

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTIVISION BLIZZARD, INC.

Petitioner

v.

MILESTONE ENTERTAINMENT, LLC

Patent Owner

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

**DECLARATION OF RANDALL KATZ 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, Randall Katz, 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 am one of the inventors named in the 279 Patent owned by Milestone Entertainment, LLC (“Milestone”), which is currently the subject of *Inter Partes* Review No. 2025-00712 initiated by Activision Blizzard. The 279 Patent is part of a family of patents referred to at Milestone as the “variable parameters” or “parameterization” patents.

3. I submit this declaration in support of Milestone’s Response including its effort to antedate U.S. Patent App. Pub. No. 2004/0002369 (“Walker”) (Ex1006), filed on May 1, 2003 and published January 1, 2004. I understand that the Walker reference was asserted as prior art against Milestone’s 279 Patent. As explained more fully below, Walker should not be prior art because my coinventor Gary Dawson and I conceived of the inventions claimed in the 279 Patent at least by December 4, 2002, and worked diligently to reduce the claimed inventions to practice by September 3, 2003, the date of filing the application.

4. I am a 1979 graduate of Yale College with a B.A. in Economics and

Philosophy. I am CEO and Co-Founder of Milestone Entertainment, which I founded in 2000. Prior to founding Milestone, I held several key positions in the entertainment industry at Sony Pictures Columbia Tri-Star Television and at Mark Goodson Productions, the company founded by legendary game show producer Mark Goodson. At Sony, my primary responsibility was to explore and develop commercial opportunities in lottery and gaming.

5. I am also currently Chair of the UCLA Jonsson Cancer Center Foundation Board of Directors, Chair of the Yale Center for Environmental Law and Policy, and I serve on the board of the Tower Cancer Research Foundation.

6. As one of the named inventors, I am personally familiar with the conception and reduction to practice of the claimed inventions. I was also the primary point of contact with David Murphy, our patent lawyer, during the drafting, filing, and prosecution of the Milestone patents, including the 279 Patent. This declaration provides, among other things, an historical account of how Gary Dawson and I conceived of the inventions claimed in the 279 Patent and then worked to file the patent application that led to the Milestone Variable Parameters Patents, including the 279 Patent.

A. U.S. App'n No. 10/123,861/U.S. Patent No. 8,393,946

7. The Milestone Variable Parameters Patents were not the first patents related to gaming that Gary Dawson and I obtained. For example, we are the named

inventors of U.S. App'n No. 10/123,861, which was filed on April 15, 2002 (the "861 Application") (Ex2014), and issued as U.S. Patent No. 8,393,946 (the "946 Patent")(Ex2015). The 861 Application concerned "methods, an apparatus for their implementation, of unique player participation games, and for improved methods of play for games of chance. More particularly, these inventions relate to new and improved games involving player participation in a broadcast medium, such as television, and in other communication media, such as over the Internet or other communications network." Ex2014 at [0001]. One important technique disclosed in the 861 Application was to provide physical lottery systems, like those run by state governments, with a "second chance" play conducted over an electronic system. *See id. at* [0020].

8. One example of the systems and methods claimed in the 861 Application was for a lottery game played in conjunction with remote electronic system accessed over the Internet or other network:

In one of the instant inventions, a game is provided in which the player must communicate electronically with a remote location which contains the information as to whether a player will win or lose the game, and if they win, the prize that they will receive. In one implementation, a lottery game, such as a scratch off lottery game, may include a unique access or Ticket Identification Number (TIN). In order to determine whether the player is a winner, the player must electronically access a remote site. Modes of electronic addressing of the remote site include

internet access, cable access, or access through a conventional communication network such as by a phone. 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.

When implemented in conjunction with a lottery type game, the system utilized consists of the lottery system, such as the online terminals located at various vendor locations, and additionally includes communication paths between the electronic game play path, e.g., via the internet through website game play, and its interaction with the lottery system and its associated database. The lottery processing system may be separate from or integrated with the servers and systems which permit electronic game play. These servers or systems may access information, such as ticket database information, financial data or lottery real-time information.

Id. at [0018], [0019].

9. The 861 Application further explained how this system could be used to enable “second chance” play:

By way of a more specific example, the lottery game may comprise a conventional scratch-off type game, and include a second or auxiliary game with the base game, such as by providing the two games on a given lottery ticket. ***The second game includes at least the provision of TIN number information for the player to electronically access the game play system.*** Optionally, the second game may include a scratch-

off aspect on the same ticket which can reveal variable information, such as whether the ticket will entitle the holder to play the second game, e.g., where, for example, two out of five numbers must match, the prize amount the player will play for in the second game, or other variable factors such as the game to be played or the degree of difficulty of the game. *The player enters their TIN number over the electronic communication system, wherein turn the number is checked for validity and entitlement for game play.* Entitlement for game play may include a determination of whether the TIN number has been previously used. 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 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.

Id. at [0020].

10. In order to enable this kind of remote electronic gaming, we disclosed in the 861 Application a system that included client devices, third party terminals, remote servers and databases, and networks to connect them. Figure 16 of the 861 Application presents one embodiment of such a system:

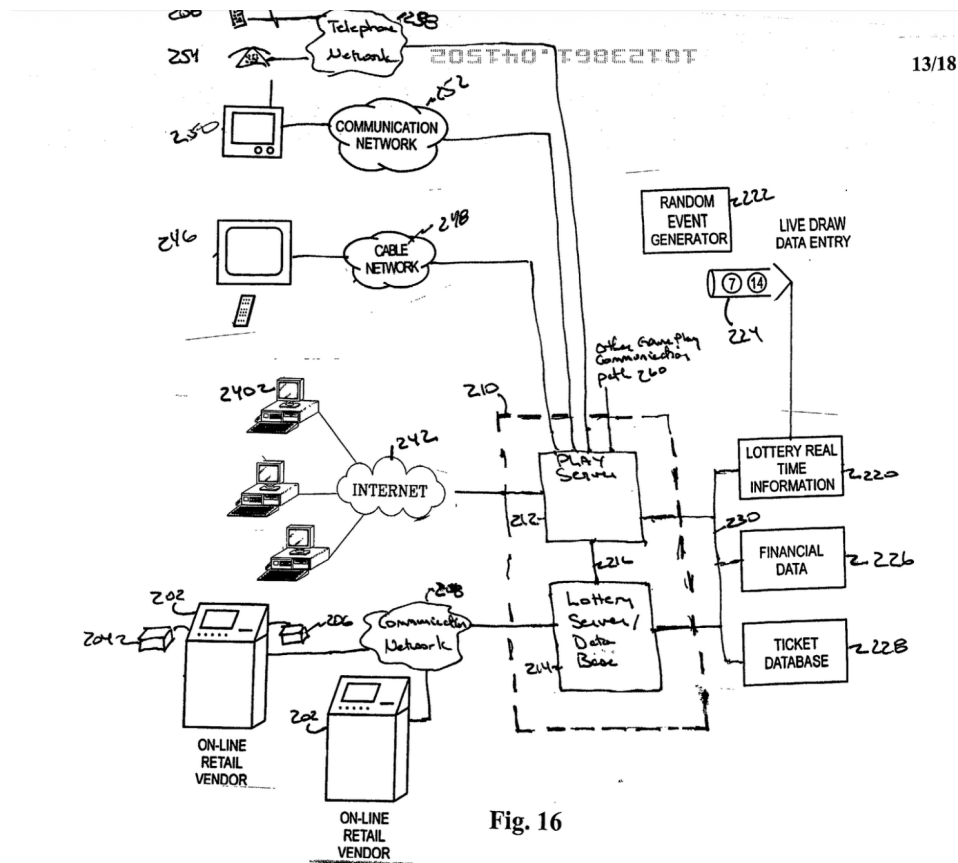


Fig. 16

Ex2014 at Fig. 16.

11. The 861 Application further describes games having a “variable component”, which varies the game structure, such as the game to be played or the difficulty, and can also vary the prizing, such as the prizing amount:

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 *variables may include the prize amount, the game to be played and/or the degree of difficulty* as previously explained. The system database may then be updated to indicate that the game had been played. *The variable information as to the game play is then utilized to conduct game play in accordance with those variables.* Ex2014 at [00125].

12. As this shows, Gary Dawson and I had already conceived of the “variable parameters” described in the Variable Parameters Patents, which are simply parameters that help define a game: its structure, rules, or odds, or its prizing – and the parameter can be varied to affect those things. What we had not done by that time was to connect the use of such variable parameters to achieving a set of objectives for the system, such as a global payout percentage, a win rate, or any other of a number of system-wide objectives. We called these types of parameters “mandated parameters” in the Milestone Variable Parameters Patents.

13. As I describe in more detail below, Gary Dawson and I conceived of the Milestone Variable Parameters Patents as an improvement to the inventions claimed in the 861 Application. As such, we relied on much of the disclosure in the 861 Application as the foundation for our new ideas. In keeping with this, the first of the Milestone Variable Parameters Patents, which issued as U.S. Patent No. 7,798,896 (Ex2003), is a continuation-in-part of the 861 Application. *See* Ex2003 at

1. The 279 Patent at issue here issued as a divisional from the 896 Patent. *See* Ex1001 at 1.

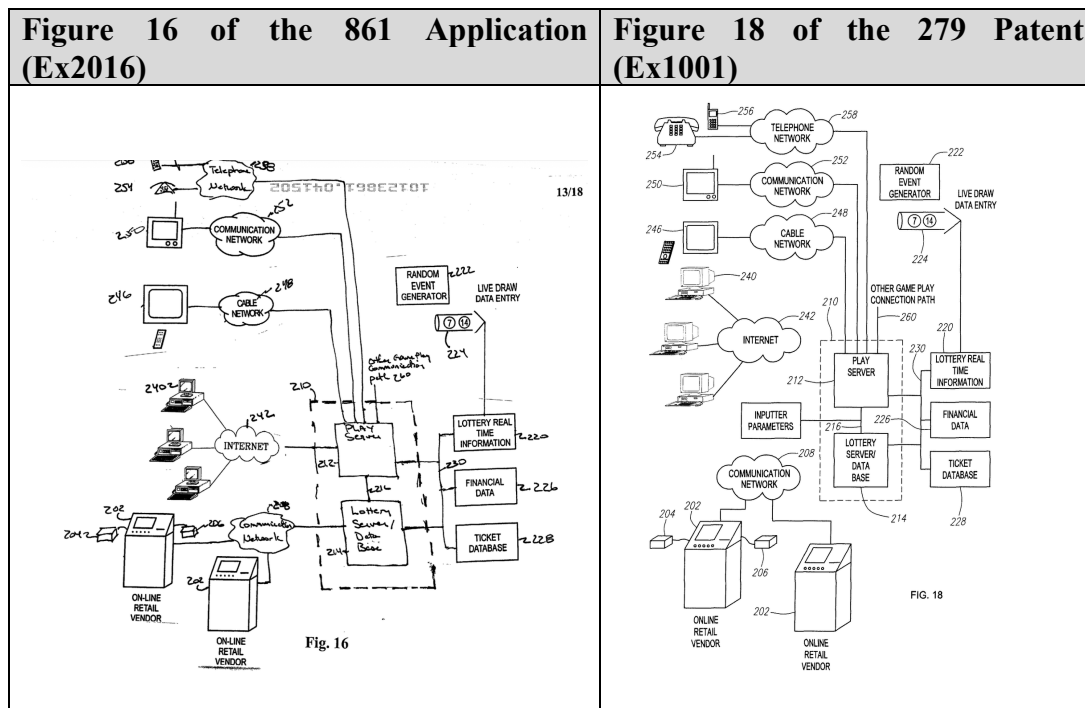
14. Since the Milestone Variable Parameters Patent family builds upon the 861 Application, there are many similarities between the earlier application and the shared specification of the Milestone Variable Parameters Patents.

15. For example, many of the figures are identical:

Figures in 861 Application	Corresponding Figures in 336 and 279 Patents
Fig. 1	Fig. 3
Fig. 2	Fig. 4
Fig. 3	Fig. 5
Fig. 4	Fig. 6
Fig. 5	Fig. 7
Fig. 6	Fig. 8
Fig. 7	Fig. 9
Fig. 8	Fig. 10
Fig. 9	Fig. 11
Fig. 10	Fig. 12
Fig. 11	Fig. 13
Fig. 12	Fig. 14
Fig. 13	Fig. 15
Fig. 14	Fig. 16
Figs. 15a-15b	Figs. 17a-17b
Fig. 17	Fig. 19
Figs. 18a-18e	Figs. 20a-20e
Fig. 19	Fig. 21
Fig. 20	Fig. 22

16. Additionally, Figure 16 of the 861 Application, which depicts an embodiment of the disclosed and claimed system, and Figure 18 of the Milestone Variable Parameters Patents, are almost identical. As shown below, the only addition

in Figure 18 is an “Inputter Parameters” box. That is because we understood that the system described in the 861 Application supplied almost everything needed to support our new ideas concerning using variable game parameters to achieve objectives set for the game (“mandated parameters”). All that was needed was a way for the system to receive the game play parameters, for example from a game operator.



17. As the 861 Application further shows, Gary Dawson and I had also conceived and reduced to practice at least by April 2002 various additional attributes claimed in the Variable Parameters patents, including many aspects of the dependent claims. This includes: association groupings and players’ clubs (Ex2014 at [0021],

[0017], [00121], [00126]); online registration (*id.* at [00117], [00123]); multi-level game play including advancement to other levels (*id.* at [0013], [0027], [0030], [0031], [0062], [0068], [0075]; limiting play to users within a given geographic area (*id.* at [007], [00123]); and wireless communication devices, such as personal digital assistants, which have graphical display capabilities. *Id.* at [0070],[0081], [0099], [00109], [00111], [00116].

B. Conception of the Inventions Claimed in the Variable Parameters Patents

18. In the fall of 2002, Gary Dawson and I conceived of further improvements to our patented gaming inventions. As the 861 Application shows, we had consistently been interested in creating improved games “having a higher level of audience interest and potential participation” and to “provide for enhanced modes of game play in association with existing forms of game play.” Ex2014 at [0038]. The problem we sought to solve in our new patents was how to maintain engagement and provide entertaining games, while still ensuring that desired objectives set by the game operator were achieved, whether that objective was a certain payout percentage (high or low), a certain win rate, or a certain level of engagement with a game player, such as a number of repeat plays, money spent, or time spent playing a game. We were quite aware that the interest of the game operator and the players could be at odds, and result in games that were not enjoyable for the player or did not create lasting engagement with the game. A good example of this problem was

the lottery, which was initially our primary market target. Perhaps because of the strict payout requirements for the lottery, the then-existing lottery games were of generally poor quality and not engaging.

19. As discussed above, we had already conceived of games with “variable components” such as “the prize amount, the game to be played and/or the degree of difficulty.” Ex2014 at [00125]. In our system, that “variable information as to the game play is then utilized to conduct game play in accordance with those variables.” *Id.* One of our insights was that we could use these variable components in conjunction with our gaming system to achieve the game operator’s objectives by inputting those objectives into the system, and monitoring game play to determine whether they are being met. If such monitoring showed that some change to the game was called for so that the game operator’s objectives could be met, then the system could modify the variable game information, such as the game’s rules, odds, difficulty, or prizing, in order to meet the game objectives. This could be done in a way that maintained or promoted player engagement – by, for example, awarding more prizes but of lower individual value, or by awarding a bonus level, or by forcing a player “win.”

20. Gary Dawson and I then arranged to meet with David Murphy, our patent prosecutor, to obtain patent protection for our ideas. The first meeting to discuss our next patent occurred on December 4, 2002. I have reviewed David

Murphy's notes from our December 4, 2002 meeting (Ex2016), and they accurately reflect my own recollection of our discussion. We also supplied David Murphy with a slide deck with an exemplary game, titled "Perfect 10" (Ex2005), that we discussed at the meeting and is described in the specification of the Variable Parameters Patents.

21. As we described in the specification of the Variable Parameters Patents, we created the "Perfect 10" game as an example of how our gaming system could vary the parameters of a game, for example the prizing structure, to achieve a predefined outcome:

By way of example, the probability of an 8, 9 or 10 in Perfect 10 'should be' 40%. Game play may be selected such that a 'win' occurs at that frequency. The predefined prizing structure may then be achieved in the secondary prizing phase. *Alternately, the frequency of a result qualifying a player for entry into the secondary prizing phase may be greater than the real world probability.* In the example of Perfect 10, the revealed numbers in the first phase of the game may 'win' more than 40% of the time (i.e., there is a percentage of events that qualify the player to enter the second, prizing phase which is greater than the real world percentage). *The prizing phase then corrects the prizing result to achieve the predefined outcome.*

Ex1001 at 39:53-65.

22. As the notes from the December 4, 2002 meeting reflect, we described to Mr. Murphy our ideas to enhance game play by varying game outcomes, structure,

or prizing to ensure some result set by the game operator, such as a “fair number of low tier prize winners,” “force an even distribution of prizing,” “within every X plays, a certain amount of low tier wins,” “guarantee[] the payout,” or increasing the percentage payout of a lottery game. Ex2016.

23. As reflected in the meeting notes, we described to Mr. Murphy the concept of a GLEPS, or Guaranteed Low-End Prizing Structure. GLEPS was a well-known prizing structure for lotteries – in particular, “scratch-off” lottery games. In a GLEPS structure, a certain number of “wins,” typically comprising lower-value prizes, are guaranteed across a given number of plays. The example we provided to Mr. Murphy was that in a 100-ticket packet of scratch-off lottery tickets, each costing \$1, the operator guaranteed “at least \$50 of wins.” Ex2016. As the notes further reflect, we then described that one aspect of the problem we were attempting to solve was “[h]ow to translate that” – GLEPS – into “Internet or SMS”. *Id.* The notes reflect our proposed solution as described above, which could, for example, “force an even distribution of prizing” across an arbitrary number of game plays – in effect, a “virtual GLEPs” *Id.* As the notes reflect, we conceived of a system in which there could be a “virtual stack” of lottery tickets, for example, “not limited to 100.” Within that virtual stack of games, for example, the system could ensure a “a certain amount of low tier wins” within “every X plays.” *Id.* That is a guaranteed win rate – an example of what we called in the patents a “mandated parameter.” As the notes

reflect, we characterized such a system as “[e]very player is entitled to his virtual GLEPS system,” *id.* at 2, by which we meant that our new invention could provide every player with a certain guaranteed payout of prizes across their game play.

24. As the meeting notes additionally reflect, we discussed with Mr. Murphy that the new system could be used to “>50% payout to 75%.” *Id.* 50% was in my understanding the typical global payout for lottery games. We proposed that our invention could raise this global payout “to 75%” – a mandated parameter – by “increas[ing] % of wins by the level 2,” *i.e.*, a secondary game level. *Id.* As the notes reflect that in such circumstances, we discussed that the game outcomes may need “to be predetermined,” or forced, as “that guarantees the payout.” *Id.* Elsewhere, the notes of the December 4, 2002 meeting reflect that the system could force certain outcomes to achieve a global payout or some other goal, including “force an even distribution of prizing,” and “ensure that w/in every X #” of plays, “the %” was reached. *Id.* At the meeting, we agreed with Mr. Murphy to draft and file a new patent application to protect these inventions.

C. Drafting and Filing Of First Variable Parameters Patent Application

25. Shortly after meeting with Mr. Murphy in December 2002, I experienced a major health crisis. At the beginning of January 2003, I noticed a lump in my neck. I went to my doctor on January 6. It was a swollen lymph node. He took a series of blood tests and put me on a course of antibiotics.

26. I returned to see my physician later that month. There was no improvement. At this point, there became an urgency to confirm a diagnosis, and the volume of medical appointments began to increase significantly. There were more blood tests, and the doctor scheduled a “fine needle biopsy” (FNA) to be performed in his office. I was referred to a pulmonologist for an opinion. The FNA that showed that the test yielded no results. The next step was to schedule a surgical biopsy with the Head and Neck department at UCLA. Appointment with the surgeon was scheduled for February 20, pre-op with the anesthesia team on March 3, and surgery on March 18.

27. During the period from the beginning of January to the surgery, I maintained a robust schedule of travel and meetings. I was in Quebec, Boston, London, Paris, Amsterdam, and Tokyo.

28. Results from the biopsy came in on March 25, and at that point my world was turned upside down. I was diagnosed with acute t-cell lymphoblastic lymphoma, a very rare and aggressive cancer. See <https://www.cancer.org/cancer/types/non-hodgkin-lymphoma/treating/t-cell-lymphoma.html>. Naturally, I immediately prioritized my treatment and recovery from this life-threatening illness. My first appointment with the oncologist was a day later, followed by several additional appointments, a CT scan and a bone marrow biopsy.

29. I was admitted to the UCLA hospital on April 1 to begin the first of 8 courses of an intensive chemotherapy protocol called Hyper-CVAD, which lasted throughout the remainder of 2003. See <https://www.macmillan.org.uk/cancer-information-and-support/treatments-and-drugs/hyper-cvad>. Each course of therapy required 3 to 4 days in the hospital, with 3 weeks in between each cycle. Through September 2003 and onward, treatment, and recovery from the treatment, became my new full-time job, 24 hours a day, seven days a week.

30. The treatment cycle consisted of the following:

- **Course A (Cycles 1, 3, 5, 7):**
 - **Cyclophosphamide:** Given as two infusions daily on Days 1, 2, and 3, along with a bladder protectant drug called mesna.
 - **Dexamethasone:** A steroid given on Days 1-4 and Days 11-14.
 - **Vincristine:** Given on Days 4 and 11.
 - **Doxorubicin (Adriamycin):** Given on Day 4.
- **Course B (Cycles 2, 4, 6, 8):**
 - **Methotrexate:** Given as a 24-hour infusion on Day 1. This requires subsequent administration of leucovorin (folinic acid) rescue until methotrexate levels in the blood are safe.
 - **Cytarabine:** Given as two infusions daily on Days 2 and 3.

31. The drugs were initially administered in the hospital through a central line (PICC). However following the first cycle, it became infected. I required a surgical procedure to install a “port-a-cath,” which is an under the skin catheter.

32. Immediately following each cycle, I required daily injections of

Neupogen for 7 days. This was to help reduce the duration of neutropenia (low white blood count) which is a very common and expected severe side effect. During this period, one is extremely susceptible to infections and fever. Any fever over 100 required hospitalization, so I was constantly monitoring myself.

33. During this time, I was also given antibiotics and antifungal medicines. I also required nearly daily blood tests.

34. In addition to the aforementioned chemotherapy regimen, I also required 6 intrathecal injections. This is to inject chemotherapy directly into the spinal fluid via a lumbar puncture. This was done using x-ray guidance (fluoroscopy) for precise placement. Some of these occurred during my days in the hospital and some required a separate appointment. A major side effect of these is severe headaches, which could be greatly reduced if I remained in bed for 6 to 8 hours.

35. Hyper-CVAD is associated with significant toxicity. I was fortunate that nausea was well controlled. However, other side effects increased over the course of treatments. I required several blood transfusions during the period between treatments. The 3-week period in between hospital treatments is supposed to be enough time for blood counts to get back to normal. However, after each cycle it took longer and longer for the counts to normalize.

36. Fatigue increased with each cycle as well. Mucositis is a common and painful side effect of Hyper-CVAD. This results in mouth sores which can't be easily

treated. Morphine provided the only relief.

37. I had one hospitalization (apart from treatment) due to an infection in the port-a-cath. This required IV antibiotics. Once I got home, I needed to continue on IV antibiotics for several days. In addition to the regular blood tests in between treatments, there were CT scans, PET scans and bone marrow biopsies. There were also Epogen (Procrit) injections to increase low red blood cell counts (anemia.)

38. Following the intensive cycles of treatment, I was put on a maintenance regimen in late September 2003 to prevent relapse and maintain remission achieved during the initial treatment phases:

- **Mercaptopurine (6-MP):** 50 mg orally, three times daily
- **Methotrexate (MTX):** 20 mg/m² orally, once per week
- **Prednisone/Dexamethasone:** 200 mg orally for 5 days, monthly

39. During this latter period, many of the side effects began to lessen, and my hair, which had completely disappeared, began to regrow. I still required weekly blood tests and doctor visits, and regular scans. At this point, things began to slowly return to normal.

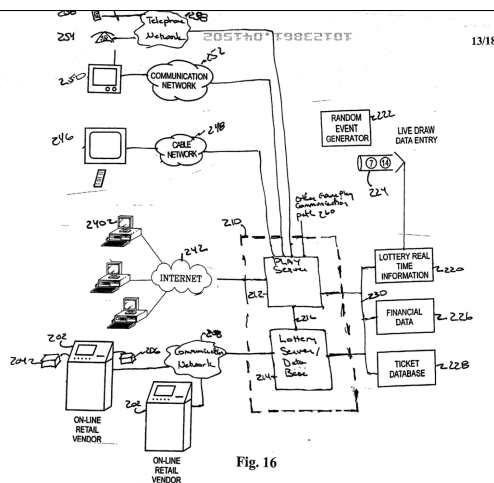
40. My illness, and the therapy regimen I've described above, made it very difficult for me to do anything other than undergo treatment, and then recover from it – including working on our new patent application. When I did have time available, I frequently felt too unwell to work. Nonetheless, during this period, I worked with Mr. Murphy as often as I could, and for as long as I could, in view of my health and

treatment regime. I have reviewed Mr. Murphy’s declaration and description of our meetings during that period from his billing records, and they align with my own recollection. The first patent application based off of the December 4, 2002 disclosure was filed September 2, 2003, as SN 10/654,585; this was just as I was completing my initial course of chemotherapy.

D. Conception and Reduction To Practice of Limitations of Challenged Claims

41. Below, on a limitation by limitation basis, I set out when Gary Dawson and I first conceived of the challenged claims of the 279 Patent, along with the corroborating support I am aware of.

279 Patent Challenged Claims	Evidence Demonstrating Conception By December 4, 2002
<p>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:</p>	<p>My coinventor Gary Dawson and I 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 engine (a “play server”). Figure 16 and its accompanying description disclose such a system:</p>



Ex2014.

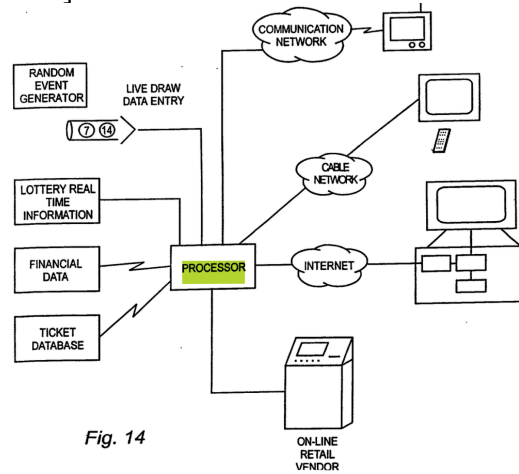
“[00115] Fig. 16 is a schematic and block diagram of one version of the system for implementing game play of the form described herein. Original vending of the tickets may proceed through any number of channels. For example, an online retail vendor unit 202 may be utilized when a computer generated play 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 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*

	<p><i>scanning system. 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 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.”</i></p>
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	<p>The 861 Application discloses game play with communication devices having an input and an output responsive to that input:</p> <p>“[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>”</p> <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. <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> For example, a computer mouse, voice</p>
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	<p>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. <i>The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification number.</i> 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>
[1a] a processor,	<p>My coinventor Gary Dawson and I conceived of this limitation no later than April 15, 2002. For example, the 861 Application discloses a system with a processor and memory.</p> <p>“[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</p>

[00111].”



“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 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

	<p>number has been utilized in the electronic game play. 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 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</p>
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	<p>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>My coinventor Gary Dawson and I conceived of this limitation no later than April 15, 2002. I incorporate by reference the discussion of limitation 1[a].</p> <p>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 types of data fields and particular data which may be <i>stored within the system.</i>”). 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</p>

	<p>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>[1.b.i] store mandated and programmable variable parameters for use in the course of game play,</p>	<p>My coinventor Gary Dawson and I conceived of this limitation no later than December 4, 2002.</p> <p>The notes of our 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 (“>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>I understand that Petitioner’s expert Mr. 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. I agree with him.</p>

	<p>In connection with the 861 Application, by April 15, 2002 we 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 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. <i>The system would then access memory utilizing the identification number to determine the variables associated with that ticket identification</i></p>
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	<p><i>number. Such 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>While that example relates to “variable components” of games, it shows we understood our system can receive a parameter set and implement it. Moreover, as the 279 patent explains, variable parameters and mandated parameters could be interchangeable depending on context. As the specification of the Variable Parameters Patents explains,</p> <p><i>“Parameters may in one context be a ‘mandated’ parameter and yet in another context a ‘variable’ parameter.</i> 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 <i>rather, the system determines to utilize a GLEPS type structure as a variable parameter.</i> To the extent that the 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. <i>What is a ‘mandated’ parameter in one game may be a ‘variable’ parameter in another, and vice versa.</i>” Ex1001 at 15:57-16:2.</p> <p>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,</p>
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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	\$500.00		04/23/02	No
65432983	LOTO	\$500.00		Open	Yes
65432984	LOTO	0	Free Play	Open	Yes

Fig. 18a

In addition, the 861 Application further discloses storing game parameters in memory, including information on outcomes, and prizing:

“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. *The game play server/lottery system would then access the system memory to retrieve*

	<p><i>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.” Id. at [00124].</i></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 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, shows that we understood that the system can receive a parameter set and store it in memory.</p> <p>I understand that Petitioner’s expert Mr. Crevelt has stated that a POSITA would have understood, in light of a disclosure of a server with memory,</p>
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	that such a server “is used to process and store information in its memory, including the mandated parameters.” Ex1003 at ¶94. I agree with him.
[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>My coinventor Gary Dawson and I 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 (“>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>I understand that Petitioner’s expert, Mr. 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</p>

	<p>21:18-24:24 (win rates). <i>See also</i> Ex1003 at ¶131.</p> <p>In connection with the 861 Application, by April 15, 2002 we 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 April 15, 2002 claims. <i>See</i> Ex2014 at Claims 23-29.</p>
[1.b.ii] record game play information regarding particular game play events, and	<p>My coinventor Gary Dawson and I 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</p>

	<p>associated with the identification data, such as to determine whether the player wins or loses, and if they win, <i>the amount and form of their win</i>. 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 <i>stored within the system</i>.”). 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>
<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>My coinventor Gary Dawson and I 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</p>

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.

The 861 Application further discloses storing in memory player identification information and the amount of player points.

“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 person is a frequent player, and if so, the number of points they possess.” *Id.* at [00123].

Frequent Player Points	Form of Compensation	Acknowledgment Number
13244	Cash	4220263541000voke
0	Airline Miles	164777538865
0	Further Game Play	164777538866
103	Cash	164777538867

Fig. 18e

	<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>
[1.c] a play engine coupled to the memory and operating with the processor to:	<p>My coinventor Gary Dawson and I 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 engine (a “play server”). Figure 16 and its accompanying description disclose such a system:</p>

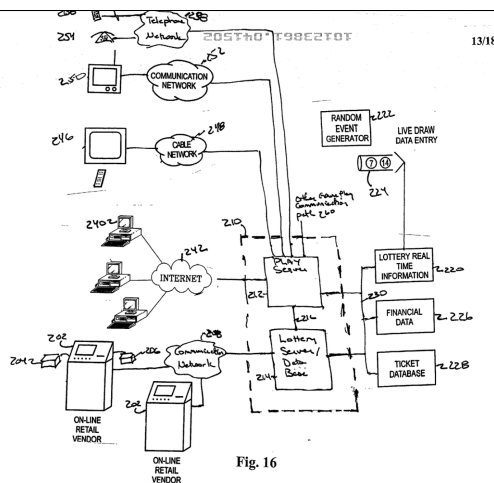


Fig. 16

Ex2014.

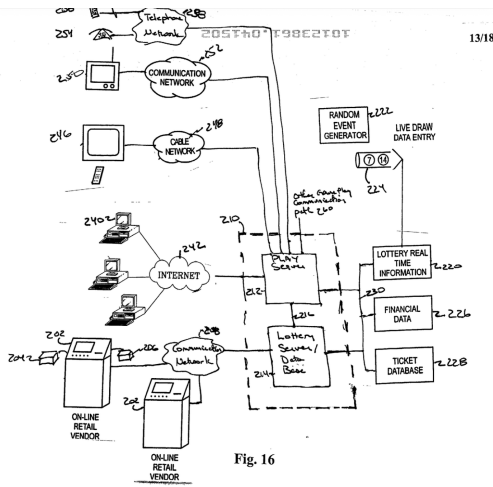
“[00115] Fig. 16 is a schematic and block diagram of one version of the system for implementing game play of the form described herein. Original vending of the tickets may proceed through any number of channels. For example, an online retail vendor unit 202 may be utilized when a computer generated play 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 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*

	<p><i>scanning system. 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 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.”</i></p>
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	<p>We recognized 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>My coinventor Gary Dawson and I conceived of this limitation no later than April 15, 2002.</p> <p>In connection with the 861 Application, by April 15, 2002 we 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 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>My coinventor Gary Dawson and I conceived of this limitation no later than April 15, 2002.</p> <p>In connection with the 861 Application, by April 15, 2002 we 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 and implemented by the system. We understood that the applicable parameters (difficulty, prizing, etc.) would be “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>
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	<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>My coinventor Gary Dawson and I 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 we 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 we 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> ¶¶7-24. 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, we understood 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 we discussed that our 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. In my view, 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</p>

	discussion of 1[c.i-ii] is incorporated by reference.
[1.d] a decision engine coupled to the memory and operating with the processor to:	<p>My coinventor Gary Dawson and I 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 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</p>

	<p>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 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</p>
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	<p>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>We recognized 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>
[1.d.i] (i) analyze game play as a function of the recorded information regarding particular game play events, and	<p>My coinventor Gary Dawson and I 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>
[1.d.ii] (ii) determine the selection of the first or second programmable variable parameter sets utilizing the recorded game play information with predefined	<p>My coinventor Gary Dawson and I 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 we had conceived of a system</p>

<p>criteria including at least one of: a game structure and a prizing structure,</p>	<p>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 (“>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>We understood 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</p>
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	<p>parameters. For example, the notes from the 12/4/02 meeting reflect that we discussed that our 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. We understood this meant 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.” We understood 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>My coinventor Gary Dawson and I 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. 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</p>

	<p>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 <i>dynamic</i>, 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, <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 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 <i>stored within the system</i>.”). Similarly, the 861</p>
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	<p>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><i>Fig. 18e</i></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
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>My coinventor Gary Dawson and I conceived of this limitation no later than April 15, 2002.</p> <p>The 861 Application discloses game play with communication devices having an input to receive player input:</p> <p>“[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</i></p>															

	<p><i>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></p> <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. <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> 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>
3. The system for electronic game play of claim 1 wherein the player's club information includes information on non-cash items.	<p>My coinventor Gary Dawson and I 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</p>

	<p>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> <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>
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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 person is a frequent player, and if so, the number of points they possess.” *Id.* at [00123].

Frequent Player Points	Form of Compensation	Acknowledgment Number
13244	Cash	4220263541000c0ke
0	Airline Miles	164777538865
0	Further Game Play	164777538866
103	Cash	164777538867

Fig. 18e

<p>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>	<p>My coinventor Gary Dawson and I 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, ranging from low resolution to normal resolution to high resolution."</p> <p>Ex2014 at [00116].</p> <p>We understood at the time 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</p>	<p>My coinventor Gary Dawson and I conceived of this limitation no later than April 15, 2002.</p>

<p>the first set and second set of variable parameters utilize game play information across multiple users devices.</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.” 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>” 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 whether the player wins or loses, and if they win, <i>the amount and form of their win.</i> 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 <i>stored within the system.</i>”). 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]. Figure 18d, for example, shows that game play information is recorded for multiple users.</p>
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	<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> <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. We understood 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. As reflected in the discussion of global payout percentages and win rates in the December 4, 2002 notes, we understood that this concept encompassed win rates and global payout percentages for the gaming system as a whole – across all users. This again necessarily entails assessment of multiple users’ 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
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SSN 523-25-3232	6978854645	dons@earthlink.net	1243 Main St, Yuba, CA 91331	yes																						
6. The system for electronic game play of claim 1 wherein the game play information includes information on a loss.	<p>My coinventor Gary Dawson and I 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, <i>the amount and form of their win.</i> 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 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 (“>50% payout to 75%.”)(Ex2016).</p> <p>We recognized 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. We further understood 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 we proposed that our invention could raise the global payout percentage “to 75%” – a mandated parameter –</p>
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	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”.
7. The system for electronic game play of claim 1 wherein the game play information includes information on a series of outcomes.	My coinventor Gary Dawson and I conceived of this limitation no later than December 4, 2002. The discussion of Claim 6 is incorporated by reference.
8. The system for electronic game play of claim 1 wherein the game play information includes information on the number of wins.	My coinventor Gary Dawson and I conceived of this limitation no later than December 4, 2002. The discussion of Claim 6 is incorporated by reference.
9. The system for electronic game play of claim 1 wherein the game play information includes information on a first game play event.	My coinventor Gary Dawson and I conceived of this limitation no later than December 4, 2002. The discussion of limitation 1[b.ii] and Claim 6 is incorporated by reference.
13. The system for electronic game play of claim 1 wherein the game play information includes information tracking the users play.	My coinventor Gary Dawson and I conceived of this limitation no later than December 4, 2002. The discussion of limitation 1[b.ii] and Claim 6 is incorporated by reference.
17. The system for electronic game play of claim 1 wherein the prizing structure is modified by modifying bonus prizing.	My coinventor Gary Dawson and I conceived of this limitation no later than April 15, 2002. For example, the 861 Application discloses variable parameters relating to modifying bonus prizing: “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> ” 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>	<p>My coinventor Gary Dawson and I 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 or services as a prize), the amount of the prize, or some other factor such as a multiplier of a prize amount. 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>My coinventor Gary Dawson and I 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</p>

	<p>they win, <i>the amount and form of their win</i>. 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 <i>stored within the system</i>.”). Similarly, the 861 Application discloses that “[o]ne data field” that may be stored “may indicate <i>simply whether the person is a frequent player, and if so, the number of points they possess</i>.” <i>Id.</i> at [00123]. Figure 18d, for example, shows that game play information is recorded for multiple users.</p> <div style="text-align: center;"><p>16/18</p><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><p>Fig. 18d</p><p>This discloses tracking user specific play.</p></div>	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
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25. The system for electronic game play of claim 1 wherein the predefined criteria is a predefined prizing criteria.	<p>My coinventor Gary Dawson and I conceived of this limitation no later than December 4, 2002.</p> <p>The discussion of 1[d.ii] is incorporated by reference.</p> <p>We understood 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</p>																									

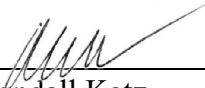
	<p>parameters, or to implement a different set of parameters. For example, the notes from the 12/4/02 meeting reflect that we proposed that their invention could raise the global payout percentage “to 75%” – a mandated parameter – by “increas[ing] % of wins by the level 2,” <i>i.e.</i>, a secondary game level – a variable parameter. Ex2016. We understood 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.” We understood 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>My coinventor Gary Dawson and I 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>My coinventor Gary Dawson and I 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 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]. We understood 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>My coinventor Gary Dawson and I 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, <i>the amount and form of their win.</i> The system records would be <i>updated to indicate that game play occurred.</i>” Ex2014 at [00124].</p> <p>As a further example, the 861 Application discloses that “[s]tatistical processing of survey</p>

	<p>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 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 (“>50% payout to 75%.”)(Ex2016).</p> <p>We understood 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. We also understood 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 we 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. We understood this necessarily requires</p>
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	tracking wins and losses, <i>i.e.</i> , the number of plays, to determine a “% of wins”. We further understood 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.
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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 Beverly Hills, CA.



Randall Katz