

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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ACTIVISION BLIZZARD, INC.

Petitioner

v.

MILESTONE ENTERTAINMENT, LLC

Patent Owner

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Case No. IPR2025-00712  
U.S. Patent No. 11,393,279

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**DECLARATION OF JOHN SZEDER IN SUPPORT OF PATENT OWNER  
MILESTONE ENTERTAINMENT, LLC'S RESPONSE TO PETITION FOR  
*INTER PARTES* REVIEW OF U.S. PATENT NO. 11,393,279**

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I, John Szeder, hereby declare as follows:

## **I. INTRODUCTION**

1. Counsel for Milestone Entertainment, LLC (“Patent Owner”) has retained me as an expert in this matter to provide my independent opinion in regard to the matters at issue in *inter partes* review of U.S. Patent No. 11,393,279 (the “279 Patent”) in IPR2025-00712.

2. I submit my opinions in this declaration based on my study of the evidence; my education, training, research, knowledge, and personal and professional experience; and my understanding as an expert in the field.

3. This declaration contains statements of my opinion formed to date and the bases and reasons for those opinions. I may offer additional opinions based on further review of materials in this case, to rebut opinions offered by any of Petitioners’ experts, and to address issues raised by Petitioners in their briefing to the extent permitted by the Patent and Trademark Appeal Board.

### **A. Education and Professional Experience**

4. My qualifications and credentials are fully set forth in my *curriculum vitae*, attached as Attachment 1.

5. I have more than 30 years of experience in the computer software industry, and nearly 25 years of experience in computer game design and development. I highlight here some of my relevant experience. From 2001-2003, I

was the founder and general manager Seismic Studios, Inc., in San Francisco, California, where I developed dozens of games in C++ and Java. From 2003-2004, I was Director of Development, for Digital Chocolate, Inc., in San Mateo, California. While there, I oversaw the development and shipment of Bubble Ducky, a best-selling launch title, which was the second-most downloaded casual game on Verizon during its launch. I also was credited as a scenario designer for Oasis, winner of the Seamus McNally Indie Game of the Year. From 2005-2008, I was General Manager and CoFounder, of Mofactor, Inc., a gaming company in Davis, California. While there, I helped bring to market multiple top selling games in the early mobile market.

6. From 2010-2011, I was Director of Developer Relations at hi5 Networks, Inc., a San Francisco, California gaming company. While there, I designed and developed features to enhance game play and social relationships between game players, while we published 5-7 games each week, and supported more than 250 developer partners on the platform. From 2013 – 2014, I was Vice President of Product Development at PLAYSTUDIOS in Burlingame, California. There I managed a team of 50 people through a mobile game product launch. For 2014-2016, I provided consulting services to numerous companies, including Blizzard Entertainment, The Clorox Corporation and many startups. From 2018-2020 I was an architect, and then Director of Engineering for Zynga, a well-known gaming company, where I worked on social and casual games, as well as Zynga

Poker. In 2022, I worked as an experimentation technical manager for the AAA game Multiversus for WB Games, ensuring they had sophisticated tools for doing cross promotion and price optimization within their franchise, and other WB Games portfolio titles.



7. Here, I highlight various electronic games I have designed, developed, and/or published. Duckshot was an original title I designed, developed, and copublished, which was nominated for the AIAS game of the year in 2007. See [https://www.interactive.org/games/video\\_game\\_details.asp?idAward=2007&idGame=903](https://www.interactive.org/games/video_game_details.asp?idAward=2007&idGame=903).

# DUCKSHOT

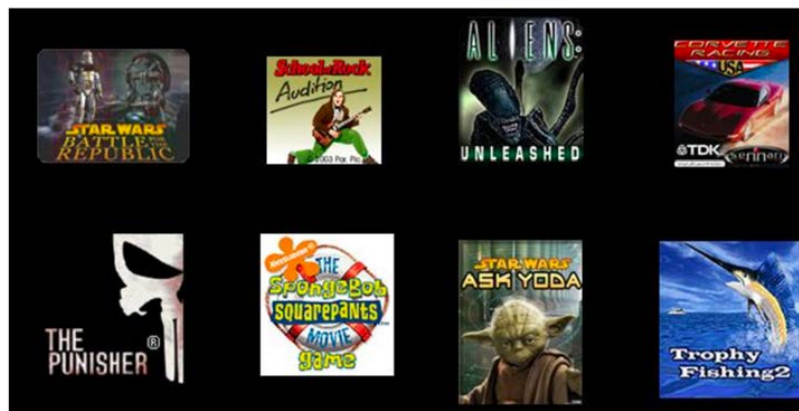
Mobile



At the same time as Duckshot was #1 in the sports category on Verizon, we also published Paintball Challenge with Superscape 3D. I also worked on multiple mobile titles during this era for movies, celebrities, and brands, including School of Rock Audition for mobile, Babe Ruth Bashball, and Aliens: Unleashed. I ported more than 30 titles on for other publishers across many brands, including Corvette Racing, Suzuki Motocross, Fast And The Furious Mobile Game, and Steven Seagal's Fudyomo.

# Mobile Title History

Brands



# Mobile Title History

Original IP



8. Based on my above-described years of experience in the field of computer games, I believe that I am considered to be an expert in the field of computer gaming.

**B. Compensation**

9. I am being compensated for my time in connection with this case at my standard legal consulting rate, which is \$300 per hour. I have no personal or financial interest in the outcome of this proceeding.

**C. Materials Reviewed and Relied Upon**

10. In formulating my opinions, I have considered: U.S. Patent No. 11,393,279 and its file history; Patent Owner's Response filed concurrently herewith including all documents cited therein; all documents cited in this declaration; the Petition in IPR2025-00712 (Paper 3) and all Exhibits thereto including the Expert Declaration of Mr. Dwight Crevelt; the Patent Owner's Preliminary Response (Paper 10) and all Exhibits thereto; the Institution Decision (Paper 15), and the deposition of Mr. Dwight Crevelt taken on December 21, 2025 in connection with this IPR. If Petitioners' expert submits an additional declaration, I may submit a supplemental declaration addressing any new opinions or additional explanations, as appropriate and if permitted.

**D. Legal Principles**

11. I am not a lawyer. I have been provided with an understanding of the legal principles that govern claim construction and patent validity. I have conducted my analysis in conformance with these principles. I set forth those understandings below.

## **1. Claim Construction**

12. I understand that in assessing the patentability of a claim, the Patent Office generally construes claim terms in accordance with their ordinary and customary meaning as understood by a person of skill in the art (“POSITA”) at the time of the invention in view of the claim language in light of the specification and file history.

13. I understand that various sources are available that may help show what a claim term should mean. These sources include the text of the claims themselves, the patent’s specification, the prosecution history of the patent, and the prior art cited in a patent or in the prosecution history. Together, I understand that these sources are called “intrinsic” evidence. I also understand that other sources, for example concerning relevant scientific principles, dictionaries or technical dictionaries, and other information concerning the state of the art is called “extrinsic” evidence. I understand that extrinsic evidence may not be used to contradict the claim language.

14. I understand that claim terms should generally be given their ordinary meaning, which is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention

15. I understand that the context in which a claim term is used can be highly instructive. Other claims of the patent in question, both asserted and not asserted, can also be valuable sources as to the meaning of a claim term. Because claim terms

are normally used consistently throughout the patent, the usage of a term in one claim can often illuminate the meaning of the same term in other claims. Differences among claims can also be a useful guide in understanding the meaning of particular claim terms.

16. I understand that a person of ordinary skill in the art is deemed to read a claim term not only in the context of the particular claim in which the disputed term appears, but also in the context of the entire patent, including the specification. The specification is the primary basis for construing the claims and is considered the single best guide to the meaning of a disputed term. For this reason, the words of the claim must be interpreted in view of the specification. The interpretation of a term can only be determined and confirmed with a full understanding of what the inventors actually invented and intended to cover within the claim.

17. A claim term should not be interpreted to exclude embodiments disclosed in the specification absent probative evidence on the contrary. I further understand that, in general, the claimed invention is not limited to a preferred embodiment, even if the specification does not describe any other embodiment.

18. In addition to consulting the specification, one should also consider the patent's prosecution history, if it is available. The prosecution history consists of the complete record of the proceedings before the Patent Office and includes cited prior art. The prosecution history can inform the meaning of the claim language by

demonstrating how the inventor understood the invention. I understand that the prior art cited in a patent, or the prosecution history of the patent also constitutes intrinsic evidence.

## **2. Pre-America Invents Act**

19. I understand Petitioners seek cancellation of Claims 1, 3-9, 13, 17-18, 23, 25-26, 28 and 29 (“the challenged claims”) of the 279 Patent under pre-AIA 35 U.S.C. § 103.

20. I understand that the pre-AIA patent statute applies to the 279 Patent because it has an effective filing date before March 16, 2013 (filed September 2, 2003).

21. I understand effective filing date to mean either: (1) the actual date on which the patent application containing the claimed invention was filed; or (2) the filing date of an earlier patent application (*e.g.*, provisional and non-provisional applications, domestic and foreign) upon which patent application containing the claimed invention relies for priority.

22. I understand the date of the claimed invention to be either: (1) the effective filing date of the patent; or (2) when the claimed invention was conceived or reduced to practice.

### **3. Presumption of Validity and Burden of Proof**

23. I have been informed that an issued patent is presumed valid, and a party seeking to challenge the validity of a claim of an issued patent must submit proof that each claim is invalid. I understand that in this IPR, Petitioner bears the burden of proving unpatentability by a preponderance of the evidence.

### **4. Invalidity: Anticipation**

24. I understand and have been informed that in order for an inventor to be entitled to a patent, the invention must be “new” and the inventor must not have lost his or her right to a patent by delaying filing of a patent application directed to the invention. There are a number of ways that an invention can be “anticipated”—that is, not new.

25. One such way is when the invention was already patented or described in a printed publication, anywhere in the world before the date of invention by the inventor. Additionally, a patented invention may not be new if it was described in an application for a patent filed in the United States that later issued as a patent, so long as the earlier application pre-dates the date of invention. If the subject matter covered by a patent claim is found within the “four corners” of a prior art reference, the claim is said to be anticipated by that reference.

26. A patent claim can be said to be anticipated if each and every limitation of the patent claim is found either expressly or inherently in a single prior art

reference. While a prior art reference need not use the same words as a patent claim to anticipate the claim, the prior art reference must describe the requirements of the claim with sufficient clarity such that a person of ordinary skill in the art would have been able to make and use the claimed invention based on the reference and their knowledge in the applicable technical field without undue experimentation. To constitute anticipation, the prior art reference must describe the claimed invention in sufficient detail to place it in the possession of a person of ordinary skill in the field of the invention.

27. The disclosure of a feature of a claimed invention can be either “express” or “inherent.” A feature is expressly disclosed if the text, figures, or other content of a reference actually disclose the aspects of the patent claim. I have been informed and understand that in order to establish that an element of a claim is “inherent” in the disclosure of a prior art reference, it must be clear to a POSITA that the element (although not expressly disclosed) is an inevitable part of what is explicitly described in the reference, and that it would have been recognized as necessarily present by a person skilled in the art. Inherency cannot be established by probabilities or possibilities, and the mere fact that something may result from some teaching found in the prior art is not enough to establish inherency. Unless all the elements are found in a single piece of prior art in exactly the same situation and united the same way to perform the identical function, there is no anticipation.

28. I have been informed that a claim is invalid under 35 U.S.C. § 102(a) only if an invention reflected in a patent claim was known or used by others in the United States, or patented or described in a printed publication in the United States or a foreign country, before the invention date of that patent claim.

29. I have been informed that a claim is invalid under 35 U.S.C. § 102(b) only if an invention reflected in a patent claim was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country more than one year before the earliest priority date for that patent claim.

30. I have been informed that a claim is invalid under 35 U.S.C. § 102(e) only if an invention reflected in a patent claim was disclosed in another patent that was granted from a United States patent application filed before the invention date of the patent claim at issue.

31. I have been informed that a claim is invalid under 35 U.S.C. § 102(g) only if an invention reflected in a patent claim was invented before the invention date of the patent claim at issue by another inventor in the United States and not abandoned, suppressed, or concealed by that earlier inventor.

32. I understand that to qualify as a “printed publication,” a reference must have been sufficiently accessible to the public interested in the art and that a reference is sufficiently accessible if it was disseminated or otherwise made

available to the extent that persons interested and ordinarily skilled in the subject matter or art exercising reasonable diligence can locate it.

## **5. Invalidity: Obviousness**

33. I have been informed that if a single reference does not contain every limitation of a patent claim, it can only invalidate that claim if it would be obvious when considered in light of other prior art references or devices without viewing the combination with hindsight bias. The claim is invalid only if the differences between the claimed invention and the prior art are such that the claimed invention, as a whole, would have been obvious to a person having ordinary skill in the art at the time the invention was made (without the benefit of hindsight bias).

34. I have been informed that the prior art references can be combined to show a patent is invalid as obvious under 35 U.S.C. § 103.

35. I understand that an obviousness evaluation can be made on a single reference or a combination of several prior art references. For example, a single reference, when considered in view of the knowledge of a person of ordinary skill in the art, could render a claim obvious.

36. I have been informed that the analysis of obviousness involves several factual inquiries including (1) level of ordinary skill in the pertinent art; (2) the scope and content of the prior art; (3) the differences between the prior art as a whole and the claim at issue; and (4) objective indicia of non-obviousness (also known as

secondary considerations of non-obviousness). I understand that the patentee has the burden of production on any objective indicia of non-obviousness.

37. I have been informed that the test for analogous art is very specific. I have been informed that art is non-analogous unless it is: (1) from the same field of endeavor as the claimed invention; or (2) reasonably pertinent to the particular problem faced by the inventor. I have been informed that an art citation that is not from the same field of endeavor as a claimed invention must be “reasonably pertinent” to the problem addressed by the inventor. I have been informed that art is “reasonably pertinent” when it would “logically commend itself” to an inventor’s attention in considering his problem. Conversely, I have been informed that when art is directed to a different purpose than a claimed invention, an inventor would have less motivation or occasion to consider it.

38. I have been informed that the fact that prior art references all concern the same field of endeavor is not in itself sufficient rationale for making the combination. Many types of techniques and systems exist in the same field of endeavor. That fact alone would not make it obvious to combine their features. I have been informed that a proper obviousness determination must show reason why a person of ordinary skill in the art would have thought to combine particular available elements of knowledge, as evidenced by the prior art, to reach the claimed invention.

39. I have been informed that a party seeking to invalidate a patent on obviousness grounds must demonstrate that a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so.

40. I understand for a claim to be obvious where not every element of a claim is taught by the prior art, a party trying to show obviousness must show why it would have been obvious to a person of ordinary skill in the art to both combine the prior art references and overcome the differences and make modifications between the claimed invention and the prior art. I also understand that the existence of every element of the claimed invention in the prior art does not necessarily mean a skilled artisan would have been motivated to combine those references. I also understand that a skilled artisan must have had a reason to combine the elements in the same way as the claimed invention. Conclusory statements that a skilled artisan would have been motivated to combine the prior art or would have thought it obvious to modify the prior art are insufficient to show obviousness.

41. I have been informed that, when assessing if there was motivation to combine the prior art references, important factors include (1) whether the claimed invention was merely the predictable result of using prior art elements according to their known functions; (2) whether the claimed invention provides an obvious

solution to a known problem in the relevant field; (3) whether the prior art teaches or suggests the desirability of combining elements in the invention; (4) whether the prior art teaches away from combining elements in the claimed inventions; and (5) whether it would have been obvious to try the combinations of elements, such as when there is a design incentive or market pressure to solve a problem and there are a finite number of identified, predictable solutions.

42. I have been informed that to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

43. I understand that Petitioners, as the challengers asserting obviousness based on a combination of prior-art references, must demonstrate that a POSITA would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of successfully achieving the claimed invention from the combination.

44. I understand that a showing that a prior art reference teaches away from a given combination is evidence that one of skill in the art would not have been motivated to make that combination to arrive at the claimed invention. A reference may be said to teach away when a POSITA, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a

direction divergent from the path that was taken by the applicant. If the proposed invention would defeat the purpose of a reference, for example, that reference teaches away from the invention. To teach away, the reference must criticize, discredit, or otherwise discourage the solution reached by the proposed invention. I also understand that the absence of a formal teaching away in one reference does not automatically establish a motivation to combine it with another reference in the same field.

45. I have been informed that if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

46. I have been informed that to determine whether a combination of known elements would have been obvious to a person of ordinary skill in the art at the time of the invention, one must consider the references in their entirety to ascertain whether the disclosures in those references render the combination obvious to such a person.

47. I have been informed that the combination of familiar elements according to known methods may be obvious when it does no more than yield predictable results. Additionally, I understand that a patent may be invalid for obviousness if a POSITA can implement a predictable variation or if there existed at

the time of the invention a known problem for which there was an obvious solution encompassed by the patent's claims. I understand that the obvious solution only needs to be a known solution for solving the problem, and not an improvement over other solutions. A combination is not obvious, however, where the combination cannot be implemented without undue experimentation or when the motivation to create the combination comes from hindsight.

48. I have been informed that when there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a POSITA has good reason to pursue the known options within his or her technical grasp. I understand that, if this leads to anticipated success, it may be the product not of innovation, but rather of ordinary skill and common sense. I have been informed that the fact that a combination was obvious to try might show that the patent claim was obvious.

49. I have been informed that, even when all claim limitations can be found in a combination of prior art references, the fact-finder must consider as part of the obviousness determination not only what the prior art teaches, but whether the prior art teaches away from the claimed invention and whether there is a motivation to combine teachings from separate references in the manner claimed.

## **6. Earlier Invention/Swearing Behind Prior Art**

50. I understand that to invalidate any claim of an issued U.S. Patent, a

reference must be prior art to that claim of the patent. I further understand that the challenging party has the burden to prove by a preponderance of the evidence that a reference meets the requirements of prior art.

51. I understand that to determine whether a reference is available as prior art, the date of that reference must be compared against one of two “critical dates” for the inventor. These critical dates are: (1) the actual date the inventor made, or conceived of, the invention (“invention date”); and (2) one year before the earliest effective filing date (“filing date”) of the patent application.

52. I understand that conception of an invention is established when the invention is made sufficiently clear to enable one skilled in the art to reduce it to practice without the exercise of extensive experimentation or the exercise of inventive skill. Conception must be proved by corroborating evidence which shows that the inventor disclosed to others his completed thought expressed in such clear terms as to enable those skilled in the art to make the invention. The sufficiency of the proffered corroboration is determined by a ‘rule of reason’ analysis in which all pertinent evidence is examined.

#### **E. Level of Ordinary Skill in the Art**

53. I have been asked to offer my opinion regarding the level of ordinary skill in the art at the time of the invention or the effective filing date, which I understand to be September 2003 for the 279 Patent. I have considered the types of

problems encountered in the art, the prior solutions to those problems found in prior art references, the rapidity with which innovations are made, the sophistication of the technology, the level of education of active workers in the field and my own experience working with those of skill in the art at the time of inventions.

54. I understand that Petitioner contends that a person of ordinary skill in the art (“POSITA”) in 2004 “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.” Pet. at 12. For the purposes of this response, I do not dispute Petitioner’s proposed level of skill. It is my opinion that under any level of skill a POSITA would not understand the asserted Grounds to raise any unpatentability issue. Accordingly, I have applied Petitioner’s proposed level of skill in evaluating the prior art and the challenged claims.

55. I would qualify as a POSITA as of the priority date of the 279 Patent and have applied the understanding of such a POSITA in forming my opinions.

## **II. BACKGROUND**

### **A. The 279 Patent**

56. The 279 Patent claims recite components, such as a “play engine,” which can dynamically modify game play parameters (recited as “variable parameters”). Those variable parameters include both the structure of the game (*e.g.*, the difficulty of the game, the number of game levels, or the game pieces provided),

the odds, and its prizing (e.g., the amount, or frequency, of awards, bonuses, and prizing). The system modifies these parameters programmatically, based on analysis of game play events, in order to achieve a set of objectives which the system must achieve as a whole (recited as “mandated parameters”).

57. For example, the specification explains that the play engine can modify “game play parameters” including “*awarding extended game play, providing free play awards, advancing a player one or more levels based upon game play*” or even adjusting win/loss probabilities to make the game more difficult or less difficult:

Another variable layer of decision includes the *game play parameters*. . . . The play experience may be varied such as by *awarding extended game play, providing free play awards, advancing a player one or more levels based upon game play* and/or the provision of complex decisions. *The game play experience may be varied by changing the play probabilities*. In one implementation, game play experience may utilize real world probabilities for the game play portion of the experience, but utilize other probabilities for the prizing portion of the overall game. By way of example, a simple probability game such a coin toss should emulate a 50/50 outcome experience as far as game play goes, but may be subject to a second prizing phase in which the mandated parameters can be achieved. For example, a prize board may be utilized to reduce the prizing payout to conform to the mandated parameters. *Thus, the game play experience can feel as if the real world probabilities are being achieved, but the lower prizing payout be implemented as required by the mandated parameters.*

279 Patent (Ex1001) at 16:20-42.

58. The 279 Patent contrasts its invention with traditional games with fixed rules, like traditional blackjack games. As the specification explains, in a “predetermined mode” – *i.e.*, blackjack as it has always been played – the “system may be arranged for a particular payout, e.g., 2.5% goes to the house, where the outcomes of the game play and the prize amounts are set for that result.” *Id.* at 42:56-59. In accordance with the invention, however, the specification explains that the game may be played with a set of variable parameters that alter the odds of the game, which permits “the results of game play to correspond to the desired prizing parameters.” *Id.* at 42:62-63. The specification further explains that in blackjack according to the claimed inventions, it will force certain outcomes to obtain the mandated parameters: “[i]f certain outcomes are no longer available in the set of outcomes, e.g., all of the \$5 wins are gone, the system will, *if necessary, cause game play to proceed such that the outcome is one which still exists in the set.*” *Id.* at 7:60-63. As the specification explains, while the mandated parameters are being met, “the system may play blackjack in the normal manner.” *Id.* at 43:42-43. However, “[i]f [] there are less than all possible outcomes remaining, e.g., all monetary prizes have been won, and so the play must lose, then *the system will force that outcome.* If the player has 17, the system will select and display a card totaling at least 18, and not more than 21, such that the system wins and the player loses.” *Id.* at 43:43-49.

59. As another example of how the play engine can dynamically alter games, the system may monitor “usage of games and to correlate the game's popularity with the prizing structure” – by increasing the value of prizes, or by offering more frequent, but lower value, prizes to keep players engaged:

The system may monitor both usage of the game in terms of numbers of players, *but may also track user specific play*, such as the number of times a game is played during one contact or session, whether the player continuously plays that game without interruption, e.g., diverting to other forms of entertainment or information, and the frequency between player visits, such as to a sponsoring website. *This data on game play may be utilized by the system as inputs for a decision engine to optimize the prizing structure for a desired end goal, e.g., maximizing game play and therefore sales of game plays.* The system may *store data on prior game play activities relative to given games, and then utilize that information, either specifically or on a statistical basis, to optimize the selection of a prizing structure.*

*Id.* at 44:55-45:2.

60. The claimed play engine interacts with a “decision engine,” which decides whether game parameters should be modified by analyzing users’ game play, which is recorded by the system. The claim explains that the decision engine analyzes recorded game play to compare with a set of predefined criteria. Such criteria can include “the number of times a game is played during one contact or session, whether the player continuously plays the game without interruption, e.g.,

diverting to other forms of entertainment or information, and the frequency between player visits”. *Id.* at 44:57-61. As another example, the threshold criteria can include a win/loss rate for the game. *Id.* at 42:37-40 (“A certain number, or a certain number of type of wins, may be required for very set number of events, e.g., 5 wins of \$2 for every 20 plays.”). Once those predefined criteria are met, the decision engine determines a “second set of programmable variable parameters providing a second game play experience”, which are provided to the play engine for implementation to dynamically alter the game.

61. The interaction of the claimed play engine and decision engine enables game play to achieve a set of “mandated parameters,” which are objectives that “must be achieved by the system as a whole.” *Id.* at 5:6-7. These 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.* at 5:12-15. As the specification explains, “having received the mandated parameters, the system processor then selects among dependent variable parameters to implement game play and prizing in a way that achieve the mandated parameters,” as described in the claims of the 279 Patent. *Id.* at 5:18-21.

62. As the specification further explains, this capability to analyze game play and programmatically alter the structure of the game solves a known problem

in the field of computerized gaming – how to programmatically achieve a set of game objectives, such as an overall win probability, the desired amount of time played, or the overall prizing payout while obtaining a “higher level of audience interest and potential participation.” *Id.* at 14:17-18; *see also id.* at 5:34-37 (“The systems and methods of these inventions permit greatly enhanced flexibility in game play and the prizing experience for a player, while globally achieving the mandated parameters.”); *id.* at 7:42-43 (“Player interest may be maintained, while also maintaining the prizing structure and parameters”).

## **B. Overview Of The References**

### **1. Kelly (Ex1005)**

63. Kelly discloses a networked gaming system that provides “an *operator*” of that gaming system – not the computer system itself - “the ability to adjust prizes and determine the desired prize costs and ratios.” Ex1005 at 5:4-5. Kelly discloses 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.* at 38:62-65. However, Kelly does not teach a method for storing information regarding particular game play events, and then *programmatically* selecting a set of changes to the game prizing or game structure based on that information so as to provide a different game play experience, as the 279 Patent claims recite. Instead, Kelly confirms that its game adjustments, such as the “speed” and “difficulty” game

aspects relied on by Petitioners, are *operator-determined*. *Id.* at 16:13-21 (“the control system can include *operator-configurable controls* to provide *selectable* game functions such as . . .the speed and/or difficulty of game play, the conditions required to add to the game score and/or receive universal or specific prize tickets, the conditions required for a player to win a progressive bonus award or enter a tournament, and the like.”); 34:51-54 (“FIG. 9 is a flow diagram illustrating a process 440 of the present invention for *allowing the operator of the game redemption system to adjust prize characteristics* of the system.”); 34:66-35:8 (“The prize table 480 is preferably displayed by a display screen, such as screen 56 of game unit 10 or 50, so that *the operator can adjust prize characteristics for that game unit* and any linked game units, if desired. Alternatively, the prize table can be displayed on a separate operator terminal, computer, server, or game unit that may be linked to game units 10. In such a system, the *operator would modify the prize characteristics* as desired and send any updated characteristics to all linked (or all desired linked) game units over a network or other communication device.”); 38:58-59 (“It is possible for the game's *manufacturer* to adjust game difficulty”).

## 2. Paulsen (Ex1007)

64. Paulsen describes a player tracking system for digital casino machines, such as slot machines and video poker machines. Ex1007 at [0005]. For example, Paulsen describes providing “secondary bonus[es]” to players who use “player

tracking cards” with these machines. *Id.* at [0011], [0012]. I see no disclosure in Paulsen of the concept of adjusting game structure or prizing, programmatically selecting adjustments, or achieving a set of mandated parameters.

### **3. Walker (Ex1006)**

65. Walker concerns a system that monitors electronic game play and adjusts game parameters to attempt to “ensure that a set of results obtained during a plurality of game plays of a game satisfy one or more predetermined criteria.” Ex1006 at [0022]. As I explain below, my opinion is that the named inventors of the 279 Patent conceived of the claimed inventions of the challenged claims prior to Walker’s effective date of May 1, 2003.

### **4. Schneier143 (Ex1008)**

66. Schneier describes, *inter alia*, a system for purchasing and utilizing game credits in an electronic gaming system. Ex1008 at 63:13-19.

## **III. PETITION GROUNDS**

### **A. Ground 1: Kelly**

67. I understand that under Ground 1, Petitioners contend that Claims 1, 3-9, 13, 17-18, 23, 25-26, 28 and 29 of the 279 Patent are obvious under 35 U.S.C. § 103 over Kelly, alone or in view of the knowledge of a person of ordinary skill in the art. For at least the reasons stated below, I disagree with Petitioner’s contention. In my opinion, Petitioner has failed to demonstrate that any of the challenged claims are unpatentable under this ground.

**1. Independent Claim 1**

**a. Limitation 1[b.ii] “memory to... record game play information regarding particular game play events”**

68. In my opinion, Petitioner has failed to identify any disclosure in Kelly of the 279 Patent’s “memory to... record game play information regarding particular game play events” as recited in limitation 1[b.ii] of independent Claim 1, from which all challenged claims depend.

69. Petitioner relies on disclosures that Kelly’s system receives “user input[s]” – *e.g.*, button presses – that are interpreted by the game processor and “influences game states and game events in the game process accordingly.” Pet. at 22-23 (citing Kelly at 10:12-15, 1:44-46, 9:62-66, 46:32-37, 46:49-52). I disagree with Petitioner’s contention for multiple reasons. First, I see no disclosure that Kelly’s button presses are recorded in memory, as the claim requires, rather than being interpreted and simply not saved. Nor do Petitioners identify any disclosure that Kelly’s system analyzes these ephemeral “user inputs” to determine the selection of appropriate game parameters, as required by limitation 1[f]. I am aware of no such disclosure. Second, in my opinion, a POSITA would not regard Kelly’s “user inputs” such as button presses to be “game play events” recorded by the 279 Patent system. The 279 Patent consistently describes the “game play events” which are recorded and analyzed as providing information about game outcomes, programs or progress – not that, for example, the user pressed a button. *See, e.g.*, Ex1001 at

17:36-38 (“The strike display 220 shows a depiction of the number of negative events, here strikes, which have occurred.”); *id.* at 18:21-24 (“In such a system, the system could update the negative result tally at box 52, and perform a comparison 54 of the totaled number of negative events to the maximum number of negative events allowed.”); *id.* at 40:6-9 (“It may be desirable to have the outcome of the play event appear to be as consistent with the perceived odds, or the actual odds, and thus as normal as possible.”); *id.* at 42:37-40 (“A certain number, or a certain number of type of wins, may be required for very set number of events, e.g., 5 wins of \$2 for every 20 plays.”); *id.* at 43:63-64 (“A set of outcomes for those games is stored.”).

70. I understand that, in IPR2025-00713, the Board has already found that Petitioner’s arguments fail to establish unpatentability in connection with an essentially identical claim limitation in U.S. Patent No. 11,501,607. *See* Ex2018 (Decision Denying Institution in IPR2025-00713). There, for the limitation [1.a.ii], reciting a “server including memory to process and **store** . . . game play information regarding particular game play events,” Petitioner relied on the same disclosures in Kelly relied upon here. Ex2019 (Petition, IPR2025-00713) at 22. On this evidence, the Board “agree[d] with Patent Owner that Petitioner has failed to provide adequate evidence and analysis to show that Kelly discloses storing the identified user input in Kelly’s system,” and found that the relied-on portions of Kelly “makes no mention of storing the user input.” Ex2018 at 19. The Board further noted that “Petitioner

also cites generally to other portions of Kelly with insufficient explanation of their relevance,” and “fails to sufficiently show how any of these passages describes storing user input, such as button presses, in Kelly’s system.” *Id.* I hold the same opinion, for the reasons described above.

71. Petitioner also contends that Kelly “also discloses recording which games the user previously played.” Pet. at 23. Here, Petitioner relies on a disclosure in Kelly describing “receiving an identifier from the game apparatus” including receiving “a game identifier relating to a particular game played by the user.” *Id.*

72. I disagree that this contention demonstrates that Kelly discloses or renders obvious this limitation. First, in my opinion, a POSITA would not understand receiving a “game identifier” – the identity of a game that has been played – to be a “game play event. Nor would a POSITA understand the *identity* of a game to be a “particular game play *event*”. I note that neither the Petition nor Petitioner’s expert ever explain why a POSITA would have such an understanding. Second, Petitioner has provided no discussion or analysis of how such a “game identifier” is analyzed in limitation 1[d.i], reciting “analyze game play as a *function of the recorded information regarding particular game play events*”, or what role it plays in limitation 1[d.ii]’s “determin[ing] the selection of the first or second programmable variable parameter sets *utilizing the recorded game play information*,” as required by the claim.

**b. Limitation 1[d.i]: “analyze game play as a function of the recorded information regarding particular game play events”**

73. In my opinion, Petitioner has also failed to identify any disclosure in Kelly of the 279 Patent’s “analyze game play as a function of the recorded information regarding particular game play events,” as recited in limitation 1[d.i] of independent Claim 1, from which all challenged claims depend for Ground 1.

74. Petitioner relies on an alleged disclosure in Kelly that the “game system analyzes game play as a function of difficulty or past wins” as disclosing this limitation. Pet. at 31. For example, Petitioner asserts that with “respect to *recorded information regarding particular game play events* as difficulty, Kelly discloses the adjustment of game difficulty to achieve an average payout level of prize credits, which in turn will achieve the global payout percentage inputted by an operator.” *Id.* at 32. Similarly, Petitioner contends that with “respect to *recorded information regarding particular game play events* as past wins, Kelly discloses tracking past wins to provide an overall prize or to adjust prizes to achieve global payout or win ratios.” *Id.*

75. I disagree that a POSITA would understand these contentions to disclose or render obvious this limitation. First, in my opinion a POSITA would understand the plain language of the limitation, including the use of the definite article “the,” to mean that “***the*** recorded information regarding particular game play

events” upon which analytics are performed must be those which were recorded in limitation 1[b.ii], which recites “memory to... record game play information regarding particular game play events.” However, Petitioner did not identify any of the “game play events” it alleges are analyzed in this step – specifically, “difficulty or past wins” – as the data that is **recorded** in connection with limitation 1[b.ii]. Pet. at 22-23. Instead, Petitioners identified only “user input[s]” – e.g., button presses – that are interpreted by the game processor, and a “game identifier” as being the “game play events” stored by the system. Pet. at 22-23 (citing Kelly at 10:12-15, 1:44-46, 9:62-66, 46:32-37, 46:49-52). Petitioner never contends that the supposed “game play events” identified for limitation 1[d.i] are those recorded by the system in connection with limitation 1[b.ii]. Nor does Petitioner ever demonstrate or contend that the “user inputs” or “game identifier” Petitioners alleged to be recorded in limitation 1[b.ii] are ever “analyzed” as this limitation 1[d.i] requires. *See* Pet. at 31-32. As such, Petitioner has failed to show that Kelly discloses or renders obvious this limitation.

76. I understand that in IPR2025-00713, the Board has already found that Petitioner’s arguments fail to establish unpatentability in connection with a similar claim limitation in U.S. Patent No. 11,501,607. *See* Ex2018 (Decision Denying Institution in IPR2025-00713). There, for the limitation [1.e], reciting a “a decision engine *for performing game analytics on the game play* and determine the selection

of the first or second programmable variable parameters utilizing the recorded game play information with predetermined criteria,” Petitioner relied on the same disclosures in Kelly relied upon here. Ex2019 (Petition, IPR2025-00713) at 33-34. On this evidence, the Board “agree[d] with Patent Owner that Petitioner fails to show a reasonable likelihood of prevailing on this claim limitation because *the game play events identified by Petitioner to satisfy limitation [1.a.ii] are not the same game play events that Petitioner cites in support of limitation [1.e]*. Claim 1 requires in limitation [1.e] that the decision engine determines the selection of the first or second programmable variable parameters utilizing ‘the recorded game play information,’ referring back to the recorded game play information introduced in limitation [1.a.ii]. Ex. 1001, 47:54–58 (emphasis added). *Petitioner, however, fails to adequately explain how data, such as the number of times the player has played, is the game play information, i.e., button presses, that was allegedly stored by the server in limitation [1.a.ii].*” Ex2018 (Decision Denying Institution in IPR2025-00713) at 21. I hold the same opinion, for the reasons described above.

**c. Limitation 1[d.ii]: “determine the selection of the first or second programmable variable parameter sets utilizing the recorded game play information”**

77. In my opinion, Petitioner has also failed to identify any disclosure in Kelly of the 279 Patent’s “determine the selection of the first or second programmable variable parameter sets utilizing the recorded game play information,”

as recited in limitation 1[d.ii] of independent Claim 1.

78. For limitation 1[d.ii], Petitioner contends that Kelly “discloses *determine[ing] the selection of the game or prizing structure parameter sets by utilizing the **difficulty or past wins** based on a threshold related to the global payout or win ratios (with predefined criteria).*” Pet. at 32-33. However, as I discuss above in connection with limitation 1[d.i], “difficulty or past wins” is not the “the recorded game play information” identified by Petitioner for limitation 1[b.ii]. There, the Petitioner identified “user inputs” and a “game identifier” as the recorded game play information. Pet. at 22-23. For this limitation 1[d.ii], Petitioner does not demonstrate or explain that the “user inputs” or “game identifier” it has identified as the recorded game play events are “utilized” to “determine the selection of the first or second programmable variable parameter sets” as this limitation requires. Instead, Petitioner points to “difficulty or past wins.” In my opinion, this deficiency means that Petitioner has failed to demonstrate that Kelly renders this limitation obvious.

79. I also do not agree that Petitioners’ reliance on “difficulty or past wins” demonstrates that Kelly discloses or renders obvious this limitation. Limitation 1[d.ii] requires “utilizing” the “recorded game play information” to “determine the selection of the first or second programmable variable parameter sets,” and Petitioner has not demonstrated that Kelly discloses this. For “difficulty”, Petitioner contends that “if the game is too easy or difficult, the difficulty can be adjusted

during the course of play.” Pet. at 33. Even if that assertion is true, in my opinion it does not disclose this limitation. Nowhere do Petitioners demonstrate, or even contend that game “difficulty” is recorded information that is utilized to **determine** the selection of variable parameter sets, which is what the limitation requires. Similarly, for “past wins,” Petitioners contend that “if the global payout or win ratio is too high based on past wins, the prizing structure can be adjusted to achieve the global payout or win ratio. EX1005, 37:1-10 (‘For example, every 8,000 games, two video consoles are to be awarded. If it is randomly determined that a third video console is to be awarded within, e.g., the 3,000th game, then a different prize can be awarded so that the desired odds are better met.’). *Id.* at 33. That contention also does not demonstrate that “recorded game play information” (*i.e.*, a “past win”) is “utilized” to “determine the selection of the first or second programmable variable parameter sets.” Petitioner’s cited evidence identifies no disclosure of “past wins”, or how they are utilized to determine whether to select a first or second variable parameter set, or how a POSITA would understand the example from Kelly to do so.

80. I understand that in IPR2025-00713, the Board has already found that the same arguments and evidence fail to establish unpatentability in connection with a similar claim limitation in U.S. Patent No. 11,501,607. *See* Ex2018 (Decision Denying Institution in IPR2025-00713). There, for the limitation [1.e], reciting a “a decision engine for performing game analytics on the game play and **determine the**

*selection of the first or second programmable variable parameters utilizing the recorded game play information with predetermined criteria,”* Petitioner relied on the same disclosures in Kelly relied upon here, including the sole example provided by Petitioner (EX1005, 37:1-10) concerning the awarding of two video consoles “every 8,000 games.” Ex2019 (Petition, IPR2025-00713) at 32-33. On this evidence, the Board found that Petitioner had not demonstrated disclosure of the limitation:

Kelly describes that in one embodiment, this random determination of whether a particular prize is to be awarded can be “modified by statistical information to create a ‘best fit’ of prizes awarded according to the operator’s desired odds.” *Id.* at 36:63–66. Specifically, Kelly uses the operator’s desired odds of winning the available prize, in combination the number of prizes already awarded, as the statistical information to determine which prize to award,

For example, every 8,000 games, two video consoles are to be awarded. If it is randomly determined that a third video console is to be awarded within, e.g., the 3,000th game, then a different prize can be awarded so that the desired odds are better met. For example, the next most valuable prize in the list can be awarded instead of the video console, as long as awarding the next prize would fit the desired odds for that prize.

*Id.* at 37:1–9; Fig. 9a. ***Petitioner has failed to adequately explain where the “statistical information” discussed above from columns 25, 32, 40, and 56 of Kelly is used in the example described in column 36 to select between variable parameters based on stored game play events.***

Ex2018 (Decision Denying Institution in IPR2025-00713) at 23. I hold the same opinion, for the reasons described above.

**d. Limitation 1[c.iii]: “utiliz[ing] the first and second programmable variable parameter sets to achieve the mandated parameters through at least the first and second game play experiences”**

81. In my opinion, Petitioner has failed to identify any disclosure in Kelly of “utiliz[ing] the first and second programmable variable parameter sets to achieve the mandated parameters through at least the first and second game play experiences” as recited in limitation 1[c.iii] of independent Claim 1.

82. Petitioner points to disclosures that Kelly’s system can change the “speed” or “difficulty” of games as satisfying this limitation. Pet. at 28. However, in my opinion, a POSITA would recognize that simply changing game variables would not disclose this limitation. Rather, limitation 1[c.iii] recites a “play engine” – a piece of software – that can programmatically utilize two sets of variable game play parameters to achieve a set of mandated parameters.

83. In my opinion, Petitioners have not shown any such disclosure in Kelly. Kelly confirms that its game adjustments, such as the “speed” and “difficulty” game aspects relied on by Petitioners, are *operator-determined*. Ex1005 at 16:13-21 (“the control system can include *operator-configurable controls* to provide *selectable* game functions such as . . .the speed and/or difficulty of game play, the conditions required to add to the game score and/or receive universal or specific prize tickets,

the conditions required for a player to win a progressive bonus award or enter a tournament, and the like.”); *id.* at 34:51-54 (“FIG. 9 is a flow diagram illustrating a process 440 of the present invention for ***allowing the operator of the game redemption system to adjust prize characteristics*** of the system.”); *id.* at 34:66-35:8 (“The prize table 480 is preferably displayed by a display screen, such as screen 56 of game unit 10 or 50, so that ***the operator can adjust prize characteristics for that game unit*** and any linked game units, if desired. Alternatively, the prize table can be displayed on a separate operator terminal, computer, server, or game unit that may be linked to game units 10. In such a system, the ***operator would modify the prize characteristics*** as desired and send any updated characteristics to all linked (or all desired linked) game units over a network or other communication device.”); *id.* at 38:58-59 (“It is possible for the game's ***manufacturer*** to adjust game difficulty”). In my opinion, these kinds of operator-determined adjustments cannot disclose this limitation.

## **2. Dependent Claims 3-9, 13, 17-18, 23, 25-26, 28 and 29**

84. For the reasons discussed above, in my opinion, Petitioners have not shown that Kelly discloses or renders obvious Claim 1 of the 279 Patent. At least because Petitioners have not shown that Ground 1 establishes the unpatentability of Claim 1, for the reasons discussed above in connection with limitations 1[b.ii], 1[d.i], 1[d.ii], and 1[c.iii], my opinion is that Petitioner has also not shown unpatentability

of Claims 3-9, 13, 17-18, 23, 25-26, 28 and 29, each of which depends from Claim 1.

**B. Ground 2: Walker, Alone Or In Combination With Schneier, and Ground 3: Walker, in view of Schnier<sup>143</sup>.**

85. I understand that under Ground 2, Petitioner contends that Walker, either alone or in view of the knowledge of a POSITA, renders the challenged claims obvious. I further understand that for Ground 3, Petitioner contends that Walker in view of Schneier<sup>143</sup> renders claim 4 obvious. For at least the reasons stated below, I disagree with Petitioner's contention. In my opinion, Petitioner has failed to demonstrate that any of the challenged claims are unpatentable under these grounds, because the inventors conceived of the challenged claims of the 279 Patent prior to Walker's effective date of May 1, 2003. Accordingly, Walker is not prior art to the 279 Patent and cannot invalidate the claims.

**1. The 279 Patent Inventors Conceived of the Challenged Claims By December 4, 2002**

86. Although Walker claims priority to Provisional application No. 60/378,289, filed on May 6, 2002 ("Walker Provisional"), Ex1006 at 1, Petitioner has failed to mention or analyze the Walker Provisional in its petition. Accordingly, I understand that Petitioner's contention is that Walker is prior art based on its May 1, 2003 filing date.

87. In my opinion, each of the challenged claims of the 279 Patent were

conceived by at least December 4, 2002. I have reviewed the declarations of Randy Katz, the principal inventor of the 279 Patent (Ex2017), and David Murphy, the patent attorney for the 279 Patent (Ex2013). In my opinion Mr. Katz shows in his Declaration that he and his co-inventor formed a definite and permanent idea of the complete and operable invention as recited in the challenged claims prior to May 1, 2003, by demonstrating that each element from these claims is described: 1) in the notes kept by Mr. David Murphy, Milestone's patent attorney, from a patent disclosure discussion held with Mr. Katz and his co-inventor on December 4, 2002 (Ex2016); 2) U.S. Patent Application No. 10/123,861 (the "861 Application") (Ex2014), an earlier application filed by the same inventors on April 15, 2002, to which the 279 Patent relates. *See* Ex1001 at 1:12-13.

88. In my opinion, these documents corroborate Mr. Katz's account of the conception and reduction to practice of the claimed inventions, because, as I discuss in more detail below, a POSITA would understand them to show that the inventors had conceived of every element of the challenged claims by December 4, 2002. The Declaration of David Murphy, Milestone's patent attorney, further corroborates prior conception and then reduction to practice. *See* Decl. of David Murphy (Ex2013).

89. I have also reviewed the declaration and deposition testimony of Petitioners' expert Mr. Crevelt. In my opinion, Mr. Crevelt's testimony further

confirms the inventors’ prior conception of the claimed inventions. For example, as described in the Katz and Murphy declarations, the notes from a December 4, 2002 meeting between the inventors and their patent attorney show discussion of ensuring “a certain amount of low tier wins” within “every X plays.” – a win rate – and raising “50% payout to 75%.” – a global payout percentage. Ex2013 ¶¶16-19; Ex2017 at ¶¶18-24; Ex2016 at 1-2. As Mr. Crevelt confirmed in both his expert declaration and in deposition, a POSITA would regard disclosure of “win rates” and “global payout percentages” as disclosing the claimed “mandated parameters” that are achieved by utilizing variable parameters – a key limitation of the challenged claims. *See* Ex2020 at 15:7-18:4, 19:14-21:16, 24:25-25:15 (global payout percentages); *id.* at 21:18-24:24 (win rates). *See also* Ex1003 at ¶131 (“the gaming system of Kelly683 includes a ‘global payout percentage’ (Ex1005 at 5:20-29, 37:27-38:15, 38:58-39:7, Fig. 9a) and ‘win ratios’ (Ex1005 at 5:3-5, 5:30-43, 5:55-6:3).”).

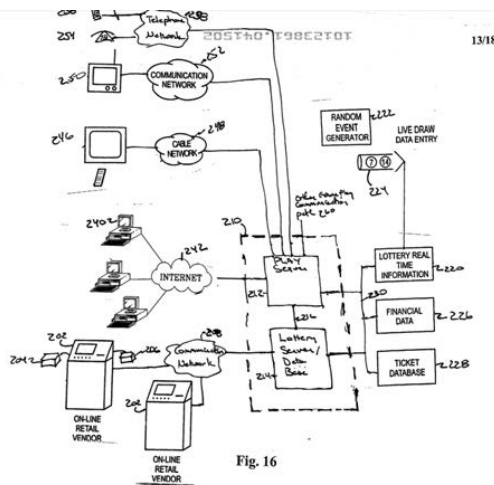
90. I present below my analysis of evidence showing that the inventors of the 279 Patent conceived of every limitation of the challenged claims by at least December 4, 2002.

| 279 Patent Challenged Claims | Evidence Demonstrating Conception By December 4, 2002 |
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1[pre]. A system for dynamically varying game play parameters in an electronic environment, over a communications network between multiple users of the system at multiple locations and a remote location including a play engine, the users utilizing communication devices, the communication devices having input capability and generate an output corresponding to the input, comprising:

In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.

For example, the 861 Application discloses a system for game play in an electronic environment between multiple users utilizing communication devices with input and output capability utilizing a remote play engine (a “play server”). Figure 16 and its accompanying description disclose such a system:



Ex2014.

“[00115] Fig. 16 is a schematic and block diagram of one version of the system for implementing game play of the form described herein. Original vending of the tickets may proceed through any number of channels. For example, an online retail vendor unit 202 may be utilized when a computer generated play slip is required. Such systems may be utilized to enter a player selected number or for a quick pick operation. In the case of a scratch-off product, an online system is not necessarily required, as the

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|  | <p>vendor may merely provide the physical product to the customer. Optionally, the vending of the physical ticket product may be scanned or otherwise notated by the vendor, and that information that the ticket has been sold may be provided to the processing system to be described, below. Alternatively, lottery kiosks may vend the tickets or other computer generated play slip. <i>As yet another alternative, the purchase of the ticket may be made through the internet or other electronic communication modality. As shown, the online retail vendor location system may further include printers 204 and scanning systems 206, such as a bar code scanning system. A communication network 208 interfaces the various vendor locations with the processing system 210.</i> The processing system 210 may include various functionalities, such as the play server 212 and the lottery server 214. <i>The play server 212 may be, for example, a web server for hosting the website accessed by the player.</i> The lottery server 214 may be a separate server or computer which interacts with the various vendor locations. While shown as separate systems, the play server 212 and lottery server 214 may be part of the same computer or computer system 210. The particular form of implementation of the overall system may be varied as is well known to those of ordinary skill in the art. As shown, the play server 212 interfaces with the lottery server 214 over a communication path 216. The communication path 216 permits bi-directional data flow, control flow and other signal flow between the various functional parts of the computer system 210. The computer system 210 may interface with lottery real time information memory 220, such as being provided through the use of a random event generator 222 or live ball draw 224. Financial data memory 226 may contain various financial</p> |
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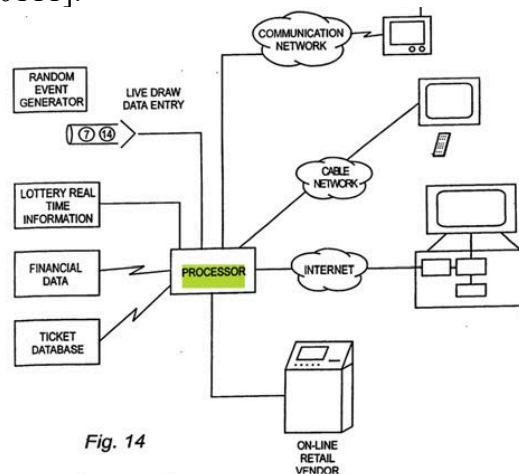
|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|  | <p>or accounting data on the players. Finally, the ticket database 228 also interfaces with the computer system 210. A bus 230 is shown interconnecting the various memory components 220, 226 and 228, further coupling to the computer system 210. The particular bus architecture may be varied to meet the system requirements as are well known to those having ordinary skill in the art. The contents of the various memory systems 226 and 228 are described in greater detail in connection with Figs. 18A through E, 19 and 20.”</p> <p>The 861 Application discloses game play with communication devices having an input and an output responsive to that input:</p> <p><b>“[00116] <i>The player may engage in the electronic game play through any number of modes of entry.</i> Computers 240 may access the system via the internet 242 or other communications network. <i>An interactive TV system 246 may interface with the system 210 via a cable network 248. A wireless display enabled device 250 may communication with the system 210 through a communication network 252. Any form of electronic communication enabled device may be utilized, whether wired or wireless, such as a cell phone, personal digital assistant, pager, messaging system, wireless application protocol (WAP) system, or other form of communication tool.</i> Preferably, the system includes <i>a graphical display capability, most preferably including the ability to display both static and dynamic images, preferably at variable degrees of resolution, ranging from low resolution to normal resolution to high resolution.</i>”</b></p> |
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|  | <p>“[0069] Fig. 3 shows a perspective view of a device for use at a gambling or gaming venue. A housing 80 may include a display 82, such as a CRT or flat panel display, on which is displayed the multiple options 84. The other information or designations may be as described in connection with Fig. 1 and Fig. 2. For example, the display 82 may include a designator 86 for the amount the gamer is playing for. A display 88 may visually depict the number of strikes existing. <b><i>A selection system 90, such as an array of buttons is utilized for player input of the desired selection. However, any mode or manner of input may be utilized.</i></b> For example, a computer mouse, voice detection system or other input mechanism permitting the player to interface with the machine may be utilized consistent with the goals and objects of this invention.”</p> <p>The 861 Application discloses techniques by which game play parameters may be dynamically varied:</p> <p>“The secondary game play includes provision of the identification number. The user would then electronically provide the identification number to the game play server/lottery system. <b><i>The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification number. Such variables may include the prize amount, the game to be played and/or the degree of difficulty</i></b> as previously explained. The system database may then be updated to indicate that the game had been played. <b><i>The variable information as to the game play is then utilized to conduct game play in accordance with those variables.</i></b>”<br/>Ex2014 at [00125].</p> |
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[1a] a processor,

In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002. The 861 Application discloses a system with a processor and memory.

“[00111] Fig. 14 shows a schematic diagram of an overall system for use in performance of the games described herein. A processor is coupled to one or more player participating via an electronic communication system.” Ex2014 at [00111].



*Id.* at Fig. 14.

“The user is prompted to enter the TIN number, which is used by the system to access memory to determine whether the player has won or lost, and if they have won, the prize for winning. Game play proceeds via the electronic system in a way so as to ultimately inform the player as to whether they have won or lost and if appropriate, as to their prize.” Ex2014 at [0018]

“Assuming qualification and entitlement, the TIN number is utilized by the system to look up in memory various aspects about the game play, e.g., what game is to be played, whether the

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|  | <p>player will win or lose, and the type of prize to be awarded to winners. The system retains a record of TIN numbers which have been played. Redemption of prizes may occur at the authorized retail vendor locations equipped with the lottery infrastructure. The vendor may positively confirm that the TIN number has been played in the electronic game through use of the lottery terminals and infrastructure. Payment of the prize amount may be conditioned on receiving a positive indication that the TIN number has been utilized in the electronic game play.”</p> <p>Ex2014 at [0020].</p> <p>“A communication network 208 interfaces the various vendor locations with the processing system 210. The processing system 210 may include various functionalities, such as the play server 212 and the lottery server 214. The play server 212 may be, for example, a web server for hosting the website accessed by the player. The lottery server 214 may be a separate server or computer which interacts with the various vendor locations. While shown as separate systems, the play server 212 and lottery server 214 may be part of the same computer or computer system 210. The particular form of implementation of the overall system may be varied as is well known to those of ordinary skill in the art. As shown, the play server 212 interfaces with the lottery server 214 over a communication path 216. The communication path 216 permits bi-directional data flow, control flow and other signal flow between the various functional parts of the computer system 210. The computer system 210 may interface with lottery real time information memory 220, such as being provided through the use of a random event generator 222 or live ball draw 224. Financial data memory 226 may</p> |
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|                 | <p>contain various financial or accounting data on the players. Finally, the ticket database 228 also interfaces with the computer system 210. A bus 230 is shown interconnecting the various memory components 220, 226 and 228, further coupling to the computer system 210. The particular bus architecture may be varied to meet the system requirements as are well known to those having ordinary skill in the art. The contents of the various memory systems 226 and 228 are described in greater detail in connection with Figs. 18A through E, 19 and 20.”</p> <p><i>Id.</i> at [00115]</p> <p><i>See id.</i> at [00111], [00112], Fig. 14, Fig.16.</p>                                                                                                                                                                                                                                                                                                                                                                                       |
| [1b] memory to: | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002. The discussion of limitation 1[a] is incorporated by reference.</p> <p>Further, the 861 Application discloses a memory to store information, including information regarding game parameters and game events. regarding game play events – which necessarily requires memory. For example, it describes that “[t]he game play server/lottery system would then access the system memory to retrieve the stored information associated with the identification data, such as to determine whether the player wins or loses, and if they win, the amount and form of their win. The system records would be updated to indicate that game play occurred.” Ex2014 at [00124].</p> <p>As a further example, in connection with Figure 18C, it discloses that the “date of play and time of play,” both game play events are stored in memory. Ex2014 at [00122]. <i>See also id.</i> at [00118] (“Figs. 18A through E depict various</p> |

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|                                                                                                 | <p>types of data fields and particular data which may be <b><i>stored within the system.</i></b>”). Similarly, the 861 Application discloses that “[o]ne data field” that may be stored “may indicate simply whether the person is a frequent player, and if so, the number of points they possess.” <i>Id.</i> at [00123]. Such points accumulated through game play are also “game play events.”</p> <p>As a further example, the 861 Application discloses that “[s]tatistical processing of survey data or other game play data may be compiled by the system.” <i>Id.</i> at [00126]. This discloses both storing game play events, and analyzing them.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| [1.b.i] store mandated and programmable variable parameters for use in the course of game play, | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The notes of the 12/4/02 meeting identify several examples of mandated parameters that must be achieved by the system as a whole, including a “fair number of low tier prize winners,” “force an even distribution of prizing,” “within every X plays, certain amount of low tier wins,” “guarantee[] the payout,” or increasing the percentage payout of a lottery game. Ex2016. The example of ensuring a “certain amount of low tier wins” “within every X plays.” is a guaranteed win rate – an example of what the 279 Patent calls a “mandated parameter.” See, e.g., Ex1001 at 5:11-15 (“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.”). The notes also describe an example of guaranteeing a payout percentage (“&gt;50% payout to 75%.”)(Ex2016). A POSITA would recognize this example as a global payout</p> |

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|  | <p>percentage, which is another specific example called out in the Variable Parameter Patents. Ex1001 at 5:11-15.</p> <p>Petitioner’s expert Crevelt has agreed that a person of ordinary skill in the art would recognize a reference to win rates and global payout percentages as disclosing mandated parameters. Ex2020 at 15:7-18:4, 19:14-21:16, 24:25-25:15 (global payout percentages); <i>id.</i> at 21:18-24:24 (win rates). <i>See also</i> Ex1003 at ¶131.</p> <p><i>See</i> Ex2017 at ¶18-24.</p> <p>In connection with the 861 Application, by April 15, 2002 the inventors had already conceived and reduced to practice a system that received, stored, and implemented “variable components” in game play, including game selection, difficulty, and prizing.</p> <p>“The secondary game play includes provision of the identification number. The user would then electronically provide the identification number to the game play server/lottery system. The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification number. Such <i>variables may include the prize amount, the game to be played and/or the degree of difficulty</i> as previously explained. The system database may then be updated to indicate that the game had been played. <i>The variable information as to the game play is then utilized to conduct game play in accordance with those variables.</i>” Ex2014 at [00125].</p> <p>The 861 Application called these parameters “variable game play parameters” in the original</p> |
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|  | <p>April 15, 2002 claims. <i>See</i> Ex2014 at Claims 23-29.</p> <p>The 861 Application discloses techniques by which a set of parameters may be accessed in stored memory by the gaming system:</p> <p>“The secondary game play includes provision of the identification number. The user would then electronically provide the identification number to the game play server/lottery system. <b><i>The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification number.</i></b> Such <i>variables may include the prize amount, the game to be played and/or the degree of difficulty</i> as previously explained. The system database may then be updated to indicate that the game had been played. <b><i>The variable information as to the game play is then utilized to conduct game play in accordance with those variables.</i></b>” Ex2014 at [00125].</p> <p>While that example relates to “variable components” of games, it clearly discloses that the inventors understood their system can receive a parameter set and implement it. Moreover, as the patent explains, variable parameters and mandated parameters could be interchangeable depending on context. As the specification of the Variable Parameters Patents explains,</p> <p><b><i>“Parameters may in one context be a ‘mandated’ parameter and yet in another context a ‘variable’ parameter.</i></b> For example, in one game, the lottery may mandate certain prizing structure, such as the use of a GLEPS structure, wherein other game, the lottery does not provide such a mandate, but <b><i>rather, the system determines to utilize a GLEPS type structure as a variable parameter.</i></b> To the extent that the</p> |
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description herein refers to something as a ‘mandated’ or ‘variable’ parameter, it is to be understood that the reference is to the particular implementation then being described. *What is a ‘mandated’ parameter in one game may be a ‘variable’ parameter in another, and vice versa.*” Ex1001 at 15:57-16:2.

The 861 Application discloses techniques by which a set of parameters are stored by the gaming system. For example, it teaches that a “TIN number is utilized by the system to look up in memory various aspects about the game play, e.g., what game is to be played, whether the player will win or lose, and the type of prize to be awarded to winners.” Ex2014 at [0020]. *See also id.* at [00118] (“Figs. 18A through E depict various types of data fields and particular data which may be stored within the system, whether in the computer system 210 or in one of the various databases or memory systems, such as the financial data memory 226 or ticket database 228.”). The 861 Application further explicitly discloses storage of game parameters in memory. For example, in connection with Figure 18a, it discloses: “For example, *in the event that variable game play as to the particular game to be played forms a part of the system*, the *memory* would include an identification as to that game. As shown, the *TIN 65432981 indicates that the HOT SEAT game will be played, whereas the game JACKO will be played for someone entering the TIN 65432982.*” *Id.* at [00120].

| TIN Number | Game     | Prize Amount | Non-Monetary Prize | Last Date to Play | Game Play Required to Reveal Prize? |
|------------|----------|--------------|--------------------|-------------------|-------------------------------------|
| 65432981   | Hot Seat | \$1,000.00   |                    | 05/03/02          | Yes                                 |
| 65432982   | JACKO    | \$50.00      |                    | 04/23/02          | No                                  |
| 65432983   | LOTO     | \$500.00     |                    | Open              | Yes                                 |
| 65432984   | LOTO     | 0            | Free Play          | Open              | Yes                                 |

Fig. 18a

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|  | <p>In addition, the 861 Application further discloses storing game parameters in memory, including information on outcomes, and prizing:</p> <p>“Fig. 19 shows a simplified flow diagram for game play where affirmative game play on the electronic system is required prior to redemption of the prize. A player would obtain a base game ticket at an authorized retailer. The user or player would then enter the identification number into the communication device, e.g., the internet website. <i>The game play server/lottery system would then access the system memory to retrieve the stored information associated with the identification data, such as to determine whether the player wins or loses, and if they win, the amount and form of their win.</i>” <i>Id.</i> at [00124].</p> <p>The 861 application again discloses storage of parameters in paragraph [00125]:</p> <p>“Fig. 20 shows a chronological flow for a electronic game having a variable component. Initially, the player may obtain a base game ticket from an authorized retailer. At this point, the player may play the base game. If they win, they may elect at that point to redeem their winnings. The secondary game play includes provision of the identification number. The user would then electronically provide the identification number to the game play server/lottery system. <i>The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification number.</i> Such variables may include the <i>prize amount, the game to be played and/or the degree of difficulty</i> as previously explained. The system database may then be updated to indicate that the game had been played. <i>The variable information</i></p> |
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|                                                                                                                                                                                                                                                                 | <p><i>as to the game play is then utilized to conduct game play in accordance with those variables.”</i></p> <p><i>Id.</i> at [00125].</p> <p>This example, relating to “variable components” of games, clearly discloses that the inventors understood their system can receive a parameter set and store it in memory.</p> <p>Petitioner’s expert Mr. Crevelt has stated that a POSITA would have understood, in light of a disclosure of a server with memory, that such a server “is used to process and store information in its memory, including the mandated parameters.” Ex1003 at ¶94.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>[1.b.i.A] wherein, the mandated parameters represent parameters which must be achieved by the system as a whole, and the programmable variable parameters represent parameters characterizing at least one of: a game structure and a prizing structure,</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002. The discussion of limitation 1[b.i] is incorporated by reference.</p> <p>The notes of the 12/4/02 meeting identify several examples of mandated parameters that must be achieved by the system as a whole, including a “fair number of low tier prize winners,” “force an even distribution of prizing,” “within every X plays, certain amount of low tier wins,” “guarantee[] the payout,” or increasing the percentage payout of a lottery game. Ex2016. The example of ensuring a “certain amount of low tier wins” “within every X plays.” is a guaranteed win rate – an example of what the 279 Patent calls a “mandated parameter.” <i>See, e.g.</i>, Ex1001 at 5:7-11 (“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.”). The notes also describe an example of guaranteeing a payout percentage</p> |

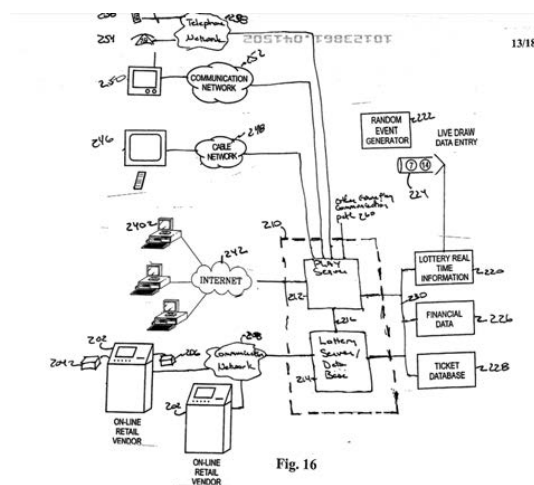
|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|  | <p>(“&gt;50% payout to 75%.”) (Ex2016). A POSITA would recognize this example as a global payout percentage, which is another specific example called out in the Variable Parameter Patents. Ex1001 at 5:7-11.</p> <p>Petitioner’s expert Crevelt has agreed that a person of ordinary skill in the art would recognize a reference to win rates and global payout percentages as disclosing mandated parameters. Ex2020 at 15:7-18:4, 19:14-21:16, 24:25-25:15 (global payout percentages); <i>id.</i> at 21:18-24:24 (win rates). <i>See also</i> Ex1003 at ¶71.</p> <p>In connection with the 861 Application, by April 15, 2002 the inventors had already conceived and reduced to practice a system that received, stored, and implemented “variable components” in game play, including game selection and difficulty (“game structure”), and prizing (“prizing structure”).</p> <p>“The secondary game play includes provision of the identification number. The user would then electronically provide the identification number to the game play server/lottery system. The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification number. Such <i>variables may include the prize amount, the game to be played and/or the degree of difficulty</i> as previously explained. The system database may then be updated to indicate that the game had been played. <i>The variable information as to the game play is then utilized to conduct game play in accordance with those variables.</i>” Ex2014 at [00125].</p> <p>The 861 Application called these parameters “variable game play parameters” in the original</p> |
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|                                                                                         | <p>April 15, 2002 claims. <i>See</i> Ex2014 at Claims 23-29.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>[1.b.ii] record game play information regarding particular game play events, and</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>The 861 Application discloses recording information regarding game play events. For example, it describes that “[t]he game play server/lottery system would then access the system memory to retrieve the stored information associated with the identification data, such as to determine whether the player wins or loses, and if they win, <b><i>the amount and form of their win</i></b>. The system records would be updated to indicate that game play occurred.” Ex2014 at [00124].</p> <p>As a further example, in connection with Figure 18C, it discloses that the “date of play and time of play,” both game play events are stored in memory. Ex2014 at [00122]. <i>See also id.</i> at [00118] (“Figs. 18A through E depict various types of data fields and particular data which may be <b><i>stored within the system</i></b>.”). Similarly, the 861 Application discloses that “[o]ne data field” that may be stored “may indicate simply whether the person is a frequent player, and if so, the number of points they possess.” <i>Id.</i> at [00123]. Such points accumulated through game play are also “game play events.”</p> <p>As a further example, the 861 Application discloses that “[s]tatistical processing of survey data or other game play data may be compiled by the system.” <i>Id.</i> at [00126]. This discloses both storing game play events, and analyzing them.</p> |

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| <p>[1.b.iii] store player's club information, including at least</p> <p>(i) player identification information, and</p> <p>(ii) the amount of player points,</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>For example, the 861 Application discloses various forms of user registration, including online registration to join a frequent players' club: "However, a player may desire to be a registered user so as to participate in additional features or functionalities, such as to participate in a <i>frequent player's club. Provision may be made in the interface to permit registration online.</i>" Ex2014 at [00117]. <i>See also id.</i> at [00123] ("Through a registration process, either directly with the lottery, or via an authorized vendor, or otherwise through online registration, the player may become registered whereby they are confirmed to possess the requisite citizenship or state or national contact to satisfy the lottery requirements."); Fig. 17; Fig. 18d.</p> <p>The 861 Application further discloses storing in memory player identification information and the amount of player points.</p> <p>"Optionally, <i>frequent player's clubs may be utilized, such as where points are rewarded for game play. Typically, such a club or system requires player identification</i>, and preferably includes a second form of player identification, <i>such as a code or their own personal PIN number.</i>" <i>Id.</i> at [0021]. <i>See also id.</i> at [00121] ("In certain applications, it may be desired to have a user identification and a secondary form of identification such as a PIN number or password. These may be utilized when higher levels of functionality such as a frequent player's club are utilized.").</p> <p>As a further example, in connection with Figure 18C, the 861 Application discloses storage of</p> |
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|                                                                                | <p>player points as part of the user’s club. <i>See id.</i> at [00118] (“Figs. 18A through E depict various types of data fields and particular data which may be <b><i>stored within the system.</i></b>”). Similarly, the 861 Application discloses that “[o]ne data field” that may be stored “may indicate simply whether the person is a frequent player, and if so, the number of points they possess.” <i>Id.</i> at [00123].</p> <table><tr><th>Frequent Player Points</th><th>Form of Compensation</th><th>Acknowledgment Number</th></tr><tr><td>13244</td><td>Cash</td><td>4220263541000coke</td></tr><tr><td>0</td><td>Airline Miles</td><td>164777538865</td></tr><tr><td>0</td><td>Further Game Play</td><td>164777538866</td></tr><tr><td>103</td><td>Cash</td><td>164777538867</td></tr></table> <p><i>Fig. 18e</i></p> <p><i>Id.</i> at Fig. 18.</p> <p>“In yet another mode of game play, a network, such as the internet, may be utilized to permit game play, whether for a monetary amount or to provide other points or indications of score.”</p> <p><i>Id.</i> at [0032].</p> <p>“The total display 18 shows the total amount of money, points, prizes (cash or non-cash) or other winnings accumulated by the player.”</p> <p><i>Id.</i> at [0060].</p> <p>“Alternatively, instead of money, the player may play for points.”</p> <p><i>Id.</i> at [0077].</p> | Frequent Player Points | Form of Compensation | Acknowledgment Number | 13244 | Cash | 4220263541000coke | 0 | Airline Miles | 164777538865 | 0 | Further Game Play | 164777538866 | 103 | Cash | 164777538867 |
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| Frequent Player Points                                                         | Form of Compensation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Acknowledgment Number  |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 13244                                                                          | Cash                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 4220263541000coke      |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 0                                                                              | Airline Miles                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 164777538865           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 0                                                                              | Further Game Play                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 164777538866           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 103                                                                            | Cash                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 164777538867           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| [1.c] a play engine coupled to the memory and operating with the processor to: | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>For example, the 861 Application discloses a system for game play in an electronic environment between multiple users utilizing communication devices with input and output</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |

capability utilizing a remote play engine (a “play server”). Figure 16 and its accompanying description disclose such a system:



Ex2014.

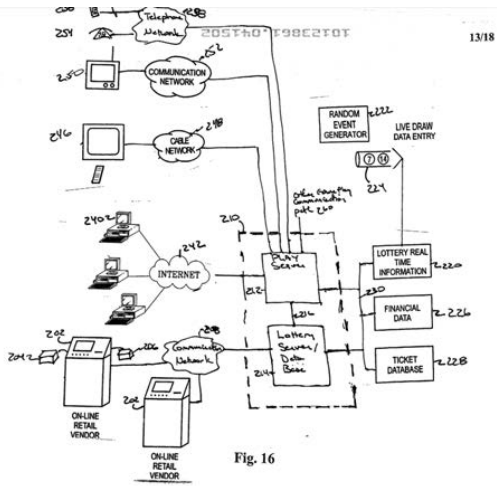
“[00115] Fig. 16 is a schematic and block diagram of one version of the system for implementing game play of the form described herein. Original vending of the tickets may proceed through any number of channels. For example, an online retail vendor unit 202 may be utilized when a computer generated play slip is required. Such systems may be utilized to enter a player selected number or for a quick pick operation. In the case of a scratch-off product, an online system is not necessarily required, as the vendor may merely provide the physical product to the customer. Optionally, the vending of the physical ticket product may be scanned or otherwise notated by the vendor, and that information that the ticket has been sold may be provided to the processing system to be described, below. Alternatively, lottery kiosks may vend the tickets or other computer generated play slip. *As yet another alternative, the purchase of the ticket may be made through the*

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|  | <p><i>internet or other electronic communication modality. As shown, the online retail vendor location system may further include printers 204 and scanning systems 206, such as a bar code scanning system. A communication network 208 interfaces the various vendor locations with the processing system 210.</i> The processing system 210 may include various functionalities, such as the play server 212 and the lottery server 214. <i>The play server 212 may be, for example, a web server for hosting the website accessed by the player.</i> The lottery server 214 may be a separate server or computer which interacts with the various vendor locations. While shown as separate systems, the play server 212 and lottery server 214 may be part of the same computer or computer system 210. The particular form of implementation of the overall system may be varied as is well known to those of ordinary skill in the art. As shown, the play server 212 interfaces with the lottery server 214 over a communication path 216. The communication path 216 permits bi-directional data flow, control flow and other signal flow between the various functional parts of the computer system 210. The computer system 210 may interface with lottery real time information memory 220, such as being provided through the use of a random event generator 222 or live ball draw 224. Financial data memory 226 may contain various financial or accounting data on the players. Finally, the ticket database 228 also interfaces with the computer system 210. A bus 230 is shown interconnecting the various memory components 220, 226 and 228, further coupling to the computer system 210. The particular bus architecture may be varied to meet the system requirements as are well known to those having ordinary skill in the art. The contents of the various memory systems 226 and 228 are</p> |
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|                                                                                                                   | <p>described in greater detail in connection with Figs. 18A through E, 19 and 20.”</p> <p>A POSITA would recognize that the disclosed play server is necessarily coupled with the disclosed memory and operating with the disclosed processor. The discussion of 1[pre] is incorporated by reference.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>[1.c.i] implement a first set of programmable variable parameters to provide a first game play experience,</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>In connection with the 861 Application, by April 15, 2002 the inventors had already conceived and reduced to practice a system that received, stored, and implemented “variable components” in game play, including game selection, difficulty, and prizing.</p> <p>“The secondary game play includes provision of the identification number. The user would then electronically provide the identification number to the game play server/lottery system. The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification number. Such <i>variables may include the prize amount, the game to be played and/or the degree of difficulty</i> as previously explained. The system database may then be updated to indicate that the game had been played. <i>The variable information as to the game play is then utilized to conduct game play in accordance with those variables.</i>” Ex2014 at [00125].</p> <p>Because game play is conducted “in accordance with those variables,” they determine the game play experience, including a first game play</p> |

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|                                                                                                                                                                                                                                                                   | <p>experience as implemented by a first set of such parameters.</p> <p>The 861 Application called these parameters “variable game play parameters” in the original April 15, 2002 claims. <i>See</i> Ex2014 at Claims 23-29.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>[1.c.ii] modify one or more programmable variable parameters to provide a second set of programmable variable parameters providing a second game play experience, wherein the first game play experience differs from the second game play experience, and</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>In connection with the 861 Application, by April 15, 2002 the inventors had already conceived and reduced to practice a system that received, stored, and implemented “variable components” in game play, including game selection, difficulty, and prizing, which could provide different game play experiences.</p> <p>“The secondary game play includes provision of the identification number. The user would then electronically provide the identification number to the game play server/lottery system. The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification number. Such <i>variables may include the prize amount, the game to be played and/or the degree of difficulty</i> as previously explained. The system database may then be updated to indicate that the game had been played. <i>The variable information as to the game play is then utilized to conduct game play in accordance with those variables.</i>” Ex2014 at [00125].</p> <p>Because game play is conducted “in accordance with those variables,” they determine and provide the game play experience, including a second game play experience as implemented by a second set of such parameters when looked up</p> |

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|                                                                                                                                                                                    | <p>and implemented by the system. A POSITA would understand that the applicable parameters (difficulty, prizing, etc.) are “modified” when a new set of parameters is retrieved from memory and implemented such that game play is conducted “in accordance with those variables”.</p> <p>The 861 Application called these parameters “variable game play parameters” in the original April 15, 2002 claims. <i>See</i> Ex2014 at Claims 23-29.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>[1.c.iii] utilize the first and second programmable variable parameter sets to achieve the mandated parameters through at least the first and second game play experiences,</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>As discussed above in connection with 1[b.i] and 1[b.i.A], incorporated here by reference, by December 4, 2002 the inventors had conceived of a system that used variable game parameters to achieve a set of objectives defined by the operator of the game as a whole.</p> <p>In connection with the 861 Application, by April 15, 2002 the inventors had already conceived and reduced to practice a system that received, stored, and implemented “variable components” in game play, including game selection, difficulty, and prizing. <i>See generally</i> Ex2017 ¶¶9-12. The 861 Application called these parameters “variable game play parameters” in the original April 15, 2002 claims. <i>See</i> Ex2014 at Claims 23-29.</p> <p>By December 4, 2002, as reflected in Ex2016, the inventors disclosed that such variable parameters could be used to achieve objectives set by the game operator. For example, the notes from the 12/4/02 meeting reflect that the inventors proposed that their invention could raise the global payout percentage “to 75%” – a mandated parameter – by “increas[ing] % of wins by the</p> |

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|                                                                                           | <p>level 2,” <i>i.e.</i>, a secondary game level – a variable parameter. Ex2016. A POSITA would understand this to disclose achieving mandated parameters through first and second game play experiences which are implemented using the first and second variable parameter sets. The discussion of 1[c.i-ii] is incorporated by reference.</p>                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>[1.d] a decision engine coupled to the memory and operating with the processor to:</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>For example, the 861 Application discloses a system for game play in an electronic environment between multiple users utilizing communication devices with input and output capability utilizing a remote play server (a “decision engine”). Figure 16 and its accompanying description disclose such a system:</p>  <p>Fig. 16</p> <p>Ex2014.</p> <p>“[00115] Fig. 16 is a schematic and block diagram of one version of the system for implementing game play of the form described herein. Original vending of the tickets may</p> |

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|  | <p>proceed through any number of channels. For example, an online retail vendor unit 202 may be utilized when a computer generated play slip is required. Such systems may be utilized to enter a player selected number or for a quick pick operation. In the case of a scratch-off product, an online system is not necessarily required, as the vendor may merely provide the physical product to the customer. Optionally, the vending of the physical ticket product may be scanned or otherwise notated by the vendor, and that information that the ticket has been sold may be provided to the processing system to be described, below. Alternatively, lottery kiosks may vend the tickets or other computer generated play slip. <i>As yet another alternative, the purchase of the ticket may be made through the internet or other electronic communication modality. As shown, the online retail vendor location system may further include printers 204 and scanning systems 206, such as a bar code scanning system. A communication network 208 interfaces the various vendor locations with the processing system 210.</i> The processing system 210 may include various functionalities, such as the play server 212 and the lottery server 214. <i>The play server 212 may be, for example, a web server for hosting the website accessed by the player.</i> The lottery server 214 may be a separate server or computer which interacts with the various vendor locations. While shown as separate systems, the play server 212 and lottery server 214 may be part of the same computer or computer system 210. The particular form of implementation of the overall system may be varied as is well known to those of ordinary skill in the art. As shown, the play server 212 interfaces with the lottery server 214 over a communication path 216. The communication path 216 permits bi-directional data flow, control</p> |
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|                                                                                                                           | <p>flow and other signal flow between the various functional parts of the computer system 210. The computer system 210 may interface with lottery real time information memory 220, such as being provided through the use of a random event generator 222 or live ball draw 224. Financial data memory 226 may contain various financial or accounting data on the players. Finally, the ticket database 228 also interfaces with the computer system 210. A bus 230 is shown interconnecting the various memory components 220, 226 and 228, further coupling to the computer system 210. The particular bus architecture may be varied to meet the system requirements as are well known to those having ordinary skill in the art. The contents of the various memory systems 226 and 228 are described in greater detail in connection with Figs. 18A through E, 19 and 20.”</p> <p>A POSITA would recognize that the disclosed play server is necessarily coupled with the disclosed memory and operating with the disclosed processor. The discussion of 1[pre] is incorporated by reference.</p> |
| <p>[1.d.i] (i) analyze game play as a function of the recorded information regarding particular game play events, and</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>As discussed in connection with limitation 1[b.ii], incorporated here by reference, the 861 Application discloses storing information regarding game play events, such as wins, losses, prizes, and points. The 861 Application further discloses performing analytics on the stored game play events. It discloses, for example, that “[s]tatistical processing of survey data or other game play data may be compiled by the system.” <i>Id.</i> at [00126].</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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| <p>[1.d.ii] (ii) determine the selection of the first or second programmable variable parameter sets utilizing the recorded game play information with predefined criteria including at least one of: a game structure and a prizing structure,</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>As discussed above in connection with 1[c.iii] and 1[b.i.A], incorporated here by reference, by December 4, 2002 the inventors had conceived of a system that used variable game parameters to achieve a set of objectives defined by the operator of the game as a whole.</p> <p>The notes of the 12/4/02 meeting identify several examples of mandated parameters that must be achieved by the system as a whole, including a “fair number of low tier prize winners,” “force an even distribution of prizing,” “within every X plays, certain amount of low tier wins,” “guarantee[] the payout,” or increasing the percentage payout of a lottery game. Ex2016. The example of ensuring a “certain amount of low tier wins” “within every X plays.” is a guaranteed win rate – an example of what the 279 Patent calls a “mandated parameter.” <i>See, e.g.</i>, Ex1001 at 5:11-15 (“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.”). The notes also describe an example of guaranteeing a payout percentage (“&gt;50% payout to 75%.”)(Ex2016). A POSITA would recognize this example as a global payout percentage, which is another specific example called out in the Variable Parameter Patents. Ex1001 at 5:11-15.</p> <p>A POSITA would recognize that, in using variable parameters to achieve a mandated parameter, such as a win rate or a global payout percentage, the system would necessarily</p> |
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|                                                                            | <p>evaluate the recorded win/loss or prizing events as discussed in 1[b.ii], against the predefined criteria such as the existing game structure (e.g., its difficulty as suggested by the win rate) or the existing prize structure (e.g., the amount won to date) to determine whether to continue play under the original set of game play parameters, or to implement a different set of parameters. For example, the notes from the 12/4/02 meeting reflect that the inventors proposed that their invention could raise the global payout percentage “to 75%” – a mandated parameter – by “increas[ing] % of wins by the level 2,” <i>i.e.</i>, a secondary game level – a variable parameter. Ex2016. A POSITA would understand this to disclose determining the selection of a first or second set of variable parameters using a predefined criterion including a prizing structure.</p> <p>As another example, the 12/4/02 Notes disclose ensuring a “certain amount of low tier wins” within “every X plays.” A POSITA would know that achieving that mandated parameter necessarily requires evaluation of the recorded win/loss or prizing events as discussed in 1[b.ii], against the predefined criteria such as the existing game structure (e.g., its difficulty as suggested by the win rate) or the existing prize structure (e.g., the amount won to date) to determine whether to continue play under the original set of game play parameters, or to implement a different set of parameters to ensure the required amount of low tier prizing.</p> |
| [1.e] a display system for displaying at least the player club points, and | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>The 861 Application discloses that the game play devices are capable of displaying information.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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|  | <p>For example, it discloses that in one game, a “graphical depiction of the randomly selected indicia are displayed to the player. Optionally, the display may consist of a depiction of a ball, such as the type of ball used in a lottery drawing.” Ex2014 at [0023]. <i>See also id.</i> at [0060] (“The total display 18 shows the total amount of money, points, prizes (cash or non-cash) or other winnings accumulated by the player. The strike display 220 shows a depiction of the number of negative events, here strikes, which have occurred.”); [0070] (“Certain of the displays may show a graphical image, whether static or <b><i>dynamic</i></b>, and yet other displays may show textual information. Combinations of any of the preceding, e.g., text on certain displays and high resolution dynamic images on other displays, may be utilized.”); [0081]; [0090] (“Multiple players may play in parallel against the house, with the display for the other players being included upon all player's screens.”). <i>See also id.</i> at [00106], [00116], [00121], [00124], Figs. 2, 19.</p> <p>The 861 Application discloses storing in memory player identification information and the amount of player points.</p> <p>“Optionally, <b><i>frequent player's clubs may be utilized, such as where points are rewarded for game play. Typically, such a club or system requires player identification</i></b>, and preferably includes a second form of player identification, <b><i>such as a code or their own personal PIN number.</i></b>” <i>Id.</i> at [0021]. <i>See also id.</i> at [00121] (“In certain applications, it may be desired to have a user identification and a secondary form of identification such as a PIN number or password. These may be utilized when higher levels of</p> |
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|                                                  | <p>functionality such as a frequent player's club are utilized.”).</p> <p>As a further example, in connection with Figure 18C, the 861 Application discloses storage of player points as part of the user’s club. <i>See id.</i> at [00118] (“Figs. 18A through E depict various types of data fields and particular data which may be <b><i>stored within the system.</i></b>”). Similarly, the 861 Application discloses that “[o]ne data field” that may be stored “may indicate simply whether the person is a frequent player, and if so, the number of points they possess.” <i>Id.</i> at [00123].</p> <table><tr><th>Frequent Player Points</th><th>Form of Compensation</th><th>Acknowledgment Number</th></tr><tr><td>13244</td><td>Cash</td><td>4220263541000c0ke</td></tr><tr><td>0</td><td>Airline Miles</td><td>164777538865</td></tr><tr><td>0</td><td>Further Game Play</td><td>164777538866</td></tr><tr><td>103</td><td>Cash</td><td>164777538867</td></tr></table> <p style="text-align: center;"><i>Fig. 18e</i></p> <p><i>Id.</i> at Fig. 18.</p> <p>“In yet another mode of game play, a network, such as the internet, may be utilized to permit game play, whether for a monetary amount or to provide other points or indications of score.”</p> <p><i>Id.</i> at [0032].</p> <p>The 861 Application discloses that the points may be displayed:</p> <p>“The total display 18 shows the total amount of money, points, prizes (cash or non-cash) or other winnings accumulated by the player.”</p> <p><i>Id.</i> at [0060].</p> | Frequent Player Points | Form of Compensation | Acknowledgment Number | 13244 | Cash | 4220263541000c0ke | 0 | Airline Miles | 164777538865 | 0 | Further Game Play | 164777538866 | 103 | Cash | 164777538867 |
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| Frequent Player Points                           | Form of Compensation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Acknowledgment Number  |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 13244                                            | Cash                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 4220263541000c0ke      |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 0                                                | Airline Miles                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 164777538865           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 0                                                | Further Game Play                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 164777538866           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 103                                              | Cash                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 164777538867           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| [1.f] a system input for receiving player input. | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                        |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |

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|  | <p>The 861 Application discloses game play with communication devices having an input to receive player input:</p> <p><b><i>“[00116] The player may engage in the electronic game play through any number of modes of entry. Computers 240 may access the system via the internet 242 or other communications network. An interactive TV system 246 may interface with the system 210 via a cable network 248. A wireless display enabled device 250 may communication with the system 210 through a communication network 252. Any form of electronic communication enabled device may be utilized, whether wired or wireless, such as a cell phone, personal digital assistant, pager, messaging system, wireless application protocol (WAP) system, or other form of communication tool.”</i></b></p> <p><b><i>“[0069] Fig. 3 shows a perspective view of a device for use at a gambling or gaming venue. A housing 80 may include a display 82, such as a CRT or flat panel display, on which is displayed the multiple options 84. The other information or designations may be as described in connection with Fig. 1 and Fig. 2. For example, the display 82 may include a designator 86 for the amount the gamer is playing for. A display 88 may visually depict the number of strikes existing. A selection system 90, such as an array of buttons is utilized for player input of the desired selection. However, any mode or manner of input may be utilized. For example, a computer mouse, voice detection system or other input mechanism permitting the player to interface with the machine may be utilized consistent with the goals and objects of this invention.”</i></b></p> |
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| <p>3. The system for electronic game play of claim 1 wherein the player's club information includes information on non-cash items.</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>For example, the 861 Application discloses non-monetary (“non-cash”) prizes in the form of point awards or awards of free play:</p> <p>“In the preferred embodiment, there would be three results possible with a mystery box, a positive result such as a multiplier for the money, such as a doubler of the contestant' prior winnings, an updating of the safe level for the player or an additional monetary amount. Alternatively, other positive results such as a free play or a reduction in the number of negative events is possible.”</p> <p>Ex2014 at [0028].</p> <p>“While any number of pay-out schemes may be utilizes, one preferred method is to share the jackpot amongst those hitting the target number on the nose, and to give those players who were within the predetermined distance from the target number an incentive for future game play, such as a free game play or reduced entry fee play.”</p> <p><i>Id.</i> at [00100].</p> <p>“In yet another mode of game play, a network, such as the internet, may be utilized to permit game play, whether for a monetary amount or to provide other points or indications of score.”</p> <p><i>Id.</i> at [0032].</p> <p>“The total display 18 shows the total amount of money, points, prizes (cash or non-cash) or other winnings accumulated by the player.”</p> |
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*Id.* at [0060].

“Alternatively, instead of money, the player may play for points.”

*Id.* at [0077].

| TIN Number | Game     | Prize Amount | Non-Montetary Prize | Last Date to Play | Game Play Required to Reveal Prize? |
|------------|----------|--------------|---------------------|-------------------|-------------------------------------|
| 65432981   | Hot Seat | \$1,000.00   |                     | 05/03/02          | Yes                                 |
| 65432982   | JACKO    | \$50.00      |                     | 04/23/02          | No                                  |
| 65432983   | LOTO     | \$500.00     |                     | Open              | Yes                                 |
| 65432984   | LOTO     | 0            | Free Play           | Open              | Yes                                 |

*Fig. 18a*

Ex2014 at Fig. 18a

The 861 Application discloses storing in memory player identification information and the amount of player points – a non-cash item.

“Optionally, *frequent player's clubs may be utilized, such as where points are rewarded for game play. Typically, such a club or system requires player identification*, and preferably includes a second form of player identification, *such as a code or their own personal PIN number.*” *Id.* at [0021]. *See also id.* at [00121] (“In certain applications, it may be desired to have a user identification and a secondary form of identification such as a PIN number or password. These may be utilized when higher levels of functionality such as a frequent player's club are utilized.”).

As a further example, in connection with Figure 18C, the 861 Application discloses storage of player points as part of the user's club. *See id.* at [00118] (“Figs. 18A through E depict various types of data fields and particular data which may be *stored within the system.*”). Similarly, the 861 Application discloses that “[o]ne data field” that may be stored “may indicate simply whether the

|                                                                                                                                            | <p>person is a frequent player, and if so, the number of points they possess.” <i>Id.</i> at [00123].</p> <table><tr><th>Frequent Player Points</th><th>Form of Compensation</th><th>Acknowledgment Number</th></tr><tr><td>13244</td><td>Cash</td><td>4220263541000cokc</td></tr><tr><td>0</td><td>Airline Miles</td><td>164777538865</td></tr><tr><td>0</td><td>Further Game Play</td><td>164777538866</td></tr><tr><td>103</td><td>Cash</td><td>164777538867</td></tr></table> <p><i>Fig. 18e</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Frequent Player Points | Form of Compensation | Acknowledgment Number | 13244 | Cash | 4220263541000cokc | 0 | Airline Miles | 164777538865 | 0 | Further Game Play | 164777538866 | 103 | Cash | 164777538867 |
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| Frequent Player Points                                                                                                                     | Form of Compensation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Acknowledgment Number  |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 13244                                                                                                                                      | Cash                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 4220263541000cokc      |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 0                                                                                                                                          | Airline Miles                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 164777538865           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 0                                                                                                                                          | Further Game Play                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 164777538866           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 103                                                                                                                                        | Cash                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 164777538867           |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |
| 4. The system for electronic game play of claim 3 wherein the player's club information includes information on non-cash item is an image. | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>For example, the 861 Application discloses that a frequent player’s club may include information on the number of user’s points, which may be displayed on the communication device.</p> <p>“In yet another mode of game play, a network, such as the internet, may be utilized to permit game play, whether for a monetary amount or to provide other points or indications of score.”</p> <p><i>Id.</i> at [0032].</p> <p>“The total display 18 shows the total amount of money, points, prizes (cash or non-cash) or other winnings accumulated by the player.”</p> <p><i>Id.</i> at [0060].</p> <p>The 861 Application further discloses that the communication device may include the capability of displaying images.</p> <p>“Preferably, the system includes a graphical display capability, most preferably including the ability to display both static and dynamic images, preferably at variable degrees of resolution,</p> |                        |                      |                       |       |      |                   |   |               |              |   |                   |              |     |      |              |

|                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                                                                                                                                                                                   | <p>ranging from low resolution to normal resolution to high resolution.”</p> <p>Ex2014 at [00116].</p> <p>A POSITA would know that the player’s club information could include displaying the point amount as an image.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>5. The system for electronic game play of claim 1 wherein the first set and second set of variable parameters utilize game play information across multiple users devices.</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>For example, the 861 Application discloses game play involving multiple users:</p> <p>“[0033] The game may be played by a single individual, or may be played with multiple players. The multiple players may play against one another, for scoring, or may merely play in parallel without further interaction.”</p> <p>Ex2014 at [0033].</p> <p>“[00126] In yet another variation, game play may be enabled between multiple players. Buddy lists or other <i>association groupings may be utilized to form competitive game play pairings.</i>”</p> <p>Ex2014 at [00126].</p> <p>The 861 Application further discloses recording information regarding game play events for multiple users. The discussion of 1[b.ii] is incorporated by reference. For example, it describes that “[t]he game play server/lottery system would then access the system memory to retrieve the stored information associated with the identification data, such as to determine</p> |

whether the player wins or loses, and if they win, ***the amount and form of their win***. The system records would be updated to indicate that game play occurred.” Ex2014 at [00124].

See also *id.* at [00118] (“Figs. 18A through E depict various types of data fields and particular data which may be ***stored within the system***.”). Similarly, the 861 Application discloses that “[o]ne data field” that may be stored “may indicate simply whether the person is a frequent player, and if so, the number of points they possess.” *Id.* at [00123]. Figure 18d, for example, shows that game play information is recorded for multiple users.

16/18

| Citizenship Information | Computer Address | E-mail Address     | Physical Address             | Registered Frequent Player |
|-------------------------|------------------|--------------------|------------------------------|----------------------------|
| 469384323FR             | 1324597223       | jami@hotmail.com   | 3 rue de la Seine, Paris, FR | yes                        |
| 3555462NL               | 3968736293       | FRStone@aol.com    | unknown                      | no                         |
| SSN 564-35-1283         | 6945112442       | unknown            | unknown                      | no                         |
| SSN 523-25-3232         | 6978854645       | dons@earthlink.net | 1243 Main St, Yuba, CA 91331 | yes                        |

**Fig. 18d**

As a further example, the 861 Application discloses that “[s]tatistical processing of survey data or other game play data may be compiled by the system.” *Id.* at [00126]. This discloses both storing game play events, and analyzing them. A POSITA would know that the determination of first or second variable parameter sets could involve analyzing recorded game play information, including the recorded game play information across multiple users. A POSITA would further understand that the discussion of global payout percentages and win rates in the December 4, 2002 notes encompassed win rates and global payout percentages for the gaming system as a whole – across all users. This again

|                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                                                                                     | necessarily entails assessment of multiple users' play.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 6. The system for electronic game play of claim 1 wherein the game play information includes information on a loss. | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The 861 Application discloses recording information regarding game play events. The discussion of limitation 1[b.ii] is incorporated by reference. For example, it describes that "[t]he game play server/lottery system would then access the system memory to retrieve the stored information associated with the identification data, such as to determine whether the player wins or loses, and if they win, <b><i>the amount and form of their win.</i></b> The system records would be updated to indicate that game play occurred." Ex2014 at [00124].</p> <p>As a further example, the 861 Application discloses that "[s]tatistical processing of survey data or other game play data may be compiled by the system." <i>Id.</i> at [00126]. This discloses both storing game play events, and analyzing them.</p> <p>The notes of the 12/4/02 meeting identify several examples of mandated parameters that must be achieved by the system as a whole, including a "fair number of low tier prize winners," "force an even distribution of prizing," "within every X plays, certain amount of low tier wins," "guarantee[] the payout," or increasing the percentage payout of a lottery game. Ex2016. The example of ensuring a "certain amount of low tier wins" "within every X plays." is a guaranteed win rate – an example of what the 279 Patent calls a "mandated parameter." <i>See, e.g.,</i> Ex1001 at 5:11-15 ("Exemplary mandated parameters may consist of prize pay out and win rates, and may include such factors as the minimum payout</p> |

|                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                                                                                                                                   | <p>amount, the maximum payout amount, a defined percentage payout, the number of prizes, and/or the form of prizes.”). The notes also describe an example of guaranteeing a payout percentage (“&gt;50% payout to 75%.”)(Ex2016).</p> <p>A POSITA would recognize that, in using variable parameters to achieve a mandated parameter, such as a win rate, the system would necessarily record the number of wins and non-wins (losses) in order to determine a win rate. A POSITA would understand that by definition a “win rate” reflects the number of game plays out of all game plays that result in a win – with the non-wins representing a loss. As another example, the notes from the 12/4/02 meeting reflect that the inventors proposed that their invention could raise the global payout percentage “to 75%” – a mandated parameter – by “increas[ing] % of wins by the level 2,” <i>i.e.</i>, a secondary game level – a variable parameter. Ex2016. A POSITA would understand this necessarily requires tracking wins and losses to determine a “% of wins”.</p> |
| 7. The system for electronic game play of claim 1 wherein the game play information includes information on a series of outcomes. | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of Claim 6 is incorporated by reference.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 8. The system for electronic game play of claim 1 wherein the game play information includes information on the number of wins.   | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of Claim 6 is incorporated by reference.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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| 9. The system for electronic game play of claim 1 wherein the game play information includes information on a first game play event.   | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of limitation 1[b.ii] and Claim 6 is incorporated by reference.</p>                                                                                                                                                                                                                                                                                                                  |
| 13. The system for electronic game play of claim 1 wherein the game play information includes information tracking the users play.     | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of limitation 1[b.ii] and Claim 6 is incorporated by reference.</p>                                                                                                                                                                                                                                                                                                                  |
| 17. The system for electronic game play of claim 1 wherein the prizing structure is modified by modifying bonus prizing.               | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>For example, the 861 Application discloses variable parameters relating to modifying bonus prizing:</p> <p>“Yet another <i>variable component</i> might constitute the degree of difficulty of game play, the level of game play at which the player can begin game play, and/or an <i>indication of a bonus set of points or other form of advantage in game play</i>.”</p> <p>Ex2014 at [00114]</p> |
| 18. The system for electronic game play of claim 1 wherein the prizing structure is modified by modifying awarding of non-cash prizes. | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>For example, the 861 Application discloses variable parameters relating to modifying awarding of non-cash prizing, such as points:</p> <p>“The <i>information may be variable</i> as to the prize amount, as shown in Fig. 15B, <i>the form of the prize</i> (e.g., cash prize, <i>points based prize</i>, goods</p>                                                                                  |

|                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                                                                                                     | <p>or services as a prize), the amount of the prize, or some other factor such as a multiplier of a prize amount.”</p> <p>Ex2014 at [00114]</p> <p>The discussion of limitation 1[b.i], 1[c.i], and 1[c.ii] is incorporated by reference.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>23. The system for electronic game play of claim 1 wherein the decision engine for game analytics tracks user specific play.</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than April 15, 2002.</p> <p>As discussed in connection with limitation 1[b.ii], incorporated here by reference, the 861 Application discloses storing information regarding game play events, such as wins, losses, prizes, and points. The 861 Application further discloses performing analytics on the stored game play events. It discloses, for example, that “[s]tatistical processing of survey data or other game play data may be compiled by the system.” <i>Id.</i> at [00126].</p> <p>The information tracked by the system includes results for specific users from their game play. For example, it describes that “[t]he game play server/lottery system would then access the system memory to retrieve the stored information associated with the identification data, such as to determine whether the player wins or loses, and if they win, <b><i>the amount and form of their win.</i></b> The system records would be updated to indicate that game play occurred.” Ex2014 at [00124].</p> <p><i>See also id.</i> at [00118] (“Figs. 18A through E depict various types of data fields and particular data which may be <b><i>stored within the system.</i></b>”). Similarly, the 861 Application discloses that “[o]ne data field” that may be stored “may indicate <b><i>simply whether the person is a frequent</i></b></p> |

|                                                                                                                      | <p><i>player, and if so, the number of points they possess.” Id. at [00123]. Figure 18d, for example, shows that game play information is recorded for multiple users.</i></p> <div><div>16/18</div><table><tr><th>Citizenship Information</th><th>Computer Address</th><th>E-mail Address</th><th>Physical Address</th><th>Registered Frequent Player</th></tr><tr><td>469384323FR</td><td>1324597223</td><td>jami@hotmail.com</td><td>3 rue de la Seine, Paris, FR</td><td>yes</td></tr><tr><td>3555462NL</td><td>3968736293</td><td>FRStone@aol.com</td><td>unknown</td><td>no</td></tr><tr><td>SSN 564-35-1283</td><td>6945112442</td><td>unknown</td><td>unknown</td><td>no</td></tr><tr><td>SSN 523-25-3232</td><td>6978854645</td><td>dons@earthlink.net</td><td>1243 Main St, Yuba, CA 91331</td><td>yes</td></tr></table><div>Fig. 18d</div></div> <p>This discloses tracking user specific play.</p>                                                                                                                                                                                                  | Citizenship Information | Computer Address             | E-mail Address             | Physical Address | Registered Frequent Player | 469384323FR | 1324597223 | jami@hotmail.com | 3 rue de la Seine, Paris, FR | yes | 3555462NL | 3968736293 | FRStone@aol.com | unknown | no | SSN 564-35-1283 | 6945112442 | unknown | unknown | no | SSN 523-25-3232 | 6978854645 | dons@earthlink.net | 1243 Main St, Yuba, CA 91331 | yes |
|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|------------------------------|----------------------------|------------------|----------------------------|-------------|------------|------------------|------------------------------|-----|-----------|------------|-----------------|---------|----|-----------------|------------|---------|---------|----|-----------------|------------|--------------------|------------------------------|-----|
| Citizenship Information                                                                                              | Computer Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | E-mail Address          | Physical Address             | Registered Frequent Player |                  |                            |             |            |                  |                              |     |           |            |                 |         |    |                 |            |         |         |    |                 |            |                    |                              |     |
| 469384323FR                                                                                                          | 1324597223                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | jami@hotmail.com        | 3 rue de la Seine, Paris, FR | yes                        |                  |                            |             |            |                  |                              |     |           |            |                 |         |    |                 |            |         |         |    |                 |            |                    |                              |     |
| 3555462NL                                                                                                            | 3968736293                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | FRStone@aol.com         | unknown                      | no                         |                  |                            |             |            |                  |                              |     |           |            |                 |         |    |                 |            |         |         |    |                 |            |                    |                              |     |
| SSN 564-35-1283                                                                                                      | 6945112442                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | unknown                 | unknown                      | no                         |                  |                            |             |            |                  |                              |     |           |            |                 |         |    |                 |            |         |         |    |                 |            |                    |                              |     |
| SSN 523-25-3232                                                                                                      | 6978854645                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | dons@earthlink.net      | 1243 Main St, Yuba, CA 91331 | yes                        |                  |                            |             |            |                  |                              |     |           |            |                 |         |    |                 |            |         |         |    |                 |            |                    |                              |     |
| 25. The system for electronic game play of claim 1 wherein the predefined criteria is a predefined prizing criteria. | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of 1[d.ii] is incorporated by reference.</p> <p>A POSITA would recognize that, in using variable parameters to achieve a mandated parameter, such as a win rate or a global payout percentage, the system would necessarily evaluate the recorded win/loss or prizing events as discussed in 1[b.ii], against the predefined criteria such as the existing game structure (e.g., its difficulty as suggested by the win rate) or the existing prize structure (e.g., the amount won to date) to determine whether to continue play under the original set of game play parameters, or to implement a different set of parameters. For example, the notes from the 12/4/02 meeting reflect that the inventors proposed that their invention could raise the global payout percentage “to 75%” – a mandated parameter – by “increas[ing] % of wins by the level 2,” i.e., a secondary game level – a variable parameter. Ex2016. A POSITA would understand this to</p> |                         |                              |                            |                  |                            |             |            |                  |                              |     |           |            |                 |         |    |                 |            |         |         |    |                 |            |                    |                              |     |

|                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                  | <p>disclose determining the selection of a first or second set of variable parameters using a predefined criterion including a prizing structure.</p> <p>As another example, the 12/4/02 Notes disclose ensuring “a certain amount of low tier wins” within “every X plays.” A POSITA would know that achieving that mandated parameter necessarily requires evaluation of the recorded win/loss or prizing events as discussed in 1[b.ii], against the predefined criteria such as the existing game structure (e.g., its difficulty as suggested by the win rate) or the existing prize structure (e.g., the amount won to date) to determine whether to continue play under the original set of game play parameters, or to implement a different set of parameters to ensure the required amount of low tier prizing.</p> |
| 26. The system for electronic game play of claim 1 wherein the predefined criteria is the number of wins.        | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of Claim 25 is incorporated by reference.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 28. The system for electronic game play of claim 1 wherein the predefined criteria is the amount of time played. | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of 1[d.ii] is incorporated by reference. The discussion of Claim 25 is incorporated by reference.</p> <p>The 861 Application discloses games with a history file that “may include various information, such as the number of times the game medium was played, information about how many times the particular player has played, information about different habits of the player, and general information as to what has transpired</p>                                                                                                                                                                                                                                         |

|                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                                                                                                | <p>in the game.” Ex2014 at [00014]. The 861 Application further discloses that the information that may be stored by the system regarding game play includes “the date of play and time of play.” <i>Id.</i> at [00122]. A POSITA would understand this data could be used as a predefined criteria to trigger modification of variable parameters to achieve some mandated parameter, such as a certain win rate over time.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>29. The system for electronic game play of claim 1 wherein the predefined criteria is the number of plays for a player.</p> | <p>In my opinion, a POSITA would conclude the inventors conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of 1[d.ii] is incorporated by reference. The discussion of Claim 25 is incorporated by reference.</p> <p>The 861 Application discloses recording information regarding game play events. The discussion of limitation 1[b.ii] is incorporated by reference. For example, it describes that “[t]he game play server/lottery system would then access the system memory to retrieve the stored information associated with the identification data, such as to determine whether the player wins or loses, and if they win, <b><i>the amount and form of their win.</i></b> The system records would be <b><i>updated to indicate that game play occurred.</i></b>” Ex2014 at [00124].</p> <p>As a further example, the 861 Application discloses that “[s]tatistical processing of survey data or other game play data may be compiled by the system.” <i>Id.</i> at [00126]. This discloses both storing game play events, and analyzing them.</p> <p>The notes of the 12/4/02 meeting identify several examples of mandated parameters that must be achieved by the system as a whole, including a “fair number of low tier prize winners,” “force an</p> |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>even distribution of prizing,” “within every X plays, certain amount of low tier wins,” “guarantee[] the payout,” or increasing the percentage payout of a lottery game. Ex2016. The example of ensuring a “certain amount of low tier wins” “within every X plays.” is a guaranteed win rate – an example of what the 279 Patent calls a “mandated parameter.” <i>See, e.g.</i>, Ex1001 at 5:11-15 (“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.”). The notes also describe an example of guaranteeing a payout percentage (“&gt;50% payout to 75%.”)(Ex2016).</p> <p>A POSITA would recognize that, in using variable parameters to achieve a mandated parameter, such as a win rate, the system would necessarily record the number of wins and non-wins (losses) in order to determine a win rate. A POSITA would understand that by definition a “win rate” reflects the number of game plays out of all game plays that result in a win – with the non-wins representing a loss. As another example, the notes from the 12/4/02 meeting reflect that the inventors proposed that their invention could raise the global payout percentage “to 75%” – a mandated parameter – by “increas[ing] % of wins by the level 2,” <i>i.e.</i>, a secondary game level – a variable parameter. Ex2016. A POSITA would understand this necessarily requires tracking wins and losses, <i>i.e.</i>, the number of plays, to determine a “% of wins”. A POSITA would further understand that the number of plays would be part of the predefined criteria that would be used to trigger modification of the variable game play parameters.</p> |
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge based on the information available to me at this time, and that this declaration was executed on January 12, 2026, in Folsom, CA.



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John Szeder

# Attachment 1

# John Szeder

2184 Red Setter Road, Rocklin, CA, 95765  
(650) 346-6329  
[johnszeder@gmail.com](mailto:johnszeder@gmail.com)

## EXECUTIVE SUMMARY

- Strong mentor, confident communicator, highly motivated worker and rapid learner
- Extensive experience with a wide variety of technologies
- Dynamic team building skills from two decades of company and product launches

## WORK EXPERIENCE

2017 - Current **Director of Engineering**, Zynga, San Francisco, California

- Grew remote studios (Toronto, Austin) with strong hires and reliable leaders
- Established studio leadership training, mentoring relationships and leadership best practices
- Presented Poker structured hiring practices to 80 cross discipline managers
- Filled studio head count quickly with organic hires and strong referrals
- Managed GDPR efforts for Zynga Poker

2016 – 2017 **VP of Customer Success**, Scientific Revenue, San Mateo, California

- Responsible for overseeing customer integrations team
- Maintained django-based ecosystem tools including mobile app store integrations
- Worked with business development to onboard partners, and get content live
- Supervised SDK rebuild, with a massive size and method count reduction

2014 – 2016 **Principal Consultant**, Self Employed, Davis, California

- Consulted for Samsung, Blizzard Entertainment, The Clorox Corporation and many startups
- Managed multiple client/server IC projects concurrently on different platforms
- Established tools pipeline, team hiring practices, and strategic engineering direction as needed

2013 – 2014 **Vice President of Product Development**, PLAYSTUDIOS, Burlingame, California

- Created a sustainable high-volume recruiting pipeline, filling high priority engineering head count.
- Managed team through mobile product launch (50 people, 17 directly)
- Implemented better processes and release plans for the team to sync mobile and web releases
- Established career development plans for key contributors, dramatically reducing churn

2011 – 2012 **Vice President of Engineering**, magi.com (formerly hi5 Networks, Inc.), Emeryville, California

- Managed new product team through reboot after sale of live site assets
- Launched "next gen" social game platform with live partners in four months, included ads, third party auth, payments, and prizing systems
- Transitioned live site assets as part of sale to Tagged.com of hi5.com site

2010 – 2011 **Director of Developer Relations**, hi5 Networks, Inc. San Francisco, California

- Designed features to enhance game play and social relationships between game players
- Closed critical accounts with large social game publishers to validate the hi5 platform
- Published 5-7 games each week, communicating go live dates to marketing, partners, and CS
- Supported pipeline of over 250 developer partners from cold call to close during aggressive launch

2008 – 2010 **Director of New Media**, FaceCake Marketing Technology, Inc. Calabasas, California

- Application development, Firmware integration, Patent work
- 2005 – 2008 **General Manager and CoFounder**, Mofactor, Inc. Davis, California
- Bootstrapped game studio to profitability with multiple top selling games in early mobile
- 2003 – 2004 **Director of Development**, Digital Chocolate, Inc. San Mateo, California
- Employee #3, Educated early staff on how to make mobile, shipped a best-selling launch title
- 2001 – 2003 **General Manager and Founder**, Seismic Studios, Inc. San Francisco, California
- Developed dozens of C++/J2ME games, and tools and frameworks
- 1999 – 2000 **Senior Systems Engineer**, HearMe, Inc. Mountain View, California
- Supported presales team to evangelize and close global partners above quota
- 1997 – 1999 **Senior Software Developer**, AirLink Communications, Inc. San Jose, California
- Developed client/server application in C++ that collects real time vehicle tracking information
- 1996 – 1997 **Software Developer**, Research In Motion, Waterloo, Ontario, Canada
- Designed multi-tasking IP protocol analyzer for a wireless data network to speed development

## EDUCATION

1991 - **Honors Bachelor of Mathematics, Co-op Computer Science**, University of Waterloo,  
1996 Waterloo, Ontario, Canada