as a software engineer. As a software engineer, I designed and developed casino game management systems, including an on-line slot accounting and monitoring system, and I also maintained Gamex's online casino table game accounting system. I was also responsible for maintaining the system that monitored the play of table games and slot machines as installed in Caesar's Palace, Las Vegas.

8. In 1977, I started my own consulting company, Crevelt Computer System, Inc., and near the end of 1977 I worked at United Audio Visual as a software engineer developing audio/video controllers for multimedia shows.

9. From 1979 to 1980, I continued to work in the gaming industry as a computer engineer for Sircoma (later becoming IGT). At Sircoma, I developed various gaming machines, including video Poker, video Blackjack, video Red Dog and Whirlwin. I also had responsibility for maintaining the software for the video slot machines. I also acted as a technical gaming control liaison, which involved

providing the Nevada Gaming Control Board staff with technical information regarding the company's gaming devices. The Nevada Gaming Control Board regulates the gaming industry in Nevada, overseeing the licensing and compliance of casinos as well as manufacturers and the equipment used in gaming.

10. In 1981, I worked for Mills-Jennings as a Director of Corporate Research. In this role, I assembled and supervised a research and development team that designed a complete line of video casino gaming machines and an on-line casino accounting system. 13. From 1984 to 1986, as a consultant with Crevelt Computer System Inc., I worked with Electronic Data Technologies, where I designed and developed the first complete on-line Player Tracking System.

11. From 1988 to 1996, I worked for Electronic Data Technologies (EDT) and International Game Technologies (IGT). I was responsible for design, development and implementation of player tracking and accounting systems for casino games. Specifically, I was responsible for the development, deployment and support for over 150 installations of the SMART system and the first cashless system utilized by Caesar's Palace, Las Vegas. In 1995, I was promoted to Product Manager for Cashless Applications. In this role, I prepared business plans and strategies for implementing cashless gaming products, including IGT's first SMART card-based cashless gaming system installed at SBM in Monte Carlo. I also spent time

evaluating casino-related intellectual property, particularly patents, especially those pertaining to cashless gaming and progressive systems.

12. As a consultant with Crevelt Computer Systems, I have worked with many gaming equipment manufacturers on the design and development of casino gaming devices, including slots, video games, Keno and Bingo systems. I also have provided independent laboratory analysis of games for regulators in New South Wales, Australia and the state of Mississippi. Additionally, I have conducted mathematical analyses for casino gaming devices.

13. From 1998-2013, Crevelt Computer System was a Partner in FootTraffic Promotional Gaming LLC. As a Partner with FootTraffic Promotional Gaming LLC, I have designed, developed, managed and marketed a series of promotional games for casinos, retailers and trade shows. These are free-play games that are designed to bring or attract patrons to the casino with an opportunity to win cash and prizes. These games have been very successful and several have been incorporated into permanent promotions at several casinos, including Peppermill Casino (Reno), Casino Fandango (Carson City), and Silver Legacy (Reno).

14. In sum, I have over forty years of engineering and management experience in the gaming industry, both as a consultant and an employee. During this time, I have worked extensively with OEMs, casinos, casino gaming regulators

and agencies worldwide, including the Nevada Gaming Control Board. I am also the co-author of two books that relate to the casino gaming industry – Slot Machine Mania and Video Poker Mania – which are still in publication twenty years after they were first published. Additionally, I have been interviewed for numerous magazines, radio programs and television shows regarding gaming machines and the casino industry, including appearances on Secrets Revealed (a documentary on The Learning Channel) and High Rollers (a documentary on the Discovery Channel). Throughout my career, I have kept up to date with the latest developments in the casino industry by subscribing to casino-related trade publications and attending casino gaming shows. In addition, I am a named inventor on six United States patents related to casino gaming systems (i.e., cashless and progressive gaming systems).

15. I am being compensated at the rate of \$400 per hour for my work on this declaration. My fee is not contingent on the outcome of any matter or on any of the technical positions I explain in this declaration.

16. I have no financial interest in Activision. I have been informed that Milestone claims ownership of the '336 patent. I have no financial interest in Milestone.

III. MATERIALS REVIEWED AND CONSIDERED

17. My opinions in this declaration are based on working in the field of computer and software engineering and the casino gaming industry, including my research and consulting. I have an established understanding of the relevant field at the relevant timeframe and I have an understanding of the skill set, capabilities, and knowledge of a POSITA as of September 2, 2003.

18. My opinions are also based on investigation and study of the patent at issue, its file history, and the prior art. In the course of forming my opinions, I have reviewed the exhibits submitted with the Petition, which are specifically identified in Appendix A.

19. I may rely upon these materials and/or additional materials to rebut arguments raised by Milestone. Further, I may also consider additional documents and information in formulating any necessary opinions including documents that may not yet have been provided to me.

IV. UNDERSTANDING OF RELEVANT LEGAL PRINCIPLES

20. I understand that statutory and judicially created standards must be considered to determine the validity of a patent claim. I am not an attorney and, consequently, will offer no opinion on the law itself. My understanding of the

pertinent law is described in this section and is the result of explanations provided by counsel. I have applied this understanding in my analysis.

21. I understand that a patent claim is unpatentable if it is obvious in view of the prior art. I further understand that the frame of reference for determining whether a claim is obvious is from the perspective of a POSITA at the time of invention. I have been asked to assume that the effective priority date is September 2, 2003. I have not been asked to determine whether this date is appropriate.

A. Anticipation

22. I have been informed that for a patent claim to be anticipated by the prior art, each and every limitation of the claim must be found, expressly or inherently, in a single prior art references as recited in the claim. I have been informed that a claim limitation not expressly found in a prior art references is inherent if the prior art necessarily functions in accordance with, or includes, the claim limitation. Mere probability that a limitation is included is not sufficient to establish inherency.

B. Obviousness

23. In analyzing obviousness in light of the prior art I have been informed that it is important to understand the scope of the claims, the level of skill in the relevant art, the scope and content of the prior art, the differences between the prior

art and the claims, and any objective indicia of non-obviousness (also called secondary considerations).

24. I have been informed that a patent claim is unpatentable for obviousness if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a POSITA to which said subject matter pertains. I have been informed that obviousness may be based on one reference or a combination of references. I have been informed that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.

25. I have been informed that when a patented invention is a combination of known elements, the Board must determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue by considering the teachings of prior art references, the effects of demands known to people working in a field or present in the marketplace, and the background knowledge possessed by a POSITA.

26. I have been informed that the Supreme Court has recognized several rationales for combining references or modifying a reference to show obviousness of the claimed subject matter. I understand that several of these rationales are:

(1) combining prior art elements according to known methods to yield predictable results; (2) simple substitution of one known element for another to obtain predictable results; (3) use of a known technique to improve a similar device (method or product) in the same way; (4) applying a known technique to a known device (method or product) ready for improvement to yield predictable results; (5) choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (6) and some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

27. I have been informed that in order to prove that a claimed invention is not patentable for obviousness, a petitioner must (1) identify the differences between the claim and particular disclosures in the prior art references, singly or in combination, (2) specifically explain how the prior art references could have been combined in order to arrive at the subject matter of the claimed invention, and (3) specifically explain why a POSITA would have had reasons to so combine the prior art references.

V. TECHNOLOGY OVERVIEW

A. Online Gaming

28. Wide area networked gaming systems have been around as late as the 1980s. One of the first networked gaming machines was IGT's Megabucks. A central server system was connected via phone lines to a controller in each system. By the mid-1990s, cashless gaming, Internet gaming, and downloadable gaming functions were well on its way. Initially, Internet gaming used software clients downloaded to a player's personal computer to access the network and provide rich graphics. Many companies like Boss Media produced and ran these sites as early as 1996. As Internet technology advanced with JavaScript and Flash, these Internet sites were able to operate without a downloaded client, and instead allowed users to play through an Internet browser.

B. Player Tracking / Loyalty And Slot Accounting Systems

29. Gaming machines were first connected online to a central computer system in January 1975, when Gamex Industries revealed its online Slot Accounting and Security System at the London AMOA show. The system was subsequently installed in Caesars Palace, Las Vegas. (Gamex1-5). In response to Gamex's development, Bally Mfg. developed its first Slot Data System (SDS) and installed it

in the Las Vegas Hilton in the late 1970's. This system had a central computer system monitoring individual signals from the gaming machines on the casino floor.

30. In the early 1980's, I worked on designing and developing online slot accounting and security systems for various companies, including Mills-Jennings, a company that had contracts to develop systems for Steve Wynn/Golden Nugget and Harrah's Casino. The Golden Nugget system was to provide a complete accounting system that would eliminate the need to count the coins collected from the gaming machines. The Harrah's contract was to complete development on their in-house developed slot machine and to provide an online slot accounting system to go along with them. Both of these casinos ultimately canceled development of these projects in light of economic conditions. Additionally, similar systems had limited success in the market because they did not directly produce revenue for the casino and the revenue savings provided by those systems – primarily resulting from minimizing or eliminating accounting and security losses – were not seen to be sufficient to justify the cost of the systems.

31. In 1984, Electronic Data Technologies (EDT), a subsidiary of IGT, developed and installed the first casino-wide online Player Tracking and Slot Accounting System. By 1996, that EDT system, which was originally called the EDT Action System and was later renamed the SMART System, was installed in

over 150 locations worldwide. This represented a larger installation base than that of all competing systems combined. The EDT system became the model for most subsequent systems, including those from Bally, Casino Data Systems (CDS) and Grips.

32. The Player Tracking concept is simply to award bonuses to players for their play. Typically, a player would enroll in a Player's Club at a casino-run booth. Upon enrolling, the player typically would receive a player identification card. Then, whenever the player inserted his card into a card reader attached to the gaming machine, they would be greeted with a message and an updated player account balance reflecting the bonus points in the player's account. During gaming machine play, the player might receive 'y' bonus points for every 'x' coins played. These bonus points are tracked by the system, and the player could redeem them for merchandise, cash, comps (complementary meals, room, shows, etc.) or other items the casino desires to make available. Ex. 1020, 186-188; Ex. 1021, 120-121.

33. The basic flow of information from a player tracking unit in a gaming machine to a player tracking system is as follows: Upon insertion of the player identification card into the card reader of a player tracking unit installed in a gaming machine, a message is sent to the host system to retrieve the player's account information. The account information is looked up in the system's database using

the account number from the card. The player's account balance, name, and any other necessary data is then sent back from the host computer/server to the player tracking unit in the gaming machine. While the player's card remains inserted, all of the player's play activity is tracked by the system. While the player is playing, periodic play activity messages are sent to the host to update real-time displays and to provide a backup in case of equipment failures. When the player removes his card, his play activity information is sent to the host, where the system updates the player's account balance.

34. Every gaming machine in a player tracking or slot accounting system has a unique address associated with it. That unique address code enables the host computer or server in the system to transmit information to and receive information from the gaming machine and to track gaming machine accounting information. The system also included an additional table for comps. The value in this field was frequently used by casinos to determine if a player had played enough to earn certain comps or even to provide a cash award back to the player.

35. The EDT system described above included various hardware components, including Slot Machine Interface Boards (SMIBs), Data Collection Units (DCUs), a Front End Controller (FEC), a File Server/Transaction Processor, and a series of computer workstations on a token-ring network. Those computer

workstations were designed to handle various tasks, such as administration, accounting, player enrollment, player redemptions, jackpots/hopper fills, slot maintenance, marketing and promotions, coin scale interface, and security.

36. The SMIB is a microprocessor-based device including erasable programmable read-only memory (EPROM) and random access memory (RAM), along with an alpha-numeric display for messages, a card reader for reading a player identification card, several lights and buttons to facilitate player interaction with the system, an interface board to provide signal conditioning for the connections to the gaming machine, and a serial interface to the DCU. The SMIB monitors the gaming machine and report accounting and security information to the central system. Additionally, the SMIB provided the system interface to the player via the card reader and display.

37. The DCU is a microprocessor-based store and forward device. Each DCU continuously polls the SMIBs to which it is connected for accounting, security, and player tracking transaction information, and forwards that information to the FEC of the host computer system. Additionally, the DCU sends player tracking transaction response information from the host computer system to the SMIBs. The FEC is a computer workstation on the host system network. The FEC's primary function is to handle communications with the DCUs and SMIBs and the Host

System. This included downloading configuration data, polling the DCUs, and responding to the messages received from the floor.

38. The Host System consists of several file servers and workstations on a token-ring network. All workstations were configured to operate and download their programs over the network, and the host system transactions were client/server based.

39. The host workstations are user input devices that allow casino personnel to access, configure, and monitor the data in the system.

Other features of player tracking systems included real time monitoring displays for Hot Players, Active Players, Jackpots and Fills.

C. Bonusing, Promotions, And Cashless Gaming

40. By 1990, most major casinos had player tracking systems. Every system provider and casino was looking for ways to differentiate itself from the competition. Automating existing promotions provided one way to do so, and some casinos (e.g., Sands Atlantic City, Hilton Hotels Nevada, MGM Las Vegas, Harrahs Entertainment) developed their own system for this purpose. Among the promotions known at that time were bus promotions, double jackpot time, double bonus point time, cash back, and cashless gaming. “One casino even modified its system to give

players of regular slot machines extra payouts if they are using their club card.” Ex. 1021, 122.

41. A cashback promotion permitted the player to convert bonus points into credits to be wagered on a gaming machine. Cashless gaming systems permitted players to transfer credits between a gaming machine and an account on a host computer system so that the player could play gaming machines in a casino without carrying currency and coins from game to game.

42. Cashback and Cashless systems were a challenge to implement in the early 1990’s because gaming machines were not configured with serial communication ports. As a result, the only method to get credits on and off a gaming machine without actually inserting coins or cashing coins out of the machine was to effectively “trick” the machine using the coin in and coin out signals. Ex. 1020, 225-226. One problem with online systems in the early 1990’s resulted from the variety of different meters involved. These meters had to be physically read, recorded, and reconciled for accounting purposes. The development and use of a serial number chip in the gaming machine harness allowed data from the various meters to be read and sent to the host along with the gaming machine accounting data. Once the unique serial number for each gaming machine was added to the system database, the system could track if a particular gaming machine was moved and associate and

reconcile the accounting data related to that machine. This greatly simplified the process and eliminated the problems discussed above related to multiple meters. *See also* Ex. 1012 (describing cashless system; Ex. 1013 (same)).

43. In approximately 1993, the Sands Casino in Atlantic City developed its own player tracking system that included a feature called Action Cash. The Sands Action Cash system allowed a patron to put money on account in the system and then transfer the funds from the account to the gaming machine for play. After playing a gaming machine, the player could transfer any funds left on the credit meter, along with any winnings from game play, back to his player account. *See also* Ex. 1014 (describing promotion account associated with the player).

44. Further still, the system included “Action Cash” — promotional funds from the casino that the casino could deposit into the players account. These promotional funds were “non-cashable,” because they could be transferred to and from the gaming machine using the system, but they could not be cashed out at the machine. In addition, this system provided casinos with opportunities to craft new promotions with the assurance that the promotional credits given to players would be wagered on that casino’s machines.

45. When the MGM casino opened in Las Vegas in 1993, it used a player tracking system developed in-house. Its casino floor also included approximately

400 coinless gaming machines. Instead, they relied upon bill acceptors to put money on the machine and printed bar coded tickets to cash out any credits left on the machine. These tickets could be taken to a cashier to be redeemed for cash, or they could be inserted into another gaming machine to play.

46. In 1994, Caesars Palace Las Vegas and IGT jointly developed and installed an online cashless system called “Request.” The Request system allowed a player to open an account at the cage, where he would receive an ATM-style card. The player was then able to go to a gaming machine transfer funds from his account to the gaming machine using his Request card. Once the funds were transferred to the gaming machine, the player could then wager those funds and play. Upon completion of play, the player could then transfer the credits on the gaming machine back to his player account. The Request system therefore enabled players, especially in the high limit area, to move between gaming machines without having to worry about exchanging tokens. Ex. 1017; Ex. 1018; Ex. 1019; *see also* Ex. 1011.

47. The Request system at Caesars Palace communicated with the gaming machine using the IGT SAS 3.x protocol. The system was designed to enable a player to use his bank ATM card to transfer funds to the gaming machine. Because those funds belonged to the player from the outset (as compared to promotional funds given to the player by the casino), the player was permitted to cash them out

at will from the gaming machine hopper. Funds of this type that can be cashed out at the player's election are known as "cashable credits." The Request system also used non-cashable credits – credits that could only be transferred to and from the players' account on the system.

D. The SAS Protocol And Cashless Standards

48. With the proliferation of player tracking and slot monitoring systems, the casinos desired the ability to extract more information from the gaming machine. Additionally, they desired the ability to add and remove credits from the gaming machines to provide additional promotions and game play flexibility.

Around 1990 gaming device manufacturers started adding serial communication capability to their machines and in order to utilize the feature manufacturers developed their own protocols to communicate with the machines. Bally's protocol was called SDS and IGT's protocol was DLI (Direct Link Interface), which was later renamed to SAS (Slot Accounting System). Other gaming device and system manufacturers developed their own protocols.

49. The early 2000's saw dramatic changes in the gaming industry. Computer technology had advanced to the point where processor speed, memory size and video graphic capabilities were no longer limitations to the game design. Interoperability of gaming machines and online casino management systems were

being minimized by the use of the SAS protocol (a machine to system protocol developed by IGT that had become the de facto standard in the industry) and the cooperative efforts of the gaming device manufacturer in creating the Gaming Standards Association (GSA).

50. Additionally ticket-in ticket out (TITO) became a widely accepted technology for casino play. This technology first introduced in the early 1990s removed coins from the machines. Players would insert currency into an acceptor on the gaming machine and received credits on the machines to play. When finished the player would press a ‘cashout’ button and the gaming machine would print a ticket representing the remaining credits. The player could cash this ticket in at the casino cage or insert it into another gaming machine to continue playing.

E. Wide Area Network Gaming Systems

51. Wide area networked gaming systems have been around since the late 1980’s. IGT’s Megabucks was the first system that networked gaming machines in multiple casinos around the state of Nevada together to create a large progressive jackpot. A central server system was connected via phone lines to a controller in each casino. The casino controller was connected to the gaming machines as well as signs and displays. IGT is the primary supplier of these wide area progressive

systems and they are operating in most gaming jurisdictions around the world. Ex. 1015; Ex. 1016.

52. By the mid 1990's cashless gaming, internet gaming and downloadable gaming functions were developing. Initially internet gaming used downloaded clients to a person's personal computer to access the network and provide the rich graphics desired. All decisions and actual gaming functions were carried out by the host to prevent cheating the PC was merely a display. Many companies like Boss Media produced and ran these sites as early as 1996. As the browser technology advanced with Javascript, Java, Flash, etc. these internet sites were able to operate without the downloaded client for graphics and everything would be sent to the browser on demand.

53. The Gaming industry was very active in creating downloadable systems. The first of these included the ability to download new firmware to the machines bill validator and player tracking systems.

F. Basic Electronic Gaming

54. It was well-known to have gaming systems that included a processor coupled to memory. Electronic gaming systems, such as slot machines, arcade games, and home video consoles, have been known for decades. These systems

would necessarily need memory to store the code for the game program and a processor to execute that code.

55. For example, home video game consoles in the 1980s and 1990s had a processor coupled to memory as did personal computers during that era on which users could play games. Early generations of gaming consoles used 8-bit processors, but later generations used 16-bit processors. These early generations of gaming systems had processors coupled with memory that was measured in kilobytes and later in megabytes. Both video games and personal computers had a variety of ways to receive input from a user, which included keyboards and mice, joysticks, and gaming pads, as well as other forms of input. It was also well-known for such gaming devices to output information to the player on a display, such as a computer monitor for personal computers or a household television for home video game consoles. Images would need to be created to output this information to the display and communicate this information to the player.

56. It was also well-known to have games with multiple levels where players could advance from one level to the next. For example, side scroller games in the 1980s involved worlds with different themes that players could advance through. Other well-known games were role-playing games, in which players could control a character, such as a sprite or avatar, navigating through virtual worlds. In

such games, dungeons often had multiple levels that players could advance through. Similarly, users could control these sprites or avatars and have them gain experience points in order to advance levels in a multi-level game.

VI. THE '336 PATENT

A. Overview

57. The '336 patent describes well-known systems and methods to enhance player participation. The '336 patent recognized that “various forms of game play, as well as the suggestions for implementing those games on a mass communication network, such as through the telephone or Internet,” exist. Ex. 1001, 4:52-55. But the '336 patent endeavored to address “a need for improved game of chance, which provide excitement for the player.” *Id.*, 4:57-58. The patent did so using mandated and variable parameters.

58. The '336 patent discloses a networked gaming system with a play server and remote terminals. “The systems and methods ... permit greatly enhanced flexibility in game play and the prizing experience for a player, while globally achieving the mandated parameters.” *Id.*, 5:29-32. The '336 patent explains “the mandated parameters are generally input to the system, and preferably stored in memory within the system.” *Id.*, 5:11-13. “Exemplary mandated parameters may consist of prize pay out and win rates, and may include such factors as the minimum

payout amount, the maximum payout amount, a defined percentage payout, the number of prizes, and/or the form of prizes.” *Id.*, 5:7-11.

59. The ’336 patent also discloses “variable parameters available for game play ultimately serving to achieve the mandated parameters and/or provide for enhanced or optimized game play and prizing experience.” *Id.*, 5:43-46. “[A] variable parameter may be the game structure itself, such as in the use of decision points, numbers of levels of game play, and/or duration of game play.” *Id.*, 5:48-50. Variable parameters may also be “the prizing structure parameters may include the desired payout amount, GLEPS or other allocation variables, the frequency of wins (1:X), overall number of winners and prizing structure and allocation of prizes.” *Id.*, 6:9-12.

B. The Challenged Claims

60. I understand that the challenged claims are entitled to an effective filing date of no earlier than September 2, 2003. The ’336 patent has 104 claims, 2 independent and 102 dependent claims. This Petition challenges independent method claim 1, and 19 of its dependent claims. Independent claim 1 has 7 steps as generally described below

- (1)receiving mandated parameters;
- (2)storing in a memory the mandated parameters;

- (3) processing for implementing the mandated parameters by utilizing variable parameters;
- (4) storing information regarding game events;
- (5) generating presentations for displaying game play events;
- (6) performing game analytics on the game play events; and
- (7) varying the displays presented to the user to achieve the mandated parameters.

C. The Prosecution History

61. I understand that the '336 patent issued with limited consideration, with double patenting rejections but no rejections based on prior art generally. In the Notice of Allowance, the Examiner merely referred to the terminal disclaimer for his reasons for allowance. Ex. 1002, 14.

VII. LEVEL OF SKILL IN THE ART AND PERSPECTIVE APPLIED IN THIS DECLARATION

62. I understand that certain issues relating to validity must be judged from the perspective of a person of ordinary skill in the relevant art, as I discussed below.

63. The purported invention of the '336 patent generally relates to well-systems and methods to enhance player participation.

64. In determining the level of ordinary skill, I have been asked to consider, for example, the types of problems encountered in the field, prior solutions to those problems, the rapidity with which innovations are made, the sophistication of the technology, and the educational level of active workers in the field. In my opinion, it would have taken at least three years of experience in the field for a person to become familiar with the problems encountered in the field and the prior and current solutions to those problems.

65. Taking those factors into consideration, a person of ordinary skill in the art at the time of the claimed priority date of the '336 patent would have had at least a bachelor's degree in computer science or computer engineering, with at least three years of experience in game development. Additional experience could substitute for less education, and additional education could likewise substitute for less experience.

66. My opinions do not turn on the precise definition, and the challenged claim would be unpatentable from the perspective of any reasonable POSITA.

67. I believe that I would have qualified as a person of at least ordinary skill in the art as of the earliest claimed September 2, 2003 priority date on the face of the '336 patent. I believe that I have a sufficient level of knowledge, experience, and education to provide an expert opinion in the field of the '336 patent.

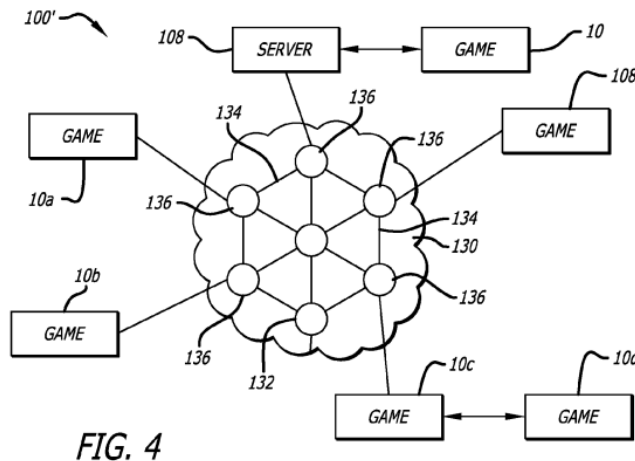
VIII. OVERVIEW OF THE PRIOR ART

A. U.S. Patent No. 8,172,683 (“Kelly683”) (Ex. 1005)

68. Kelly683 disclose each limitation of independent claim 1 of the '336 patent.

69. Like the '336 patent, Kelly683 discloses a networked gaming system that enables a game provider “to optimize user enjoyment” to “help retain current users” and “attract even greater numbers of new users” by providing “an operator the ability to adjust prizes and determined the desired prize costs and ratios.” Ex. 1005, 6:15-19, 5:4-5.

70. The system includes a casino game server 108 communicating with remote players utilizing game units 10. *Id.*, Abstract, Fig. 4.



The system further includes a “game processor [that] interprets the commands and influences game states and game events in the game process accordingly.” *Id.*, 10:12-15.

71. Notably, Kelly683 discloses mandated parameters for the system as a whole to achieve in the form of prize pay out (here, “global payout percentage,” *id.*, 5:20-29, 37:27-38:15, 38:58-39:7, Fig. 9a) and “win ratios” (*id.*, 5:3-5, 5:30-43, 5:55-6:3). The Kelly683 system achieves these mandated parameters by modifying variable parameters of the game structure or prizing structure.

72. For game structure, Kelly683 explains that “[t]he difficulty and thus the average prize credits awarded per game can be adjusted using a variety of techniques that depend on the type of game being played.” *Id.*, 38:63-65. This can include adjusting the “speed of controlled objects,” “frequencies of winning combinations,” “difficulty of the questions,” or “[d]urations of games.” *Id.*, 38:65-39:7. For prizing structure, Kelly683 recognizes that the “average global payout percentages can be obtained by adding all the individual payout percentages and dividing by the number of prizes.” *Id.*, 41:65-67. Thus, the Kelly683 system can adjust the prize costs and prizes available. *Id.*, 41:45-55, 42:59-62.

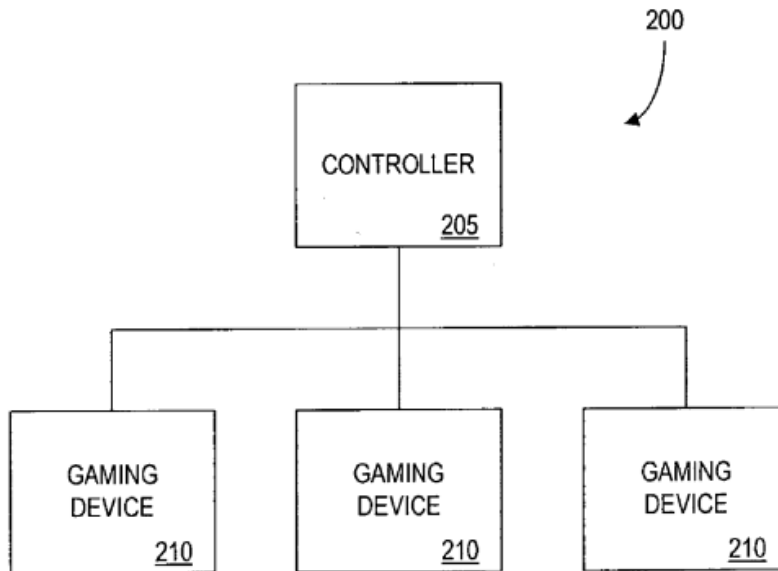
**B. U.S. Patent App. Pub. No. 2004/0002369 (“Walker”)
(Ex. 1006)**

73. Walker disclose each limitation of independent claim 1 of the ’336 patent. To the extent that Walker does not expressly disclose *coupled* in [1.b], this is disclosed in Schneier143 (sharing the same inventors).

74. Like the ’336 patent, Walker discloses a game system that “maximize[s] the chances that the players will return in the future to play games.” Ex. 1006, ¶[0002]. Walker recognizes that “a player that does not come anywhere near to winning a valuable prize or whose score is particularly low (as compared to scores achieved by other players) is likely to be so discouraged as to avoid playing the game again.” *Id.*, ¶[0003]. On the other hand, “[p]layers may also become bored and discouraged if they achieve substantially the same result each time they play a game.” *Id.*, ¶[0005]. Thus, Walker is a system that “facilitate[s] adjustment of a game in order to help ensure that a set of results obtained during a plurality of game plays of a game satisfy one or more predetermined criteria.” *Id.*, ¶[0022].

75. The system includes a controller 205 or 300 (that can take the form of a server) communicating with remote players utilizing game devices 210. *Id.*, ¶[0051], Fig. 2; *see also* ¶[0062] (“controller 300 may comprise, for example, a

server computer operable to communicate with one or more client devices such as gaming devices 210.”).



Ex. 1006, Fig. 2.

76. The system further includes a processor that “performs instructions of the program 320” and can provide game play information from game play database 325 and available game adjustments database 340. *Id.*, ¶¶[0065], [0067].

77. Walker discloses mandated parameters for the system as a whole in the form of predetermined criteria. *Id.*, Abstract, ¶[0022]. The Walker system achieves these predetermined criteria by modifying variable parameters of the game structure or prizing structure.

78. For game structure, the predetermined criteria can be achieved by adjusting “one or more game parameters” that “may be variables that affect the performance, scoring, difficulty, outcome, or other aspects of the game.” Ex. 1006, ¶[0155]. These game parameters include “factors that affect the difficulty of a game (e.g., complexity of a game, hints provided, the sensitivity of controls, difficulty of trivia questions, number of opponents)” (Ex. 1006, ¶[0156]), “rules of a game (e.g., number of strikes allowed in a baseball game, cost of vowels in a word guessing game)” (*id.*, ¶[0159]), “factors that affect the duration of a game (e.g., a number of rounds, a number of lives)” (*id.*, ¶[0160]) and “an amount of time that a player is allowed to achieve an event in a game or complete a game play of the game” (*id.*, ¶[0166]). *See generally* Ex. 1006, ¶¶[0155]-[0166], Fig. 8.

Declaration of Dwight Crevelt in Support of
Petition for *Inter Partes* Review USP No. 8,529,336

800

GAME IDENTIFIER: G-5327		802	
AVAILABLE ADJUSTMENT		806	
804			
R-8-01	INCREASE SPEED OF SPACESHIP BY 10-20%	+ 20 POINTS	R-8-02
R-8-03	DECREASE SPEED OF SPACESHIP BY 10-20 %	- 30 POINTS	
	INCREASE NUMBER OF LIVES FROM 3 TO 5	- 50 POINTS	R-8-04
R-8-05	INCREASE NUMBER OF HITS NEEDED TO DESTROY A SMALL METEORITE BY 30-50% AND INCREASE SPEED OF SMALL METEORITE BY 20-30%	+ 90 POINTS	
	INCREASE POINTS AWARDED FOR DESTROYING LARGE METEORITE BY 20-30% AND DECREASE POINTS AWARDED FOR DESTROYING SMALL METEORITE BY 20-30%	- 100 POINTS	R-8-06
R-8-07	INCREASE TEMPO OF BACKGROUND MUSIC BY 5%	- 5 POINTS	
	ADD "SLOW DOWN / REVERSE DIRECTION" CAPABILITY TO SPACESHIP	+ 30 POINTS	R-8-08
R-8-09	DECREASE PRECISION OF SPACESHIP HEADING CONTROLS BY 2 DEGREES	- 40 POINTS	
	INCREASE SPEED OF MISSILES BY 10-20%	+ 15 POINTS	

FIG. 8

Ex. 1006, FIG. 8

79. For prizing structure, Walker explains that the predetermined criteria can be achieved by adjusting “what prize is awarded.” Ex. 1006, ¶[0028]. Walker further discloses “[a]n operator of a gaming establishment may desire to, for example, raise a median or mean score of a game in order to further motivate players by enabling more players to achieve a score that corresponds to a prize (e.g., a more valuable prize) or that is closer to a score that corresponds to a prize.” Ex. 1006, ¶[0028].

C. U.S. Patent No. 5,970,143 (“Schneier143”) (Ex. 1008)

82. Schneier143 discloses more details of a system of similar structure to that used by Walker (which shares the same inventors). Specifically, Schneier143 discloses “a system for enabling geographically dispersed tournaments for computer generated games in which players can participate from virtually any location where they have access to a game computer (e.g., at home).” EX1008, 2:49-53.

IX. CLAIM CONSTRUCTION

83. I have applied the plain meaning of the terms and phrases in the claims in my analysis, as a POSITA would have understood those terms and phrases at the relevant time (around 2003). I understand that the Board will construe the claims using the same claim construction standard that would be used in district courts. My declaration will establish that the prior art meets each of the claim limitations under any reasonable construction. I have not been asked to consider any express constructions.

X. OPINIONS ON GROUND 1: KELLY683 ALONE OR IN VIEW OF THE KNOWLEDGE OF A POSITA RENDERS OBVIOUS THE CHALLENGED CLAIMS

84. The various embodiments of Kelly683 disclose each limitation in the challenged claims of the '336 patent. In my opinion, a POSITA would have

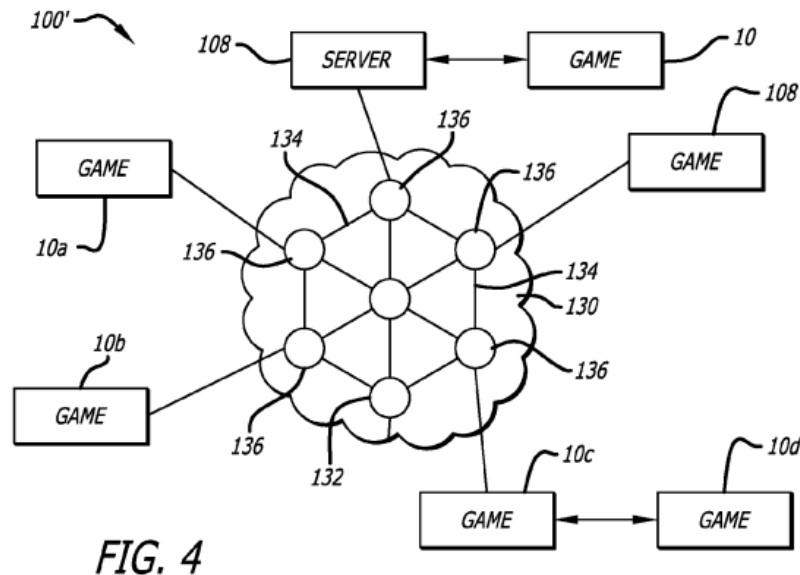
combined those embodiments resulting in a system that renders obvious each limitation of the challenged claims.

85. Kelly683 presented these features as options in implementing its gaming system. *See, e.g.*, Ex. 1005 at 5:22-28 (“The payout input for credit prizes may include a global payout percentage value that is the operator's desired percentage of the monetary income earned by the game apparatus that the operator wishes to provide back to players in the form of the prizes won using prize credits.”), 12:21-23 (“In the preferred embodiment of the redemption system, “tickets” or “prize credits” are used as a medium of conversion from game score to prize value.”); 30:34-40 (“In some embodiments, the player can optionally select a “save tickets” option in the prize selection screen (or the prize credits are saved in the player's account automatically), which will store the amount of prize credits won on a local or a remote storage device as well as identification information to associate the winnings with that player (name, address, and the like).”); 61:11-13 (“While various embodiments have been described above, it should be understood that they have been presented by way of example only, and not limitation.”). Accordingly, a POSITA implementing would have motivated to combine the various features of these embodiments together.

A. Independent Claim 1

- 1. Preamble: “A method for electronic interaction with users of the system through a series of interactions, comprising the steps of:”**

86. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses a “gaming system [that] includes a casino game server and a plurality of casino game units connected via a network.” Ex. 1005 at Abstract, Fig. 4. A POSITA would have understood that the server and game units create a *method for electronic interaction* because these components—specifically, the server and game units—are electronic.



Ex. 1005 at Fig. 4

87. Kelly683 discloses that “[p]layers from gaming environments in several different locations can thus interact or compete simultaneously in offered

games” using the game units (*electronic interaction with users of the system*). Ex. 1005 at 31:15-24; *see also* 58:16-18. These game units include display screens and input devices that allow the players (*users of the system*) to interact. Ex. 1005 at 8:57-63 (“Game unit 10 can take a variety of forms, including a video game apparatus having one or more display screens”), 10:43-45 (“Also, input devices such as buttons, switches, and the like allow the player of the game to make various selections concerning game play.”); *see also id.*, 9:62-10:15.

88. The game units of Kelly683 include “[g]ame output devices 18 [that] may influence the game and/or provide feedback to the player about the current state of the game process.” Ex. 1005 at 10:49-51; *see also id.*, 11:6-9, 11:10-15. A POSITA would have understood that the output provided to the user is influenced by the input (*through a series of interactions*). Ex. 1005 at 9:62-66 (“Input devices 16 are used by a player or user to provide input to the game unit 10 to influence game events during a game process and to achieve one or more predetermined goals or tasks for scoring points and winning prizes or other types of awards.”).

2. 1[a]: “receiving mandated parameters, the mandated parameters being those which must be achieved by the system as a whole,”

89. In my opinion, Kelly683 discloses this limitation.

90. Kelly683 discloses *receiving mandated parameters that must be achieved by the system as a whole*. The '336 patent discloses that the game play system includes mandated parameters that “may consist of prize pay out and win rates, and may include such factors as the minimum payout amount, the maximum payout amount, a defined percentage payout, the number of prizes, and/or the form of prizes.” Ex. 1001, 5:10-11.

91. Like the '336 patent, the gaming system of Kelly683 includes a “global payout percentage” (Ex. 1005 at 5:20-29, 37:27-38:15, 38:58-39:7, Fig. 9a) and “win ratios” (Ex. 1005 at 5:3-5, 5:30-43, 5:55-6:3). Again, like the '336 patent, the payout and win ratios may include such facts as a defined percentage payout, the number of prizes, and form of prizes, as Kelly683 explains that “[t]he term ‘payout’, as used herein, is intended to refer to any transfer of monetary value given back to the player of the game apparatus or game system. Most commonly for redemption systems, payout is in the form of prizes, but it may also be cash, unredeemed tickets, prize credits, and the like.” Ex. 1005 at 37:23-27.

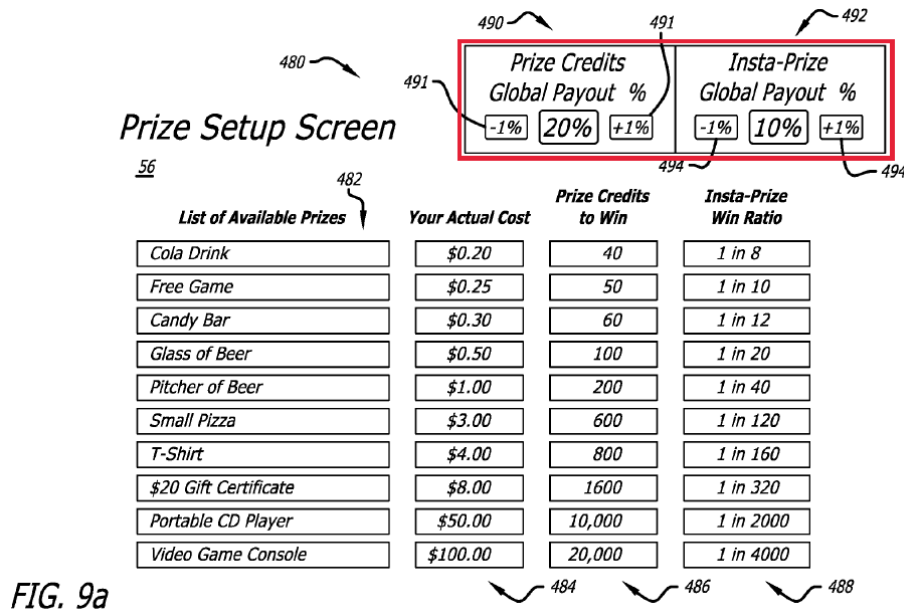


FIG. 9a

Ex. 1005 at Fig. 9a

92. Kelly683 discloses that the global payout percentage and win ratios *must be achieved by the system as a whole*. “The prize payout percentage 490 indicates the payout of the game unit 10 as a percentage of an operator’s revenue from the game that the operator will pay back, on average, to players in the form of prize credits or prizes purchased using prize credits.” Ex. 1005 at 37:35-39. Similarly, Kelly683 explains that “the specific prize ratios 488 are automatically determined by the redemption system based on other operator input such as actual cost 484 and the specific prize global win ratio 492.” Ex. 1005 at 37:11-14.

93. Kelly683 discloses *receiving* the global payout percentage and win ratios (*mandated parameters*) from an operator or other source, upon which server

108 then processes and stores the parameters. Kelly683 discloses “[p]rize input is received from the operator or other source (e.g., remote server) and displayed in the prize table.” Ex. 1005 at 5:3-19. Kelly683 teaches the global payout percentage and win ratios are stored in the prize table. Ex. 1005 at 44:29-35, Fig. 9a. “Information in the prize table 480 can be stored locally, or by the central location and can be downloaded when needed.” Ex. 1005 at 43:21-23.

3. [1.b]: “storing in a memory coupled to the input at least the mandated parameters,”

94. In my opinion, Kelly683 discloses this limitation. As discussed above in Section X.A.2, Kelly683 discloses that the global payout percentage and win ratios (*mandated parameters*) are received as prize input from an operator or remote server, and then processed and stored by the server in the prize table. Kelly683 discloses that the gaming system’s server 108 contains a storage/memory device (*storing in a memory*). Ex. 1005 at 18:33-36 (“The server 108 can be a separate device or apparatus which includes a controller, such as a microprocessor, and/or a storage device, such as a hard disk drive, memory devices, and the like.”). A POSITA would have thus understood that server 108 is used to process and store information in its memory, including the mandated parameters (*storing in a*

memory...at least the mandated parameters), and that the server (and its memory) are coupled to a source for receiving prize input (*memory coupled to the input*).

95. To the extent that *input* refers to the gaming units, Kelly683 also discloses this limitation. As discussed in the preamble, the gaming units include input devices for the users to provide *input*. Ex. 1005 at 10:43-45 (“Also, input devices such as buttons, switches, and the like allow the player of the game to make various selections concerning game play.”); *see also* Section X.A.1 (Ground 1, Preamble). A POSITA would have understood that server 108 is used to process and store information used by the gaming system, including input from the gaming units (*memory coupled to the input*).

4. [1.c]: “processing in a processing system coupled to the memory for implementing the mandated parameters by utilizing variable parameters, the processing system utilizing the variable parameters to achieve the mandated parameters,”

96. In my opinion, Kelly683 discloses that the gaming system processes information using server 108 (*processing in a processing system*) including the storage device (*coupled to the memory*). Ex. 1005 at 18:33-36 (“The server 108 can be a separate device or apparatus which includes a controller, such as a microprocessor, and/or a storage device, such as a hard disk drive, memory devices,

and the like.”). A POSITA would have understood that server 108 is used to process and store information used by the gaming system (*for implementing*).

97. Kelly683 discloses *implementing the mandated parameters by utilizing variable parameters, the processing system utilizing the variable parameters to achieve the mandated parameters*. The ’336 patent discloses that a “variable parameter may be the game structure itself, such as in the use of decision points, numbers of levels of game play, and/or duration of game play.” Ex. 1001, 5:48-50. The variable parameters may also be a prizing structure, which “may include the desired payout amount, GLEPS or other allocation variables, the frequency of wins (1:X), overall number of winners and prizing structure and allocation of prizes.” Ex. 1001, 6:9-12.

98. Like the ’336 patent, the gaming system of Kelly683 uses both a game structure and prizing structure as *variable parameters*. For game structure, Kelly683 explains that the global payout percentage and win ratio can be achieved (*achieve the mandated parameters*) by adjusting the game structure (*utilizing the variable parameters*):

For example, in an action game the speed of controlled objects, response of input devices, and the like, can be adjusted so that most players don’t receive a score higher than particular value. In card games, the frequencies of winning

combinations of cards can be adjusted. In quiz games, the difficulty of the questions at various times during the game can be adjusted so that average players will typically win a certain number of prize credits per game. Durations of games, which have a fixed duration, can also be adjusted to achieve an average payout level of prize credits.

Ex. 1005 at 38:65-39:7. Kelly683 also discloses that the gaming system will automatically adjust the prizing structure (*utilizing the variable parameters*) to meet the desired goals (*to achieve the mandated parameters*):

[T]he redemption system of the present invention vastly decreases operator involvement in a prize redemption system and the overhead of maintaining a prize structure for redemption games. An operator need only input desired prizes and a desired percentage of income that is to be paid back to players, and the system can automatically determine prize credit costs and win ratios for the entered prizes, which achieve the desired profitability of the game apparatus. These entered prizes and prize costs are then automatically provided to players on the game apparatus. This reduces the operator's need to update prizes and prize costs, and it provides a far more exact system for maintaining prizes and achieving a desired profitability of offered games, thereby reducing operating and maintenance costs of redemption games and allowing redemption games to be provided in the non-traditional gaming environments.

Ex. 1005 at 5:55-6:3.

99. A POSITA would have understood that the gaming system of Kelly683 uses the processing system to implement the global payout percentage and win ratios by adjusting the gaming structure and prizing structure parameters to achieve the global payout percentage and win ratios (*implementing the mandated parameters by utilizing variable parameters, the processing system utilizing the variable parameters to achieve the mandated parameters*).

5. [1.d]: “storing information regarding particular game play events as determined by the processor,”

100. In my opinion, Kelly683 renders obvious this limitation. Kelly683 discloses that the game play information provided by the game processor includes information on an initial game play event based on the user input (*information regarding game play events as determined by the processor*). Ex. 1005 at 10:12-15 (“Each type of user input can provide a particular game command to the game processor 12, and the game processor interprets the commands and influences game states and game events in the game process accordingly.”); *see also id.*, 1:44-46, 9:62-66, 46:32-37, 46:49-52.

101. To the extent that Kelly683 does not expressly disclose that the game play information is stored, a POSITA would have found this obvious. A POSITA

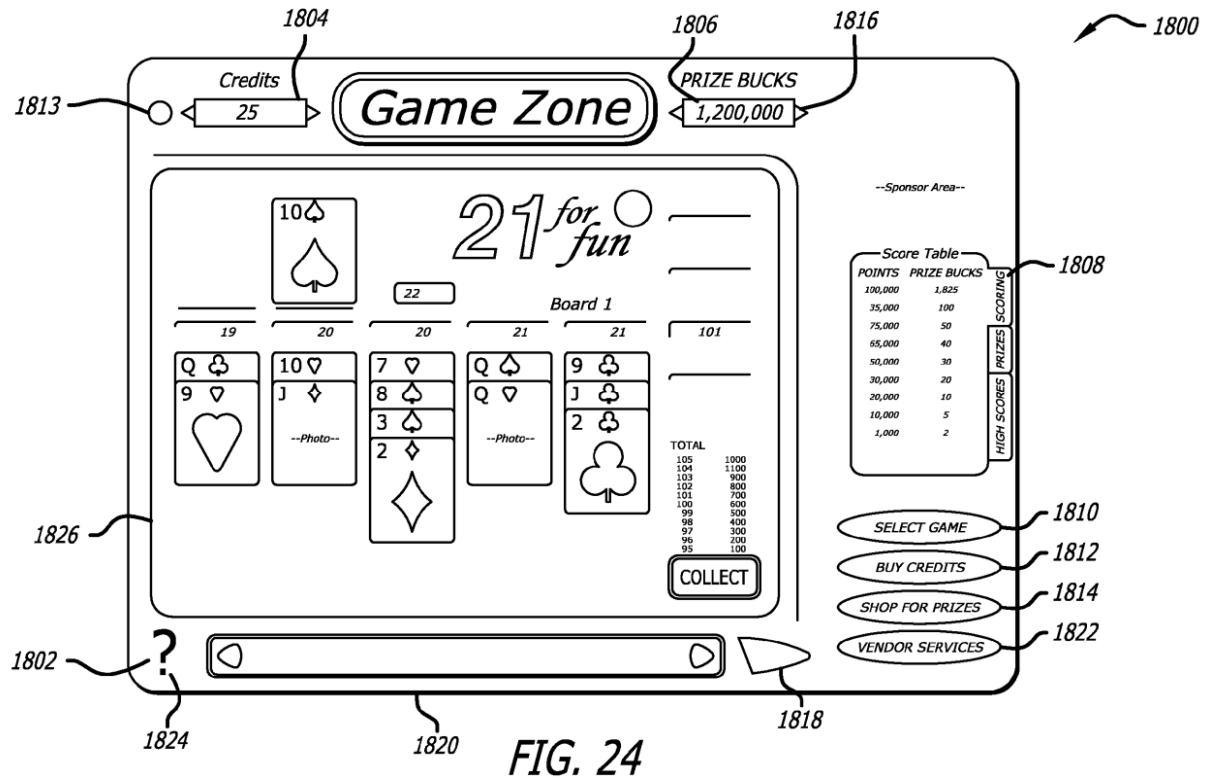
would have understood that the processor would have necessarily stored the game play information the coupled memory in order to implement the information.

6. [1.e]: “generating presentations for at least displaying game play events,”

102. In my opinion, Kelly683 discloses that “[p]layers from gaming environments in several different locations can thus interact or compete simultaneously in offered games” using the game units. Ex. 1005 at 31:15-24; *see also id.*, 58:16-18. These game units include display screens so that the players can interact with the game environment (*displaying game play events*). Ex. 1005 at 8:57-63 (“Game unit 10 can take a variety of forms, including a video game apparatus having one or more display screens”), 10:43-45 (“Also, input devices such as buttons, switches, and the like allow the player of the game to make various selections concerning game play.”); *see also id.*, 9:62-10:15.

103. Kelly683 discloses that the game processor generates information on the game play events based on the user input (generating presentations). Ex. 1005 at 10:12-15 (“Each type of user input can provide a particular game command to the game processor 12, and the game processor interprets the commands and influences game states and game events in the game process accordingly.”); *see also id.*, 1:44-

46, 9:62-66, 46:32-37, 46:49-52. This information (presentations) is presented on the display screen as shown in Figure 24 below.



Ex. 1005 at Fig. 24

7. [1.f]: “performing game analytics on the game play events, and”

104. In my opinion, Kelly683 discloses a process for “providing statistical information” (*performing game analytics on the game play events*). Ex. 1005 at 32:27-33. This statistical information includes statistics on *game play events* such as the “number of times the player has played” (Ex. 1005 at 25:23-24), “the time the

player took to play a game, the number of times a player has participated in similar previous tournaments, and the like” (Ex. 1005 at 32:27-33), “the number of games played and the number of times the specific prize goal was hit” (Ex. 1005 at 40:33-45), and “the amount of times a particular game is played, the number of times that difference games are played, or by achieving a game-related goal” (Ex. 1005 at 56:49-51).

8. [1.g]: “varying the displays presented to the user to achieve the mandated parameters.”

105. In my opinion, Kelly683 discloses this limitation. As discussed for limitation [1.c] (*see* Section X.A.4), Kelly683 discloses adjusting game structure and prize structure variable parameters in order to achieve certain global payout percentages and win ratios (*to achieve the mandated parameters*). For example, as discussed, Kelly683 discloses changing parameters such as “the speed of controlled objects,” “difficulty of the questions,” and “[d]urations of games.” Ex. 1005 at 38:67-39. A POSITA would have understood that varying these parameters *to achieve the mandated parameters* involves *varying the displays presented to the user* by, e.g., changing how objects move on a display (by changing speed), changing which questions are displayed, and changing how long the displays are presented to the user.

**B. Dependent Claims 3-5, 12-13, 18-20, 22, 24-26, 29, 42, 44-47,
50**

**1. Claim 3: “wherein the users interaction with the
system at least in part determines the outcome of an
individual game.”**

106. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses that the outcome of the game will be impacted by the skill level of the player. Ex. 1005 at 4:31-33 (“[T]he outcome of the game is influenced by skill of the player.”); *see also id.* 3:29-32, 4:45-47, 9:62-10:15, 10:16-29, 11:16-27. A POSITA would have understood that the player’s interaction with the game (*the users interaction with the system*), as a result of that skill level, will *at least in part determine[] the outcome of an individual game*.

**2. Claim 4: “wherein the mandated parameters are
selected from the group consisting of: prize pay out and
win rates.”**

107. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses that the game play system includes objectives for the system as a whole to achieve including a “global payout percentage” (Ex. 1005 at 5:20-29, 37:27-38:15, 38:58-39:7, Fig. 9a) and “win ratios” (Ex. 1005 at 5:3-5, 5:30-43, 5:55-6:3). *See* Section X.A.2 (Ground 1, Limitation [1.a]). A POSITA would have understood that if the objectives for the system include global payout percentage (*prize pay out*) or a win

ratio (*win rates*), then the objectives (*mandated parameters*) selected from a group of objectives including these objectives (*wherein the mandated parameters are selected from the group consisting of: prize pay out and win rates*).

3. Claim 5: “wherein the variable parameters are selected from the group consisting of: game selection and game structure.”

108. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses that the game play system includes objectives that can be achieved through changing *variable parameters* such as game selection and game structure. See Section X.A.4. For example, Kelly683 explains that “[t]he difficulty and thus the average prize credits awarded per game can be adjusted using a variety of techniques that depend on *the type of game being played*” (*game selection*). Ex. 1005 at 38:63-65. Adjusting *variable parameters* can also include adjusting aspects of *game structure*, including adjusting the “speed of controlled objects,” “frequencies of winning combinations,” “difficulty of the questions,” or “[d]urations of games.” *Id.*, 38:65-39:7. A POSITA would have understood that if the *variable parameters* may include factors affecting either *game selection* or *game structure*, then the *variable parameters are selected from the group consisting of: game selection and game structure*.

4. Claim 12: “wherein one or more association groupings enable games between multiple users”

109. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses “[t]he game apparatus can also be linked to multiple other game apparatuses to provide simultaneous multi-player games and tournaments including players from several different game apparatuses.” Ex. 1005 at 4:62-5:2; *see also id.*, 4:49-54, 14:60-15:3, 31:13-30, 32:23-33, 32:54-59, 45:4-15. A POSITA would have understood that simultaneous multi-player games and tournaments are *one or more association groupings [to] enable games between multiple users*.

5. Claim 13: “wherein the association groupings are competitive game play pairings.”

110. In my opinion, Kelly683 discloses this limitation. As discussed in claim 12, Kelly683 discloses linking the gaming apparatuses to provide simultaneous multi-player games and tournaments. Ex. 1005 at 4:49-54, 4:62-5:2, 14:60-15:3, 31:13-30, 32:23-33, 32:54-59, 45:4-15; *see also* Section X.B.4 (Ground 1, Claim 12). A POSITA would have understood that providing simultaneous multi-player games and tournaments includes competitive game play pairings. For example, a simultaneous multi-player game could include fight-style arcade games like Mortal Kombat. Similarly, a tournament could include a bracket-type tournament such as chess.

6. Claim 18: “further including user registration.”

111. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses that a prize database server is used *to process and store* player registration information, such as a personal user name, or user identification code, and a password (*registration user*). Ex. 1005 at 51:59-63 (“When registration is required, unregistered players are provided a registration link in operation 1202. Such link affects the display of an interface such as a web page which prompts the user to create a personal user name, or user identification code, and a password.”), 24:19-25 (“Two or more players can also play games simultaneously, alternating, and the like on a game unit 10. In such a case, each player can be provided with a separate prize credit display 290 to indicate that player's winnings (and also a separate game credits display 288, if desired). Alternatively, the multiple players can compete for a single prize credit amount shown in display 290.”); *see also id.*, 3:11-19, 51:49-52:4, 6:11-15.

7. Claim 19: “wherein the user registration is an on line registration system.”

112. In my opinion, Kelly683 discloses this limitation. As discussed in claim 18, the user registration is provided through a web page interface. See Section X.B.6 (Ground 1, Claim 18); Ex. 1005 at 51:59-63. A POSITA would have understood that

a web page interface for user registration is part of an *on line registration system* because a web page requires the Internet.

8. Claim 20: “further including a leader board”

113. In my opinion, Kelly683 discloses this limitation.

114. Kelly683 discloses a “high score list” and “Tournament Leader Board” (*leader board*). Ex. 1005, 1:49-52, Fig. 8a; *see also id.*, 7:57-60, 23:28-34, 34:25-50, 58:1-9, 59:63-60:5.

9. Claim 22: “wherein game play analytics tracks user specific play.”

115. In my opinion, Kelly683 discloses this limitation. As discussed for limitation [1.f] (*see* Section X.A.7), Kelly683 discloses a process for providing *game play analytics*, including analyzing “[t]he number of times the player has played” (*tracks user specific play*). Ex. 1005 at 25:23-24; *see also id.*, 32:27-33. The number of times a player has played is *user specific play*.

10. Claim 24: “wherein the game play analytics includes a decision engine to maximize game play.”

116. In my opinion, Kelly683 discloses this limitation. As discussed for limitation [1.f] (*see* Section X.A.7), Kelly683 discloses a process for providing statistical information (*game play analytics*) on game play events. A POSITA would

have understood that such a process involves a software module (*decision engine*) for calculating game analytics (*the game play analytics includes a decision engine*).

117. A POSITA would have understood that the *decision engine* maximizes game play because the gaming system of Kelly683 uses the statistical information of the *decision engine* to optimize the prizing structure for a desired goal (*maximize game play*). See, e.g., Ex. 1005 at 36:63-66 (“In one embodiment, the random determination of whether a particular prize is to be awarded is also modified by statistical information to create a ‘best fit’ of prizes awarded according to the operator’s desired odds.”).

11. Claim 25: “wherein the prize is a non-cash prize.”

118. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses that the prizes include tickets, prize credits, or game credits (*non-cash prize*). Ex. 1005 at 12:22-23 (“‘tickets’ or ‘prize credits’ are used as a medium of conversion from game score to prize value”), 50:52-53 (“If game credits were won, such game credits are added to the account of the player.”); see also *id.*, 16:13-25, 26:59-27:18, 27:55-28:2, 38:55-39:7.

12. Claim 26: “wherein the non-cash prize is points.”

119. In my opinion, Kelly683 discloses this limitation. Kelly explains that while cash may be paid by a player as a fee to play a game and a portion of that fee

may be applied to the tournament prize, the tournament prize itself (*non-cash prize*) may be expressed as a number of *points*. *Id.* For example, “a game may cost \$1 that the player inputs into the game,” with “50 cents...applied as a fee to play the game,” and “50 cents...applied to the tournament prize.” Ex. 1005 at 31:38-42. When a *non-cash prize* is awarded, “the tournament prize can be expressed as a number of points that have a correspondence to the amount of monetary value contributed to the tournament score by the game unit 10a or 10b. For example, every dollar of monetary value contributed by a game unit can be expressed as 10 points of a tournament prize.” *Id.*, 31:53-32:1. A POSITA would have understood that *points* awarded as a tournament prize are a *non-cash prize*.

13. Claim 29: “wherein the non-cash prize is advancing to other levels.”

120. In my opinion, Kelly683 renders obvious this limitation. Kelly683 discloses *non-cash prize is advancing to other levels*. Ex. 1005 at 34:19-24 (“In other embodiments, after a tournament is concluded, a player may be required to play additional games to determine a winner as, for example, in elimination-type tournaments where players compete in successive rounds and are eliminated from the tournament after losing a predetermined number of games.”) A POSITA would have understood that advancing to additional “rounds” (*advancing to other levels*) is

the reward (*non-cash prize*) for winning previous rounds, and with sufficient advancement user wins final payout.

14. Claim 42: “further including the step of limiting use to geographic presence of users within a given area.”

121. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses *including the step of limiting use to geographic presence of users within a given area*, specifically by “enabling or disabling of various features of the game based on the geographic location of the user.” Ex. 1005 at 49:4-11; *see also id.*, 6:53-58 (“portion of the computer-implemented game is precluded based on regulations in a geographic location”), 53:49-54, 54:27-41.

15. Claim 44: “further including the step of providing an applet for a remote communications device.”

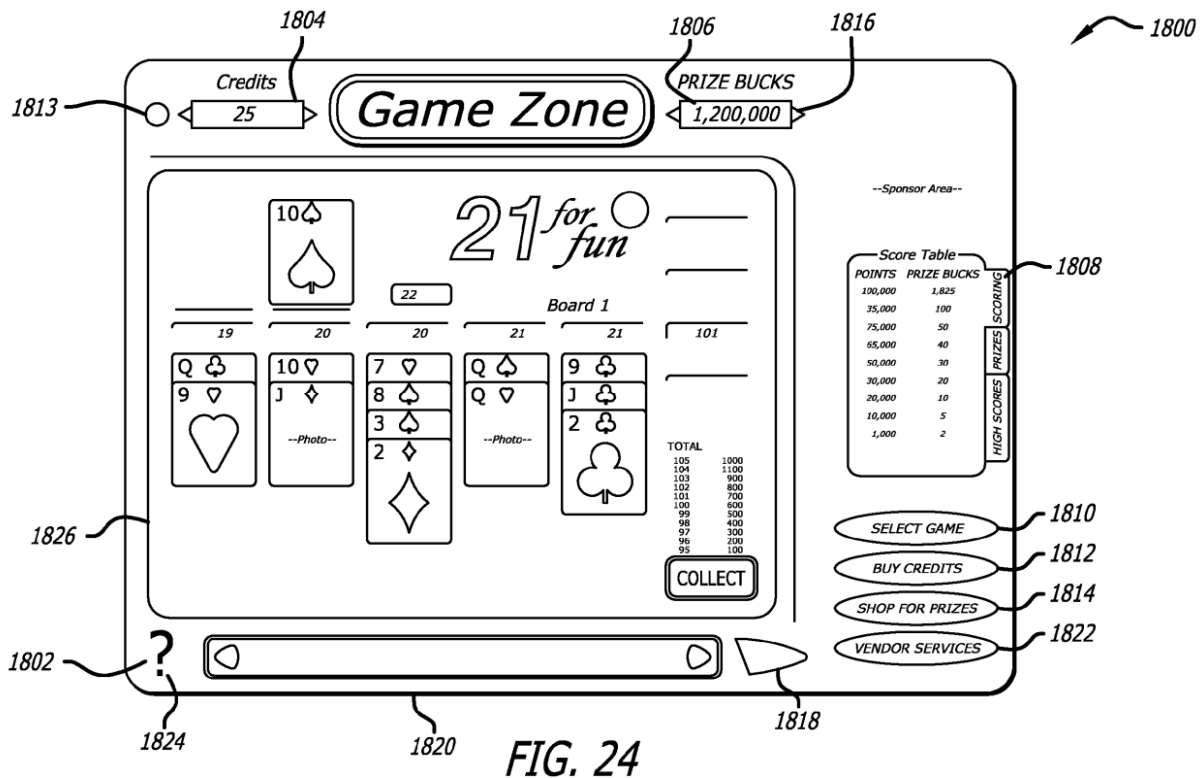
122. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses a “wireless/transmitter/receiver” (*remote communications device*) for “communicating without the use of cables or wires.” Ex. 1005 at 15:24-33. Kelly683 further discloses *including the step of providing an applet* for the device in the form of “Java applet game.” *Id.*, 50:1-18; *see also id.*, 48:48-57, 3:11-19, 15:24-33, 19:5-20:10.

16. Claim 45: “wherein the communications device is a wireless communications device.”

123. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses *the communications device is a wireless communications device*, specifically “a wireless transmitter/receiver for communicating without the use of cables or wires.” Ex. 1005 at 15:24-33.

17. Claim 46: “wherein the communications device includes graphical display capability.”

124. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses the game units include display screens (*graphical display capability*). Ex. 1005 at 8:57-63 (“Game unit 10 can take a variety of forms, including a video game apparatus having one or more display screens”), Fig. 24.



Ex. 1005 at Fig. 24

18. **Claim 47:** “wherein device is a wireless communications device with graphical display capability.”

125. In my opinion, Kelly683 discloses this limitation. Kelly683 discloses that the communication device 24 includes a wireless transmitter/receiver (*wireless communications device*) and display screen (*graphical display capability*). See Section X.B.16-17 (Ground 1, Claims 45 and 46).

19. Claim 50: “further including the step of providing a user’s club.”

126. In my opinion, Kelly683 in view of the knowledge of a POSITA renders obvious this limitation.

127. To the extent that Kelly683 does not expressly disclose *providing a user’s club*, a POSITA would have been motivated and found it obvious to implement this feature. Player tracking cards, such as club cards, and player tracking programs (either, *user’s club*) were well-known as I discussed in the Technology Overview. *See, e.g.*, Ex. 1007 ¶¶[0008]-[0009]; Section V.B. A POSITA would have recognized that the player tracking system would have promoted player engagement in Kelly683.

128. A POSITA would have been motivated to modify Kelly683 to include player tracking cards and player tracking programs because it would allow a more detailed view of tracking play, which would allow for rewarding patronage and engagement. A POSITA would have recognized that it was desirable to track play to “to maintain player interest” as well as “to provide gaming establishments with valuable information....” Ex. 1007, [0010]; *see* Section V.B. A POSITA would have had a reasonable likelihood of success in implementing such a modification because it would be a simple programming change to track player club information. It would

have involved a combination of known technologies (processors, memory) according to known methods (programming) to yield the predictable result of adding more functionality to an object in the game—namely, player information.

XI. GROUND 2: WALKER ALONE OR IN VIEW OF THE KNOWLEDGE OF A POSITA RENDERS OBVIOUS CLAIMS 1, 3-5, 12, 13, 18-19, 22, 24-26, 44-47, AND 50

A. Motivation to Combine

140. A POSITA would have been motivated to combine the teachings of Walker and Schneier¹⁴³. Specifically, a POSITA would have recognized that implementing the use of credits, a leader board, and a geographic use limitation, similar to that disclosed by Schneier¹⁴³ would have been a natural extension of the credits in Walker.

141. First, Walker and Schneier¹⁴³ share the same inventors—namely Jay Walker and James Jorasch. A POSITA implementing and improving the system of Walker would have naturally looked at other patents and applications of the inventors of Walker to identify any features or details that would have improved the system.

142. Second, these features would have enhanced user experience. The use of credits during game play, not just to engage in game play, would have enhanced the user experience. For less skilled players, the ability to purchase items that

advance the player to the next level would have prevented the player from becoming frustrated. For more advanced players, the ability to earn credit during game play would have made the game more interesting. The use of a leader board would have enhanced user participation by enabling increased competition. Limiting use to geographic presence of users within a given area would have also enhanced user experience by allowing players to play with those in a similar geographic area, thereby increasing competition.

B. Reasonable Expectation of Success

143. A POSITA would have been able to implement the use of credits during game play, a leader board, and a geographic use limitation during game play taught by Schneier¹⁴³ into the game system of Walker with a reasonable expectation of success.

144. First, the systems of Walker and Schneier¹⁴³ have substantially similar structures and functions. Given that Walker and Schneier¹⁴³ share the same inventors, these structures and function even share the same names. Importantly, Walker and Schneier¹⁴³ use credits in the same way, both track high and low scores, and both use GPS as an input device. Indeed, Schneier¹⁴³ merely discloses more detailed functionality.

145. Second, it would have involved a combination of known technologies (processors, memory) according to known methods (programming) to yield the predictable result of adding more functionality to an object in the game—namely, credits, a leader board, and a feature to limit use to a geographic area.

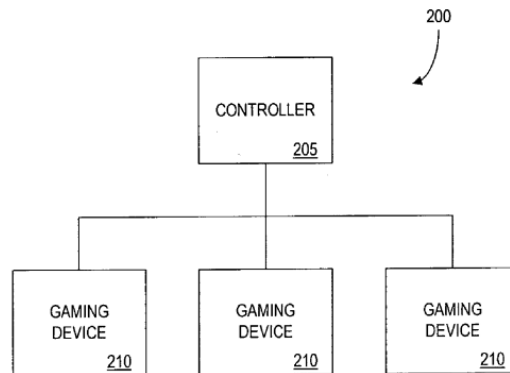
C. Independent Claim 1

1. Preamble: “A method for electronic interaction with users of the system through a series of interactions, comprising the steps of:”

146. In my opinion, to the extent limiting, Walker discloses the preamble.

147. Walker discloses “system 200...may include a controller 205 (an example of which is depicted in FIG. 3) in one or two-way communication with a plurality of gaming devices 210 (an example of which is depicted in FIG. 4) via a network such as, for example, the Internet or via another communications link.” Ex. 1006, ¶[0051], Fig. 2; *see also id.*, ¶[0062] (“embodiment 300 of controller 205”). A POSITA would have understood that the controller and gaming devices create a *method for electronic interaction* because these components are electronic. *See* Ex. 1006, ¶[0062] (“The controller 300 may be implemented as a system controller...or any other equivalent electronic”), [0069] (“The gaming device 400 may be implemented as a system controller...or any other equivalent electronic”), (“The gaming device 400 may comprise any or all of the gaming devices 210”).

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Petition for *Inter Partes* Review USP No. 8,529,336



Walker discloses that “a player may remotely operate a gaming device.” Ex. 1006, ¶[0091]. The system of Walker allows multiple players (*users*) to interact through the gaming devices. Ex. 1006, ¶[0055] (“Communication between the gaming devices 210 and the controller 205, and among the gaming devices 210, may be direct or indirect, such as over the Internet through a Web site maintained by a controller 205 on a remote server....”).

148. Walker discloses *through a series of interactions* because the players participate in the game through a series of input and outputs. “[T]he controller...may receive a selection of a game that a player would like to play” and that “a player may use a player device or a gaming device to select a game that he would like to play from a list of available games.” Ex. 1006, ¶[0219]. Walker explains that “the controller may...direct the gaming device to initiate the requested game.” Ex. 1006, ¶[0220]. “Input device 415 may be a device that is capable of receiving an input

(e.g., from a player or another device).” *Id.*, ¶[0087]. A POSITA would have understood that the player inputs a selection of a game (e.g., through the input device) and the gaming device outputs the corresponding selected game (e.g., through the display capabilities of the output device 410), and participate in the game through continued inputs and outputs.

2. [1.a]: “receiving mandated parameters, the mandated parameters being those which must be achieved by the system as a whole,”

149. In my opinion, Walker discloses this limitation. Walker discloses one or more predetermined criteria (*mandated parameters*) that must be satisfied during game play (*must be achieved by the system as a whole*). See Ex. 1001, 5:30-34. The Walker system achieves the mandated parameters by “adjustment of a game in order to help ensure that a set of results obtained during a plurality of game plays of a game satisfy one or more predetermined criteria (e.g., that a standard deviation of the results is not greater than a maximum predetermined standard deviation and not lower than a minimum predetermined standard deviation).” Ex. 1006, ¶[22]; *see also id.*, ¶[23] (“The present invention, in accordance with one or more embodiments, allows a gaming establishment to adjust a game such that results of a game are maintained within a range determined to be desirable by the gaming establishment.”), ¶[0024].

150. Walker discloses that “controller 300 may comprise, for example, a server computer operable to communicate with one or more client devices such as gaming devices 210.” Ex. 1006, ¶[0062]. “The controller 300 comprises a processor 305...in communication with a communications port 310...and a memory 315.” Ex. 1006, ¶[0064]. A POSITA would have understood that the controller 205/300 is used to process and store information used by the system (*receiving*) given Walker’s teaching that the controller processes and stores the program for gaming. Ex. 1006, ¶[0065] (“The memory 315 stores a program 320 for controlling the processor 305.”).

151. A POSITA would have understood that the controller processes and stores (*receiving*) the predetermined criteria (*mandated parameters*). Ex. 1006, ¶[0077] (“The memory 425 [of the controller] also stores a predetermined criteria for results 435.”), ¶[0082] (“In one or more embodiments, gaming device 400 may access the predetermined criteria for results 435 from another device rather than storing it locally. For example, gaming device 400 may obtain such information from controller 300.”), ¶[0106] (“Note that game parameter values may be stored in a database and retrieved as needed by the gaming device. Alternatively, the gaming device 210 or controller 205 may calculate an appropriate value for a game parameter as necessary.”); ¶[0106] (“In another example, a binary indication (e.g.,

‘yes’ or ‘no’) of whether a prize was won as a result of a game play may be stored in the game play database.”); *see also id.*, ¶¶[0067], [0246], Figure 8.

3. [1.b]: “storing in a memory coupled to the input at least the mandated parameters,”

152. In my opinion, Walker discloses this limitation. Alternatively, to the extent that *coupled* excludes an indirect connection, Walker in view of Schneier¹⁴³ renders obvious this limitation.

153. Walker discloses that “controller 300 may comprise, for example, a server computer operable to communicate with one or more client devices such as gaming devices 210.” Ex. 1006, ¶[0062]. “The controller 300 comprises a processor 305...in communication with a communications port 310...and a memory 315.” Ex. 1006, ¶[0064]. A POSITA would have understood that memory 315 stores the program and information for gaming, including the mandated parameters (*storing in a memory...at least the mandated parameters*). Ex. 1006, ¶ [0065] (“The memory 315 stores a program 320 for controlling the processor 305.”).

154. Walker discloses that memory 315 (*memory*) is coupled *to the input*. As discussed in the preamble, Walker discloses that the players participate in the game in part through inputs from input device 415. *See* Section XI.C.1 (Ground 3,

Claim 1 Preamble). The memory is coupled to the input device through the processor. Ex. 1006, ¶¶[0070], [0087].

155. To the extent that *coupled* excludes an indirect connection, Walker in view of Schneier¹⁴³ renders obvious this limitation. Schneier¹⁴³ discloses that an “Interactive Voice Response Unit (‘IVRU’) is...*coupled to* the central computer 12 through a standard interface for access...to enable players to enroll in tournaments and/or to submit outcomes of the games to the central computer.” Ex. 1008, 11:35-40. A POSITA would have been motivated to modify the Walker system to include such an input device with a reasonable expectation of success since Walker and Schneier¹⁴³ share similar structures since they share the same named inventors and it would have provided a POSITA a more detailed way to implement such an input device to provide information to the controller.

4. **[1.c]: “processing in a processing system coupled to the memory for implementing the mandated parameters by utilizing variable parameters, the processing system utilizing the variable parameters to achieve the mandated parameters,”**

156. In my opinion, Walker discloses this limitation. The system of Walker processes information using the controller (*processing in a processing system*) including memory (*coupled to the memory*). Ex. 1006, ¶[0077] (“The memory 425 [of the controller] also stores a predetermined criteria for results 435.”), ¶[0082] (“In

one or more embodiments, gaming device 400 may access the predetermined criteria for results 435 from another device rather than storing it locally. For example, gaming device 400 may obtain such information from controller 300.”), ¶[0106] (“Note that game parameter values may be stored in a database and retrieved as needed by the gaming device. Alternatively, the gaming device 210 or controller 205 may calculate an appropriate value for a game parameter as necessary.”); ¶[0106] (“In another example, a binary indication (e.g., ‘yes’ or ‘no’) of whether a prize was won as a result of a game play may be stored in the game play database.”); *see also* ¶[0067], [0246], Figure 8.

157. Walker discloses *implementing the mandated parameters by utilizing variable parameters, the processing system utilizing the variable parameters to achieve the mandated parameters*. Ex. 1001, 5:30-34. The Walker system achieves the mandated parameters by “adjustment of a game in order to help ensure that a set of results obtained during a plurality of game plays of a game satisfy one or more predetermined criteria (e.g., that a standard deviation of the results is not greater than a maximum predetermined standard deviation and not lower than a minimum predetermined standard deviation).” Ex. 1006, ¶[0022]; *see also id.*, ¶[0023] (“The present invention, in accordance with one or more embodiments, allows a gaming

establishment to adjust a game such that results of a game are maintained within a range determined to be desirable by the gaming establishment.”), ¶[0024].

158. Like the '336 patent, the Walker system uses both a gaming structure and prizing structure as *variable parameters*. See also Ex. 1001, 6:6-9, 6:35-39. For gaming structure, Walker explains that the predetermined criteria can be achieved by adjusting “one or more game parameters” that “may be variables that affect the performance, scoring, difficulty, outcome, or other aspects of the game.” Ex. 1006, ¶[0155]. These game parameters include “factors that affect the difficulty of a game (e.g., complexity of a game, hints provided, the sensitivity of controls, difficulty of trivia questions, number of opponents)” (Ex. 1006, ¶[0156]), “rules of a game (e.g., number of strikes allowed in a baseball game, cost of vowels in a word guessing game)” (*id.*, ¶[0159]), “factors that affect the duration of a game (e.g., a number of rounds, a number of lives)” (*id.*, ¶[0160]) and “an amount of time that a player is allowed to achieve an event in a game or complete a game play of the game” (*id.*, ¶[0166]). See generally Ex. 1006, ¶¶[0155]-[0166].

159. For prizing structure, Walker explains that the predetermined criteria can be achieved by adjusting “what prize is awarded.” Ex. 1006, ¶[0028]. Walker further discloses “[a]n operator of a gaming establishment may desire to, for example, raise a median or mean score of a game in order to further motivate players

by enabling more players to achieve a score that corresponds to a prize (e.g., a more valuable prize) or that is closer to a score that corresponds to a prize.” Ex. 1006, ¶[0028].

160. A POSITA would have thus understood that the Walker system adjusts the game structure and prizing structure parameters (*utilizing the variable parameters*) to achieve the predetermined criteria (*to achieve the mandated parameters*) by determining whether a set of results meets the predetermined criteria (Ex. 1006, ¶¶[0261]-[0264]), and if necessary, adjusting the game by “(i) determining at least one goal of the adjustment; (ii) determining the one or more game parameters to be adjusted; (iii) determining a respective new value for each of the one or more game parameters to be adjusted; and (iv) executing the adjustment” (Ex. 1006, ¶[0267]).

161. Additionally, Walker discloses monitoring the variance in prizes awarded to ensure the variance in prizes awarded based on the results of the games is not too high which may be discouraging to players. Ex. 1006, ¶[0025] (“a computing device may monitor the games played to determine a variance in prizes awarded based on results of the games. If the variance in prizes awarded is too high, this may be discouraging to players, since expert players may win large prizes while novice players win almost nothing. Similarly, if the variance in prizes is too low,

players may become bored because there is not enough variation in the prizes awarded. If the computing device determines that the variance in prizes for a game is too high or too low, then it may modify the game to alleviate this problem.”).

800

GAME IDENTIFIER: G-5327		
AVAILABLE ADJUSTMENT		ANTICIPATED CHANGE IN STANDARD DEVIATION
	804	806
R-8-01	INCREASE SPEED OF SPACESHIP BY 10-20%	+ 20 POINTS
R-8-03	DECREASE SPEED OF SPACESHIP BY 10-20 %	- 30 POINTS
	INCREASE NUMBER OF LIVES FROM 3 TO 5	- 50 POINTS
R-8-05	INCREASE NUMBER OF HITS NEEDED TO DESTROY A SMALL METEORITE BY 30-50% AND INCREASE SPEED OF SMALL METEORITE BY 20-30%	+ 90 POINTS
	INCREASE POINTS AWARDED FOR DESTROYING LARGE METEORITE BY 20-30% AND DECREASE POINTS AWARDED FOR DESTROYING SMALL METEORITE BY 20-30%	- 100 POINTS
R-8-07	INCREASE TEMPO OF BACKGROUND MUSIC BY 5%	- 5 POINTS
	ADD "SLOW DOWN / REVERSE DIRECTION" CAPABILITY TO SPACESHIP	+ 30 POINTS
R-8-09	DECREASE PRECISION OF SPACESHIP HEADING CONTROLS BY 2 DEGREES	- 40 POINTS
	INCREASE SPEED OF MISSILES BY 10-20%	+ 15 POINTS

FIG. 8

Ex. 1006, Fig. 8

5. [1.d]: “storing information regarding particular game play events as determined by the processor,”

162. In my opinion, Walker discloses this limitation. Walker discloses *storing information regarding particular game play events as determined by the processor* because the processor may determine whether certain game play events

such as “lives,” “rounds,” or “levels” have occurred and store information on each event. Ex. 1006, ¶¶[0027] (“A game play comprises an attempt to obtain a score or win a prize in accordance with the rules of the game and ends at a designated time (e.g., once the prize is won or **a number of ‘lives’ or ‘rounds’ is played** without having won the prize).”), [0160] (discussing game parameters such as “factors that affect the duration of a game (e.g., **a number of rounds, a number of lives**)”), [0163] (discussing game parameters such as “algorithms that control how points are awarded (e.g., a formula for the number of bonus points that a player receives at the[] end of **a round of a game play** or at the end of a game play)”), [0245] (discussing “**number of levels** completed”), [0265] (discussing awarding of a prize “if a player achieves a particular...**level of achievement** in one or more game plays of a game (e.g., the player gets to **level 3 of the game** within two consecutive game plays)”), *see also id.*, ¶[0109] (“A game play database 330 stores information about individual game plays conducted on gaming devices of system 200.”). A POSITA would have understood that the information regarding particular gameplay events would be collected and stored as determined by the processor (*storing information regarding particular game play events as determined by the processor*).

6. [1.e]: “generating presentations for at least displaying
game play events,”

163. In my opinion, Walker discloses this limitation. Walker discloses that “[t]he gaming device 400 comprises a processor 405...in communication with an output device 410,” which “may comprise, for example, a cathode ray tube (CRT) monitor, liquid crystal display (LCD) screen, or light emitting diode (LED) screen” (*at least displaying game play events*). Ex. 1006, ¶[0070]; Fig. 4.

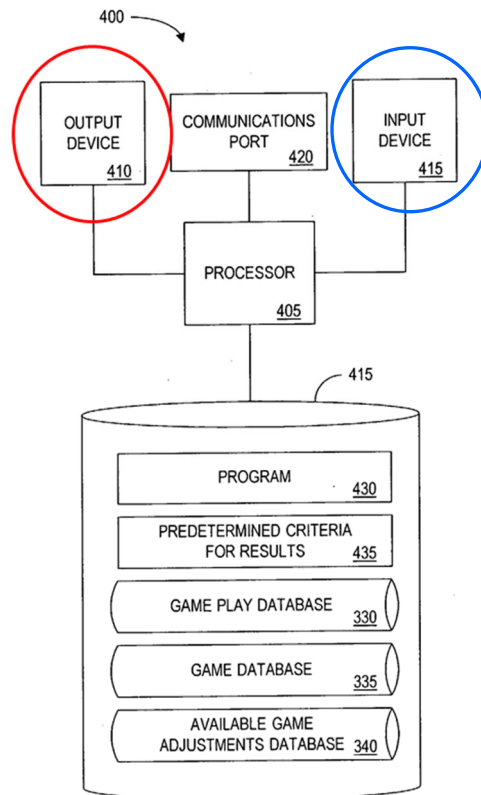


FIG. 4

Ex. 1006, Fig. 4 (annotated)

164. Walker discloses that the controller generates information on the game play events (*generating presentations*) to be displayed on the device. “For example, a gaming device may comprise an LCD display for displaying animations of a game ...and an LED Screen for displaying a score achieved during a game play of the game.” Ex. 1006, ¶[0086]; *see also id.*, ¶[0085] (“The output device 410 may be utilized, for example, for outputting information related to a game play played on the gaming device, such as animations associated with the game play and/or results of the game play (e.g., the score achieved for the game play and/or a prize the player playing the game play has qualified for).”).

7. [1.f]: “performing game analytics on the game play events, and”

165. In my opinion, Walker discloses this limitation. Ex. 1001, 45:34-39. Walker discloses calculating various statistics (*performing game analytics*) on various *game play events*.

166. As discussed for limitation [1.c], Walker discloses that its system facilitates adjustment of game parameters (*variable parameters*) to help ensure that a set of results obtained during game play satisfies one or more predetermined criteria (*mandated parameters*). *See* Section XI.C.4. Walker explains that the

controller determines a set of results obtained over a plurality of game plays of a game and retrieves them from the game play database. Ex. 1006, ¶[0233] (“[T]he controller 205 determines a set of results obtained over a plurality of game plays of a game. This determination may involve selecting the set of results.”).) For example, the controller may select a set of results corresponding to all game plays played in a specific period of time (e.g., the last week). *Id.*, ¶[0236]; *see also id.*, ¶¶[0232]-[0246] (further describing selection of a set of results).

167. After selecting a set of results, the controller determines whether the results satisfy the one or more predetermined criteria associated with the game. *Id.*, ¶[0248] (“[T]he controller 205 may determine whether the set of results selected above satisfies the one or more predetermined criteria associated with the game. Such a determination may comprise, for example, determining the one or more criteria associated with the game. This may be accomplished by, for example, accessing a record of the game in the game database 435 (e.g., based on the game identifier) and retrieving the one or more predetermined criteria stored in the record.”). For example, the controller may determine whether the variance or standard deviation of the set of results is within a predetermined range, above/below a predetermined minimum threshold, or above/below a predetermined maximum

threshold. *Id.*, ¶[0249]; *see also id.*, ¶¶[0247]-[0265] (further describing determining whether results meet predetermined criteria).

168. If the controller determines that the set of results does not satisfy the predetermined criteria, the controller adjusts the game, which may involve determining a goal of adjustment, determining game parameters to be adjusted, determining new values for the game parameters to be adjusted, and executing the adjustment. *Id.*, ¶[0267] (“If it is determined that a set of results for a game does not satisfy one or more predetermined criteria for the game, the controller 205 adjusts the game....Adjusting a game may comprise (i) determining the at least one goal of the adjustment; (ii) determining the one or more game parameters to be adjusted; (iii) determining a respective new value for each of the one or more game parameters to be adjusted; and (iv) executing the adjustment.”).

169. A POSITA would have understood that deciding which sets of game play information (*game play events*) should be selected for analysis, analyzing the results to calculate variance, standard deviation, or other analytical measures (*performing game analytics*), and comparing these values to predetermined thresholds to decide whether game parameters should be adjusted, as described above, involves *performing game analytics on the game play events*.

8. [1.g]: “varying the displays presented to the user to achieve the mandated parameters.”

170. In my opinion, Walker discloses this limitation. Specifically, Walker discloses providing to the user different displays representing changes to the prizing structure or game structure (varying the displays presented to the user) to achieve the predefined criteria (mandated parameters). For example, Walker discloses modifying variable parameters such as “hints provided” (Ex. 1006, ¶[0156]), “factors that affect the duration of a game (e.g., a number of rounds, a number of lives)” (*id.*, ¶[0160]), and “an amount of time that a player is allowed to achieve an event in a game or complete a game play of the game” (*id.*, ¶[0166]). A POSITA would have understood that varying these parameters to achieve the predefined criteria (*achieve the mandated parameters*) involves *varying the displays presented to the user* by, e.g., changing which hints are displayed, changing which displays are provided for a given round, and changing how long the displays are presented to the user.

**D. Dependent Claims 3-5, 12-13, 18-20, 22, 24-26, 29, 42, 44-47,
50**

**1. Claim 3: “wherein the users interaction with the
system at least in part determines the outcome of an
individual game.”**

171. In my opinion, Walker discloses this limitation. Walker discloses “[t]he outcome may be based on inputs provided by the player as well as other factors related to the game play (e.g., rules of the game, inputs by other players, random numbers).” Ex. 1006, ¶[0222]. A POSITA would have thus understood that the user’s inputs to the game (*the users interaction with the system*) *at least in part determine[] the outcome of an individual game.*

**2. Claim 4: “wherein the mandated parameters are
selected from the group consisting of: prize pay out and
win rates.”**

172. In my opinion, Walker discloses this limitation. Walker discloses that the predetermined criteria (*mandated parameters*) for the system as a whole to achieve include a standard deviation of scores (*win rates*), including scores to win prizes (*prize pay out*). See Ex. 1006, ¶¶[0049] (“An operator of a gaming establishment may desire to, for example, raise a median or mean score of a game in order to further motivate players by enabling more players to achieve a score that corresponds to a prize (e.g., a more valuable prize) or that is closer to a score that

corresponds to a prize.”), [0085]-[0087]. A POSITA would have understood that if the predetermined criteria may include either a predetermined standard deviation of scores that determines how often players win (*win rates*) or a predetermined score value at which prizes may be won (*prize pay out*), then the predetermined criteria are selected from a group of criteria that includes these criteria (*wherein the mandated parameters are selected from the group consisting of: prize pay out and win rates*).

3. Claim 5: “wherein the variable parameters are selected from the group consisting of: game selection and game structure.”

173. In my opinion, Walker discloses this limitation. As discussed for limitation [1.c], Walker discloses that the *variable parameters* may include various game parameters that control the *game structure*. Section XI.C.4. Walker further discloses “the game parameter values for the player’s game plays may be set or selected (e.g., the respective value corresponding to each game parameter affected by the skill level of the player) based on the skill level.” Ex. 1006, ¶[0105]; *see also id.*, ¶[0105] (“For example, the speed of meteorites in the game named ‘Space Battles’ may be set to a low speed (thus making it easier to destroy) if the player is determined to be a novice or low skill player but set to a relatively higher speed if the player is determined to be an expert player.”). A POSITA would have understood

that if the game parameters (*variable parameters*) may include factors affecting either *game structure* or which game is selected (*game selected*) based on skill level, then the *variable parameters are selected from the group consisting of: game selection and game structure*.

4. Claim 12: “wherein one or more association groupings enable games between multiple users”

174. In my opinion, Walker discloses this limitation. Walker discloses that “[t]he game play database may also store other information about game plays conducted on the system 200, such as...teammates or opponents of the player in a multi-player game.” Ex. 1006, ¶[0116]; *see also id.*, ¶[0119]. A POSITA would have understood that this information about teammates or opponents (*one or more association groupings*) affects how the game is played between users (*enable games between multiple users*).

5. Claim 13: “wherein the association groupings are competitive game play pairings.”

175. In my opinion, Walker discloses this limitation. As discussed in claim 12, Walker discloses multi-player games defined by *association groupings* including those with opponents. *See* Section XI.D.4 (Ground 3, Claim 12); Ex. 1006, ¶¶[0116], [0119]. A POSITA would have understood that multi-player games with an opponent are *competitive game play pairings*.

6. Claim 18: “further including user registration.”

176. In my opinion, Walker discloses this limitation. Walker discloses “[t]he tabular representation 500 of the player database 325 includes a number of example records or entries, each indicating a player registered with a gaming establishment” (*user registration*). Ex. 1006, ¶[0098]; *see also id.*, ¶[0104] (“A record may be opened in the player database when a player first registers with a gaming establishment (e.g., as a member of frequent player of the gaming establishment).”).

7. Claim 19: “wherein the user registration is an on line registration system.”

177. In my opinion, Walker renders obvious this limitation. As discussed in claim 18, Walker discloses *user registration*. *See* Section XI.D.6 (Ground 3, Claim 17). Although Walker does not expressly disclose that the *user registration is an on line registration system*, a POSITA would have implemented the user registration to allow users to register through the Internet because the Walker system already discloses implementing communications between players through the Internet. Ex. 1006, ¶¶[0054]-[0056].

8. Claim 20: “further including a leader board.”

178. In my opinion, Walker in view of Schneier¹⁴³ renders obvious this limitation. Schneier¹⁴³ discloses “[t]he central computer 12 may also operate a

‘central scoreboard,’ i.e., a database where all certified scores and statistical information on players and teams are maintained.” Ex. 1008, 11:9-11; *see also id.*, 11:12-14 (“Statistics for a given player may include information on opponents, the time of play, ratings, rankings and the like.”). A POSITA would have understood that scoreboard is a *leader board* because it would include a list of the players with the highest scores. A POSITA would have been motivated to combine the teachings of Walker and Schneier¹⁴³ because Walker discloses keeping track of high and low scores. Ex. 1006, ¶¶[0048], [0250]. A POSITA would have understood that modifying the Walker system such that it also maintains a leader board, similar to Schneier¹⁴³, would have further enhanced player participation.

9. Claim 22: “game play analytics tracks user specific play.”

179. In my opinion, Walker discloses this limitation. As discussed for Section XI.C.7 (Ground 3, Limitation [1.f]), the controller performs actions such as deciding which sets of game play information should be selected for analysis, analyzing the results to calculate variance, standard deviation, or other analytical measures, and comparing these values to predetermined thresholds to decide whether game parameters should be adjusted (*game play analytics*). *See* Section XI.C.7 (Ground 3, Limitation [1.f]). Walker further discloses that the selected set of

results may comprise “all game plays played by a particular player” (*game play analytics tracks user specific play*). *Id.*, ¶[0237].

10. Claim 24: “the game play analytics includes a decision engine to maximize game play.”

180. In my opinion, Walker discloses this limitation. Ex. 1Ex. 1Ex. 1001, 45:34-39. As discussed for Section XI.C.7 (Ground 3, Limitation [1.f]), the controller performs *game play analytics* actions such as deciding which sets of game play information should be selected for analysis, analyzing the results to calculate variance, standard deviation, or other analytical measures, and comparing these values to predetermined thresholds to decide whether game parameters should be adjusted. Ex. 1006, ¶¶[0024]-[0025], [0028]. A POSITA would have understood that Walker discloses a software module for calculating game analytics (*the game play analytics includes a decision engine*).

181. Further, Walker explains that the controller’s software module (*decision engine*) makes adjustment decisions based on the game analytics in order to maximize the game play experience (*maximize game play*). Ex. 1006, ¶¶[0002] (“Gaming establishment operators, such as operators of online gaming Web sites and arcades, profit when players play games at their establishments. The operators are thus interested in keeping the players happy and motivated in order to maximize

the chances that the players will return in the future to play games and encourage friends and family members to visit the establishments.”), [0025] (“As players play games on the Web site, a computing device may monitor the games played to determine a variance in prizes awarded based on results of the games. If the variance in prizes awarded is too high, this may be discouraging to players, since expert players may win large prizes while novice players win almost nothing. Similarly, if the variance in prizes is too low, players may become bored because there is not enough variation in the prizes awarded. If the computing device determines that the variance in prizes for a game is too high or too low, then it may modify the game to alleviate this problem.”). A POSITA would have understood that the *decision engine maximizes game play* because the game analytics would be used to achieve predetermined criteria to maximize game play.

11. Claim 25: “wherein the prize is a non-cash prize.”

182. In my opinion, Walker discloses this limitation. Walker discloses that the “value (monetary or non-monetary) of a prize won by a player during a game play is a result of the game play.” Ex. 1006, ¶[0026]. A POSITA would have understood that a prize with a “non-monetary” value is a *non-cash prize*.

12. Claim 26: “wherein the non-cash prize is points.”

183. In my opinion, Walker discloses this limitation. Walker discloses “[a] game comprises a set of rules according to which a prize or points may be obtained.” Ex. 1006, ¶[0027]; *see also id.*, ¶[0121]. Accordingly, the *non-cash prize* obtained through game play may be *points*.

13. Claim 29: “the non-cash prize is advancing to other levels.”

184. In my opinion, Walker in view of Schneier143 renders obvious this limitation. Schneier143 discloses *advancing to other levels* because “game programs generate games that are typically segregated into various levels, where the player advances from level to level as the game proceeds.” Ex. 1008, 24:43-47.

185. Schneier143 discloses that credits (non-cash prize) can be used to purchase items that allow the player to advance in the game (*the non-cash prize is advancing to other levels*). For example, Schneier143 discloses “[e]xtra credits can be required to complete restricted stages of a game” or “the player could be charged an additional credit for the use of a special weapon, access to a map of the dungeon, or hints on avoiding traps.” Ex. 1008, 63:12-19. Schneier143 also discloses how “[e]ach credit might also buy a certain number of lives.” *Id.*, 63:37-38, 63:8-11. A

POSITA would have understood that receiving additional lives in a game is a *non-cash prize* that would have allowed players to *advanc[e] to other levels*.

186. A POSITA would have been motivated to combine the teachings of Walker and Schneier¹⁴³. Walker and Schneier¹⁴³ share the same inventors—namely Jay Walker and James Jorasch. A POSITA implementing and improving the system of Walker would have naturally looked at other patents and applications of the inventors of Walker to identify any features or details that would have improved the system, including using credits to purchase items to advance in the game.

14. Claim 42: “further including the step of limiting use to geographic presence of users within a given area.”

187. In my opinion, Walker in view of Schneier¹⁴³ renders obvious this limitation. Schneier¹⁴³ further discloses *including the step of limiting use to geographic presence of users within a given area*. Specifically, Schneier¹⁴³ further discloses that:

Referring again to FIG. 4A, as a means of obtaining information as to where games are being played for compiling various tournament statistics and/or for *preventing game play when the game computer 14 resides in certain locations*, the game computer 14 may communicate with or have an integral **Global Positioning System (“GPS”)** 37. A GPS receiver derives positional information from a plurality of satellites. The GPS information may be used to *prevent game play in*

certain locations by providing a location lockout feature in the game software 15. When the player attempts to begin a game on the game computer 14, the game software 15 queries the GPS 37 and checks whether the current location of the game computer 14 is within an allowed area. This allowed area may be incorporated into the game software 15. If the game computer 14 is found to be outside of an allowed area, the game software 15 directs the game computer to *deny player access to the game*.

Ex. 1008, 21:46-62.

188. A POSITA would have been motivated to combine the teachings of Walker and Schneier¹⁴³. Walker and Schneier¹⁴³ share the same inventors—namely Jay Walker and James Jorasch. A POSITA implementing and improving the system of Walker would have naturally looked at other patents and applications of the inventors of Walker to identify any features or details that would have improved the system, *including the step of limiting use to geographic presence of users within a given area*. Indeed, a POSITA would have also had a reasonable expectation of success in implementing such an improvement because Walker already discloses that each gaming device may have a “GPS receiver” as an input device. Ex. 1006, ¶[0087].

15. Claim 44: “further including the step of providing an applet for a remote communications device.”

189. In my opinion, Walker renders obvious this limitation. Walker discloses a remote gaming device (*remote communication device*), explaining that “[t]he controller 205 may communicate with the gaming devices 210 directly or indirectly, via a wired or wireless medium such as the Internet, LAN, WAN or Ethernet, Token Ring, or via any appropriate communications means or combination of communications means.” Ex. 1006, ¶[0054]. Although Walker does not disclose an *applet for a remote communications device*, a POSITA would have been motivated to modify the gaming device of the Walker system to include such a feature. Applets allowed gaming devices like that of Walker to access games through the Internet without downloading any software. This creates less friction for the user who might be less likely to play the game if they had to take time to download software.

16. Claim 45: “wherein the communications device is a wireless communications device.”

190. In my opinion, Walker discloses this limitation. Walker discloses that the gaming device (*communications device*) is a *wireless communications device* because “[t]he controller 205 may communicate with the gaming devices 210 directly or indirectly, via a wired or wireless medium such as the Internet, LAN,

WAN or Ethernet, Token Ring, or via any appropriate communications means or combination of communications means.” Ex. 1006, ¶[0054]. A POSITA would have understood that the game devices 210 would need to be a *wireless communication device* to communicate with controller 205 through a wireless medium.

17. Claim 46: “the communications device includes graphical display capability.”

191. In my opinion, Walker discloses this limitation. Walker discloses *the communications device includes graphical display capability* because “a gaming device may comprise more than one output device.” Ex. 1006, ¶[0186]. “For example, a gaming device may comprise an LCD display for displaying animations of a game...and an LED screen for displaying a score achieved during a game play of the game.” *Id.*; *see also id.*, ¶[0185].

18. Claim 47: “device is a wireless communications device with graphical display capability.”

192. In my opinion, Walker discloses this limitation. As discussed for claims 45 and 46 above, Walker discloses that the gaming device supports wireless communication (*wireless communications device*) and has an output device such as an LCD and/or LED screen (*graphical display capability*). *See* Section XI.D.16-17 (Ground 3, Claims 45 and 46).

19. Claim 50: “further including the step of providing a user’s club.”

193. In my opinion, Walker discloses this limitation. Walker discloses that the player database stored on the server may include a player identifier such as a frequent gamer account (*further including the step of providing a user’s club*). Ex. 1006, ¶¶[0098] (“The tabular representation 500 of the player database 325 includes...fields for each of the entries or records. The fields specify: (i) a player identifier 505....”), [0100] (“[A] player identifier may be any information sufficient to identify a player. For example, a player identifier may include an indication of one or more of the following:...(viii) an identifier that identifies another type of account associated with a player (e.g., a frequent shopper or frequent gamer account).”).

XII. SECONDARY CONSIDERATIONS

194. I am not aware of any secondary considerations of non-obviousness for the claims of the ’336 patent. If Patent Owner raises any secondary considerations in its briefing or expert’s declaration, I reserve the right to respond to those considerations.

XIII. CONCLUSION

195. For all the reasons stated above, it is my opinion that the challenged claims of the ’336 patent are unpatentable.

Declaration of Dwight Crevelt in Support of
Petition for *Inter Partes* Review USP No. 8,529,336

196. This declaration and my opinions are made to the best of my knowledge and understanding, and based on the material available to me at the time of signing this declaration. All statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true. Further, I am aware that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of March 2025 in Walnut Grove, Missouri.

A handwritten signature in black ink, appearing to read "D. Crevelt", written over a horizontal line.

Dwight Crevelt

Declaration of Dwight Crevelt in Support of
Petition for *Inter Partes* Review USP No. 8,529,336

APPENDIX A

Exhibit No.	Description
1001	U.S. Patent No. 8,529,336 to Burnett (“the ’336 patent”)
1002	File History of U.S. Patent No. 8,529,336
1004	Curriculum Vitae of Dwight Crevelt
1005	U.S. Patent No. 8,172,683 (“Kelly683”)
1006	U.S. Patent App. Pub. No. 2004/0002369 (“Walker”)
1007	U.S. Patent App. Pub. No. 2005/0153768 to Paulsen (“Paulsen”)
1008	U.S. Patent No. 5,970,143 to Schneier et al. (“Schneier143”)
1011	U.S. Patent No. 6,511, 377 to (“Weiss”)
1012	U.S. Patent No. 5,371,345 to (“LeStrange345”)
1013	U.S. Patent No. 5,470,079 to (“LeStrange079”)
1014	U.S. Patent No. 5,326,104 to (“Pease104”)
1015	U.S. Patent No. 5,766,076 to (“Pease076”)
1016	U.S. Patent No. 5,855,515 to (“Pease515”)
1017	U.S. Patent No. 5,902,983 to (“Crevelt983”)
1018	U.S. Patent No. 6,347,738 to (“Crevelt738”)

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Exhibit No.	Description
1019	U.S. Patent No. 6,547,131 to Foodman (“Foodman”)
1020	Dwight & Louise Crevelt, <u>Slot Machine Mania</u> 186-889, 224-27 (1988-89)
1021	Dwight & Louise Crevelt, <u>Video Poker Mania</u> 120-123 (1991)