

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY ONLINE ENTERTAINMENT LLC,
BLIZZARD ENTERTAINMENT, INC., AND BACKFLIP STUDIOS, LLC
Petitioners

v.

AGINCOURT GAMING, LLC
Patent Owner

Case No. TBD
U.S. Patent No. 8,454,432

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 8,454,432**

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I. INTRODUCTION

Petitioners Sony Online Entertainment LLC, Blizzard Entertainment, Inc. and Backflip Studios, LLC (“Petitioners”) request an *Inter Partes* Review (“IPR”) of claims 1-7, 10-18, 22-24, and 26-47 (collectively, the “Challenged Claims”) of U.S. Patent No. 8,454,432 (“the ‘432 Patent”) issued on June 4, 2013 to Matthew F. Kelly, *et al.* (“Applicants”). Exhibit 1001, *‘432 Patent*.

II. REQUIREMENTS FOR INTER PARTES REVIEW UNDER 37 C.F.R. § 42.104

A. Grounds for Standing Under 37 C.F.R. § 42.104(a)

Petitioners certify that the ‘432 Patent is available for IPR and that the Petitioners are not barred or estopped from requesting IPR challenging the claims of the ‘432 Patent. Specifically, Petitioners state: (1) Petitioners are not the owner of the ‘432 Patent; (2) Petitioners have not filed a civil action challenging the validity of any claim of the ‘432 Patent; and (3) this Petition is filed less than one year after any Petitioner was served with a complaint alleging infringement of the ‘432 Patent.

B. Identification of Challenge Under 37 C.F.R. § 42.104(b) and Relief Requested

In view of the prior art, evidence, and claims charts, the Challenged Claims of the ‘432 Patent are unpatentable and should be cancelled. 37 C.F.R. § 42.104(b)(1).

1. The Grounds For Challenge

Based on the prior art references identified below, IPR of the Challenged Claims should be granted. 37 C.F.R. § 42.104(b)(2).

Proposed Statutory Rejections for the ‘432 Patent	Reference Exhibit No.
Claims 1-7, 26-31, 35, 42, 43 and 47 are anticipated under §102(e) by U.S. Patent No. 5,618,232 to Martin (“Martin”)	1002
Claims 1-5, 7, 11, 26-35 and 42-47 are anticipated under §102(e) by U.S. Patent No. 5,811,272 to Lucero (“Lucero”)	1002, 1004
Claims 12-14, 16-18, 23-24, 36-38 and 40-41 are obvious under §103(a) over Kelly ‘490 in view of Heckel (“Heckel”)	1005, 1006
Claims 12-18, 22-24 and 36-41 are obvious under §103(a) over Lucero in view of Heckel	1004, 1006
Claim 10 is obvious under §103(a) over Lucero	1004
Claims 4-7 and 29 are obvious under §103(a) over Martin	1002
Claims 1-5, 7, 10, 11, 22, 26-35 and 42-47 are obvious under §103(a) over Lucero in view of Martin	1004, 1002
Claims 1-5, 7, 10-18, 22-24 and 26-47 are obvious under §103(a) based on an obvious modification to Martin	1004
Claims 1-7, 26-31, 35, 42, 43, and 47 are obvious under §103(a) based on an obvious modification to Martin	1002
Claims 1-5, 7, 26-31, 35, 42, 43 and 47 are obvious under §103(a) by U.S. Patent. No. 5,539,450 to Handelman (“Handelman”)	1003

Section IV identifies where each element of the Challenged Claims is found in the prior art patents as identified by the corresponding exhibit numbers. 37 C.F.R. § 42.104(b)(4); 37 C.F.R. § 42.104(b)(5). **Exhibits 1001 – 1016** are also attached.

2. Claim Construction Under 37 C.F.R. § 42.104(b)(3)

A claim subject to IPR receives the “broadest reasonable construction in light of the specification of the patent in which it appears.” 37 C.F.R. § 42.100(b). Unless otherwise noted below, Petitioners propose, for purposes of IPR only, that the claim terms of the ‘432 Patent are presumed to take on their ordinary and customary meaning that the term would have to one of ordinary skill in the art. The claim construction

analysis is not, and should not be viewed as, a concession by Petitioners as to the proper scope of any claim term in any litigation. These assumptions are not a waiver of any argument in any litigation that claim terms in the '432 Patent are indefinite or otherwise invalid. For example, Petitioners note that certain claims appear to be directed to ineligible subject matter under 35 U.S.C. § 101.

(a) “prize” (claims 31, 35, 37, 41, 43, 47)

The '432 Patent states: “The term ‘prize’, as used herein, is intended to generically refer to any merchandise, souvenir, food item, game credits or other physical goods or services which can be offered to players of redemption games which may have value other than as a medium of exchange for use in the gaming environment. A radio, stuffed animal, toy model, coupon for monetary value outside the gaming environment, gift certificate, cash, and free games to be played on game apparatus are all examples of ‘prizes.’” Ex. 1001 at 13:1-10. Petitioners submit that the broadest reasonable interpretation of “prize” must include such description.

(b) “award” (claims 30, 35, 36, 41, 42, 47)

Petitioners submit that under the broadest reasonable interpretation, the term “award” should include, but not be limited to, “prizes” and “prize credits.” *See, e.g.*, Ex. 1001 at 4:2-6 (“... winning prizes or other types of awards”); 3:25-27 (“prize database server 104 also tracks a number of prize credits awarded the user”).

(c) “prize credits” (claims 32, 35, 38, 41, 44, 47)

The ‘432 Patent states: “Prize credits’ differ from a ‘prize’ since they can be used to redeem other types of prizes.” *Id.* at 13:14-15. Petitioners submit that the broadest reasonable interpretation of the term “prize credits” in light of this description must include at least items that can be used to redeem other types of prizes.

3. Level of Skill of a Person Having Ordinary Skill in the Art

A person having ordinary skill in the art at the time of the ‘432 Patent would have a bachelor’s degree in computer science or computer engineering, or in a related field, with 2-4 years of experience in designing or developing network-based user-interactive systems. Experience and technical training may substitute for educational requirements, while advanced degrees may substitute for experience. *See* Ex. 1007, *Crevelt Declaration*, at ¶¶15-16.

III. OVERVIEW OF THE ‘432 PATENT

A. Description of the Alleged Invention of the ‘432 Patent

The ‘432 Patent generally relates to methods associated with a network gaming system. Ex. 1001, *‘432 Patent* at Abstract. The ‘432 Patent claims three related methods. The methods generally involve requesting game credits (in exchange for legal currency in some instances) to be used in a network gaming system and depositing the credits in the account of a user. *Id.* at 9:66-10:2, 10:11-12. The claims further describe that a user can obtain “prize credits” based on the outcome of gameplay. *Id.* at 3:23-27, 5:14-16. Also claimed by the ‘432 Patent is that a user may request from a server a list of items that can

be purchased with prize credits. *Id.* at 16:51-54. The user's account is debited as a result of any such redemption. *Id.* at 16:67-17:2.

B. Summary of the Prosecution History of the '432 Patent

The application (13/315,465) that issued as the '432 Patent was filed on December 9, 2011 ("465 Application") with 30 claims purported to claim priority back to U.S. Patent 5,816,918, which was filed on November 14, 1996. Ex. 1008, *'432 Patent File History*. On May 2, 2012 the PTO rejected all but claim 10 of the '465 Application as obvious over U.S. Patent 5,779,549 ("Walker") in view of U.S. Patent 5,774,870 ("Storey"). In response, Applicant amended claim 1 and argued that there was no motivation to combine the references. *Id.* at *July 30, 2012 Response*.

However, the PTO again rejected all claims, finding claim 12 indefinite because the specification did not describe a "game client." *Id.* at *Nov. 21, 2012 Rejection* at 2-3. The examiner also rejected many of the claims under §102 as anticipated by U.S. Patent No. 5,768,382 ("Schneier"), *id.* at 3-7, as obvious over Schneier in view of Storey, and as anticipated by U.S. Patent 5,083,271 ("Thacher"). *Id.* at 10-14. Claims 14, 20 and 25 were rejected as obvious over Thacher in view of Walker. *Id.* at 15-16.

In addressing the §112 rejection based on "game client," Applicants stated that the term was meant to apply to client side software and amended the claims accordingly to claim "game client software." *Id.* at *Feb. 21, 2013 Response*, p. 8-9. In response to the Thacher rejection, Applicants argued that Thacher did not teach transmitting the "game client software." *Id.* at 14. Applicants also amended claim 1 to incorporate the limitations

of claim 7 to overcome the prior art. *Id.* at 9. Applicants characterized Schneier as utilizing a central computer as a way to authenticate game outcomes and not as a “server.” *Id.* at 10. Applicants argued that Schneier does not teach debiting an account of a user because there is no “account of the user” as evidenced by the user having to go back to a central computer when he runs out of credits. *Id.* at 11-12. Finally, Applicants argued that Schneier could not be combined with Storey because Storey was directed to an incentives program and there was no rationale provided for the combination. *Id.* at 13.

On March 18, 2013, the examiner issued a Notice of Allowance, which noted a conversation between examiner and Applicants’ attorney occurred on March 7-8, 2013, authorizing an examiner’s amendment entered with the Notice of Allowance. *Id.* at *March 18, 2013 Examiner’s Amendment*, p. 2. The Examiner’s Amendment changed all claims to recite a new term, “item,” instead of “award.” *Id.*

Applicants filed an amendment after the Notice of Allowance that added claims 31-48. *Id.* at *March 22, 2013 Amendment*, p. 2-6. The stated reasoning was that they were dependent claims that could not have been added earlier because the limitations “selection of items” and “plurality of items” were not present until the Examiner’s Amendment. *Id.* at 9-10. The ‘432 Patent issued on June 14, 2013.

C. The Earliest Possible Priority Date for Claims 12-25 and 36-41 of the ‘432 Patent is November 3, 1999

The ‘432 Patent claims priority to and shares an identical specification with U.S. Patent No. 6,758,755 (“the ‘755 Patent”), which is itself a continuation-in-part application

filed on November 3, 1999. The ‘755 Patent claims priority to each of its two parent applications, the earliest having a November 14, 1996 filing date. To claim pre-1999 priority, however, the claims at issue must be directed to subject matter disclosed in the prior application(s) in the manner required by 35 U.S.C. § 112 ¶ 1, and must contain a written description of the claimed invention. *See, e.g., Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1562-63 (Fed. Cir. 1991). Petitioners submit that Patent Owner is not entitled to claim priority for at least claims 12-25 and 36-41, at a minimum, to any of the applications issuing as U.S. Patent Nos. 5,816,918 (“the ‘918 Patent,” Ex. 1009) or 6,007,426 (“the ‘426 Patent,” Ex. 1010)¹, because neither of their respective disclosures

¹ Petitioners note that both the ‘426 Patent and the ‘918 Patent attempt to incorporate by reference other patents and/or patent applications (including Kelly ‘490), some of which themselves attempt to incorporate further documents by reference. While none of these documents disclose claim 12’s claimed “transmitting a game client software to a game apparatus” responsive to a request “identifying a user,” Petitioners nonetheless believe it would be improper for Patent Owner to attempt to rely on such incorporated documents of other incorporated documents in any event. Petitioners note that essential material may be supported through incorporation by reference, but only provided that the incorporated reference does not itself incorporate such essential material by reference and only provided that it is incorporated from a U.S Patent or U.S. patent application publication. *See* 37 C.F.R. 1.57(c).

demonstrate that Patent Owner was in possession of the alleged invention claimed in independent claim 12 of the '432 Patent (and dependent claims 13-25 and 36-41) at the time of filing of the applications that issued as the '918 or '426 Patents.²

Specifically, claim 12 of the '432 Patent requires “transmitting a game client software to a game apparatus of the user responsive to receiving the first request” where the first request “contains information identifying a user.” The only support in the '432 specification for this limitation is with respect to Figure 9, which illustrates a “play games operation” where a prize database server receives identification codes including a site code representative of a website or game apparatus supporting a game in addition to, for example, a “user identification code” and a “game identification code.” Ex. 1001 at 11:14-25, Fig. 9. The '432 Patent states: “Upon the receipt of the identification codes, it is then determined in decision 902 whether a current version of the game is present and valid. If the current version is unacceptable, an installer may be executed in operation 904. Such installer may be downloaded from the prize database server and subsequently executed on the game apparatus.” *Id.* at 12:3-8; *see also id.* at Fig. 9. These disclosures appeared for the first time on November 3, 1999, the filing date of the '755 Patent to which the '432 Patent claims priority. *See, e.g.,* Ex. 1011, '755 Patent at 12:3-64, Fig. 9.

² Petitioners do not concede by omission that any other claims or claim limitations would be entitled to claim priority to the filing date of the '918 or '426 Patents.

These disclosures do not appear in the earlier '918 or '426 Parent Patents. Ex. 1007, *Crevelt Decl.* at ¶¶66-69.³

Prior to November 3, 1999, the only specific disclosure of receiving information identifying a user appears in relation to the “alternate embodiments” where a player “input[s] some form of identification to access certain features of the game unit 10, such as a credit account storing previously-accumulated prize credits, a tournament, prizes to be sent to the player’s address, etc.” Ex. 1009, *'918 Patent* at 22:3-7; *see also id.* at 21:31-42. With respect to tournaments, the earlier patents disclose “a player’s identification need not be known” unless a player’s game score qualifies them to be on a tournament list, at which point the user can provide identification. *Id.* at 30:7-34. The earlier patents also disclose that game machines can “send[] a request for information, such as current prize costs, tournament score etc., residing on, for example, server 108.” *Id.* at 18:65-19:2; *see also id.* at 3:50-54, 16:7-11. At best, these disclosures convey to one of skill in the art that the inventors had possession of a system that could provide stored data (e.g., information regarding account credits, prizes, scores), not game software.

³ This description is in no way a concession by Petitioners that the '432 Patent contains an adequate written description of any claim, and claim 12 in particular, or that it otherwise meets the requirements of 35 U.S.C. §112. Because challenges under §112 are not permitted in the IPR setting, Petitioners reserve the right to raise any such deficiencies in any other proceeding.

The earlier patents also disclose, separate and apart from the above disclosures, that a server can “download a game to a game unit 10a or 10b when the game is selected by a player of the game unit.” Ex. 1009, *’918 Patent* at 16:60-63. A person of ordinary skill in the art, upon reading this disclosure, would understand that a server capable of downloading a game to a game unit would do so in response to a request containing information identifying the game unit, not the user. Ex. 1007, *Crevelt Decl.* at ¶¶69-70. A person of ordinary skill in the art would not understand from this disclosure that the inventors had possession of an invention that transmitted game client software in response to a request containing information identifying the user. *Id.* at ¶¶70- 71.

Further, only one of the figures of the ‘432 Patent appears in the priority ‘918 and ‘426 Patent applications. *Compare* Ex. 1001, *’432 Patent* at Fig. 2 *with* Ex. 1009, *’918 Patent* at Fig. 1a. On November 3, 1999, Patent Owner added, for the first time, 13 new figures and corresponding written description. Ex. 1001 at 3:41-4:35, 5:3-18:38, Figs. 1, 3-14.

Patent Owner admits that the disclosure of the ‘432 Patent is new and different from the ‘918 and ‘426 Patents to which it claims priority. Namely, the ‘432 Patent specification is identical to the ‘755 Patent specification. During the prosecution of a child application (Serial No. 11/277,339), which claims priority to the ‘755, ‘426, and ‘918 Patents, Patent Owner stated: “The specification of the ‘918 patent will be referred to herein as Spec. A. The ‘755 patent is a continuation-in-part of the ‘426 patent, and thus, includes new matter not included in the ‘426 patent or the ‘918 patent. [...] The specification of the ‘755 patent is different than the specification of the ‘426 patent and

the ‘918 patent. The specification of the ‘755 patent will be referred to here in as Spec. B.” Ex. 1011, *App. No. 11/277,339 Nov. 1, 2010 Amendment* at 14-15.

Accordingly, claims 12-25 and 36-41 of the ‘432 Patent cannot claim priority before November 3, 1999—the filing date of the continuation-in-part application that issued as the ‘755 patent to which the ‘432 Patent claims priority and shares an identical specification—because the disclosure of each earlier application fails to satisfy the written description requirements of 35 U.S.C. § 112 ¶ 1.

IV. THERE IS A REASONABLE LIKELIHOOD THAT THE CHALLENGED CLAIMS OF THE ‘432 PATENT ARE UNPATENTABLE

Systems and methods for networked gaming as described in the ‘432 Patent were known before the alleged invention. The following prior art references disclose each limitation of the Challenged Claims either alone or in combination, as demonstrated in the charts below. As such, the Challenged Claims are unpatentable.⁴

A. Martin Anticipates Claims 1-3, 26-28, 30-31, 35, 42, 43 and 47 Under 35 U.S.C. § 102(e)

⁴The claim construction analysis and the substantive arguments for invalidity presented herein are not, and should not be viewed as, a concession by Petitioners as to the proper scope of any claim term in any litigation or as a waiver of any other invalidity defenses. Specifically, Petitioners do not waive any argument in any litigation that claim terms in the ‘755 Patent are indefinite or otherwise invalid. For example, Petitioners note that certain claims appear to be directed to ineligible subject matter under 35 U.S.C. § 101.

*Petition for Inter Partes Review of
U.S. Patent No. 8,454,432*

Martin was not cited or considered during prosecution and generally discloses an electronic gaming device and system that can be operated in both an amusement mode and a gambling mode. Ex. 1002, *Martin* at Abstract. The electronic device of Martin can request to establish an account balance through swiping a credit card or inserting tokens into an associated mechanism for receiving payment. *Id.* at 4:13-29, Fig. 1. In response to the outcome of gameplay, Martin increments and decrements the player's account balance and further describes providing a selection of items from which a user can order physical goods. *Id.* at 3:66-4:5, 5:53-57. The cost of purchasing the selected goods is debited from the player's account balance. *Id.* at 5:57-62. As shown below, *Martin* discloses every limitation of claims 1-3, 26-28, 30-31, 35, 42, 43 and 47 and there is a reasonable likelihood that Petitioners will establish that these claims are unpatentable under § 102(e).

<i>Claim 1</i>	<i>Anticipated by Martin (Ex. 1002)</i>
1. A method for providing a network gaming system, comprising:	<p>Martin discloses an electronic gaming device and system that is connected via a network to a central system operator controller.</p> <p>“Electronic gaming machines are generally known, and may take the form of slot machines, poker machines, blackjack machines, roulette machines, etc.” Ex. 1002, <i>Martin</i> at 1:7-9.</p> <p>“In the gaming mode, either a system controller or the electronic game machines themselves have registers for maintaining an indication of player credit balance, and for incrementing or decrementing the player credit balance in accordance with the outcome of games played by the player in the gaming mode.” <i>Id.</i> at 2:3-9; <i>see also id.</i> at 3:36-47.</p> <p>“The machine 11 is shown in FIG. 1 as including a communications component 15 interconnected with a system operator controller 20. This facilitates two-way communication between a system operator or display, as might be required for certain gaming functions or activities.</p>

	<p>Also, where game device 11 is situated on a vessel or conveyance, such as in a lounge, for example, the communications capability can be useful in the player ordering drinks, food, or merchandise.” <i>Id.</i> at 5:45-53.</p> <p>“The account balance register can be incorporated into each machine, or can alternatively or additionally be incorporated into the system operator controller 20 for providing an account balance for each player at a central location. . . . Also, of course, funds for wagering can be accepted at the control [sic] location system controller 20, where the funds are translated into an account balance.” <i>Id.</i> at 4:9-30.</p> <p><i>Id.</i> at Fig. 1; <i>see also</i> Fig. 4.</p>
<p>[1a] receiving a request at a server from a user for the purchase of credits in exchange for legal currency, wherein the credits are usable within the network gaming system;</p> <p>depositing the credits into an account of the user;</p>	<p>Martin describes that an account balance register, which may be maintained at the centrally located system controller, receives a request from a player to increase an account balance in exchange for cash, tokens or debiting a credit card and increases the player’s balance by the requested amount. The gaming device provides a communications component for communicating with the central controller, <i>i.e.</i>, server. <i>See</i> Ex. 1007, <i>Crevelt Decl.</i> at ¶¶89-95.</p> <p>“An account balance register indicated by box 14 is provided for use in connection with the operation of the machine or device in the gaming or gambling mode, and the account balance register 14 is suitably interconnected with the scoring circuitry 13 to increment or decrement the account balance when the machine is in a gaming mode in accordance with the success or lack of success of the player. Suitable account balance circuitry or software arrangements are also known in the art, with electronic machines used for gaming in casinos and the like providing a "credit balance" indication or talley. <u>The account balance register can be incorporated into each machine, or can alternatively or additionally be incorporated into the system operator controller 20 for providing an account balance for each player at a central location.</u></p> <p>Naturally a mechanism or arrangement needs to be provided for accepting wagers from the player. Box 16 is intended to refer to a suitable arrangement for accepting wagers or <u>player selected increases to an account balance</u> for operation of the machine 11 in a gaming mode. Box 16 can be any suitable arrangement for accepting credit cards, where <u>a credit card is debited in accordance with a pre-selected amount by the player.</u> Alternatively, tokens which can be purchased by the player can be input into arrangement 16 for wagering or</p>

	<p>increasing the account balance register 14 as well as cash. The <u>input of cash, tokens or credit card debit can be</u> with regard to one wager on one game to be played, or as <u>a general increase to a player's account balance from which individual wagers are later debited or subtracted by the player.</u> Also, of course, funds for wagering can be accepted at the control location system controller 20, where the funds are translated into an account balance.” <i>Id.</i> at 3:66-4:30.</p> <p>“The machine 11 is shown in FIG. 1 as including a <u>communications component 15 interconnected with a system operator controller.</u> This facilitates two-way communication between a system operator or display, as might be required for certain gaming functions or activities.” <i>Id.</i> at 5:45-49; <i>also</i> 2:3-9, 4:45-49, Fig. 1.</p>
[1b] depositing additional credits into the account of the user in response to an outcome of a gameplay;	<p>In response to the outcome of the games played, a player’s account balance register is incremented or decremented.</p> <p>“In the gaming mode, either a system controller or the electronic game machines themselves have registers for maintaining an indication of player credit balance, and for <u>incrementing or decrementing the player credit balance in accordance with the outcome of games</u> played by the player in the gaming mode.” <i>Id.</i> at 2:3-9.</p> <p>“An account balance register indicated by box 14 is provided for use in connection with the operation of the machine or device in the gaming or gambling mode, and the account balance register 14 is suitably interconnected with the scoring circuitry 13 to <u>increment or decrement the account balance when the machine is in a gaming mode in accordance with the success or lack of success of the player.</u> Suitable account balance circuitry or software arrangements are also known in the art, with electronic machines used for gaming in casinos and the like providing a "credit balance" indication or talley. The account balance register can be incorporated into each machine, or can alternatively or additionally be incorporated into the system operator controller 20 for providing an account balance for each player at a central location.” <i>Id.</i> at 3:66-4:13; <i>see also id.</i> at 4:54-60.</p> <p>Martin notes that the disclosed gambling device may measure a player’s score through “dollars, points, or whatever.” <i>Id.</i> at 5:66-6:3; <i>also</i> 6:23-26.</p>
[1c] receiving at the server a second request to	<p>Martin also discloses that the gaming device is connected with the central system controller to provide two-way communications. Using this two-way communications capability, a player may request a menu of selectable items from an electronic catalog, including drinks, food or</p>

<p>provide a selection of items available in the network gaming system; responsive to the second request, sending the selection of items to the user from the server; receiving at the server an item selection from the user; responsive to receiving the item selection, providing an item to the user based on the item selection; and debiting the account of the user by an amount associated with the item.</p>	<p>merchandise (i.e., “prizes”), for example. The catalog can be online and provided from the server. Payment for the selected items can be made through a debit to the player’s account balance register.</p> <p>“The machine 11 is shown in FIG. 1 as including a communications component 15 interconnected with a system operator controller 20. This facilitates two-way communication between a system operator or display, as might be required for certain gaming functions or activities. Also, where game device 11 is situated on a vessel or conveyance, such as in a lounge, for example, the communications capability can be useful in the player <u>ordering drinks, food, or merchandise</u>. Thus, in a manner known in the art, the machine 11 can be provided with an <u>ordering mode, with menus of selectable items provided by an on line or residently stored catalog, with appropriate player input through a touch screen or the like for placing orders</u>. Payment for the orders can be automated by credit card, token or cash input by the player into arrangement 16, or <u>payment can be achieved through a debit to the player's account balance register 14, maintained either locally at a machine or at the system controller.</u>” <i>Id.</i> at 5:45-62; <i>also</i> Fig. 4.</p> <p>“[P]assengers on an oceangoing vessel, for an example, can order food and drink, purchase items from menus or catalogs provided on the computer display device 61, as well as gamble at their tables, without impairing the normal use of the tabletop. Suitable communication connection between the computer display device 61 and a central location, such as a system operator, can be made through appropriate wiring 60 run through the table base or the like. . . .” ; <i>Id.</i> at 9:8-30.</p> <p>“...[Computer monitor 77] can also be programmed in a known fashion and used by a passenger to order refreshments from attendants on the vehicle, or to order merchandise for delivery while on the vehicle or upon arrival at a destination, all through communications provided by wiring 85. <u>An on-line or memory resident catalog can be provided for display on computer monitor 77 to facilitate such ordering and sales to passengers, in a manner already well known in the computer arts.</u>” <i>Id.</i> at 11:30-42; <i>also</i> Fig. 1, 12:40-45.</p>
<p style="text-align: center;"><i>Claim 2</i></p>	
<p>2. The method of claim 1 wherein the credits represent a type of</p>	<p>Martin as applied to claim 1. Martin further describes that the value associated with the account balance register, whether points or dollars, can be used as a universal currency both to place wagers during gameplay and to purchase, for example, merchandise or</p>

universal currency that can be used in the context of the network gaming system.	food items (i.e., prizes). <i>Id.</i> at 4:13-14 (“Naturally a mechanism or arrangement needs to be provided for accepting wagers from the player.”), 5:57-62 (“Payment for the orders can be ... achieved through a debit to the player's account balance register[.]”), 5:66-6:3; <i>generally</i> 5:49-62.
<i>Claim 3</i>	
3. The method of claim 2 further comprising debiting or crediting the account of the user based on a gameplay of the user.	Martin as applied to claims 1 and 2. Martin describes incrementing or decrementing the player's account balance register based on the outcome of gameplay. “An account balance register indicated by box 14 is provided for use in connection with the operation of the machine or device in the gaming or gambling mode, and the account balance register 14 is suitably interconnected with the scoring circuitry 13 to <u>increment or decrement the account balance when the machine is in a gaming mode in accordance with the success or lack of success of the player.</u> Suitable account balance circuitry or software arrangements are also known in the art, with electronic machines used for gaming in casinos and the like providing a "credit balance" indication or talley. The account balance register can be incorporated into each machine, or can alternatively or additionally be incorporated into the system operator controller 20 for providing an account balance for each player at a central location.” <i>Id.</i> at 3:66-4:13; <i>also</i> 2:3-9, 4:54-60.
<i>Claim 26</i>	
26. A method for providing a network gaming system, comprising:	Martin as applied to claim 1.
receiving a request at a server from a user for credits, wherein the credits are usable within the network gaming system; depositing the credits into an account of the user;	Martin as applied to limitation [1a] of claim 1
receiving at the server a second request to provide a selection of items available in the network gaming system; responsive to said second request, sending the selection of items to the user from the server; receiving at the server an item selection from the user; responsive to receiving the item selection, providing an item to the user based on the item selection; and debiting the account of the user by an amount associated with the item.	Martin as applied to limitation [1c] of claim 1.
<i>Claim 27</i>	
27. The method of claim 26 wherein the credits represent a type of universal currency that can be used in the context of the network gaming system.	Martin as applied to claim 2.
<i>Claim 28</i>	

28. The method of claim 27 further comprising debiting or crediting the account of the user based on a gameplay of the user.	Martin as applied to limitation [1b] of claim 1 and claim 3.
<i>Claim 30</i>	
30. The method of claim 1 wherein the selection of items comprises an award.	Martin as applied to claim 1. Martin discloses that the gaming machine can be placed in an “ordering mode” that can provide the user with a menu of selectable items, such as drinks, food or merchandise. The user can pay for items selected by the user by debiting the user’s account balance register. <i>See e.g.</i> , Ex. 1002, <i>Martin</i> at 5:45-62, 9:8-20, 11:34-42.
<i>Claim 31</i>	
31. The method of claim 1 wherein the selection of items comprises a prize.	Martin as applied to claim 1. Martin discloses that the gaming machine can be placed in an “ordering mode” that can provide the user with a menu of selectable items, such as drinks, food or merchandise. The user can pay for items selected by the user by debiting the user’s account balance register. <i>See e.g.</i> , Ex. 1002, <i>Martin</i> at 5:45-62, 9:8-20, 11:34-42.
<i>Claim 35</i>	
35. The method of claim 1 wherein the selection of items are selected from the group consisting of an award, a prize, prize credits, cash and game credits.	Martin as applied to claim 1. Martin discloses that the gaming machine can be placed in an “ordering mode” that can provide the user with a menu of selectable items, such as drinks, food or merchandise. The user can pay for items selected by the user by debiting the user’s account balance register. <i>See e.g.</i> , Ex. 1002, <i>Martin</i> at 5:45-62, 9:8-20, 11:34-42.
<i>Claim 42</i>	
42. The method of claim 26 wherein the selection of items comprises an award.	Martin as applied to claims 26 and 30. For the reasons discussed with respect to claim 30, Martin discloses this limitation.
<i>Claim 43</i>	
43. The method of claim 26 wherein the selection of items comprises a prize.	Martin as applied to claims 26. For the reasons discussed with respect to claim 31, Martin discloses this limitation.
<i>Claim 47</i>	
47. The method of claim 26 wherein the selection of items are selected from the group consisting of an award, a prize, prize credits, cash and game credits.	Martin as applied to claims 26. For the reasons discussed with respect to claim 35, Martin discloses this limitation.

B. Lucero Anticipates Claims 1-5, 7, 11, 26-35 and 42-47 Under § 102(e)

Lucero⁵ describes a remote gaming system involving the requesting and winning of credits and exchanging those credits for things of value, whether it be cash, gaming credits or physical goods. Ex. 1004, *Lucero* at 4:48-6:24. In Lucero, a player uses coins, tokens or credit card to purchase gaming credits that are kept in an account. Ex. 1004, *Lucero* at 4:48-53, 4:63-67. Lucero discloses that a player may cash out his account by “elect[ing] to receive cash or tokens for the credit available” in the account. *Id.* at 5:3-6. Lucero also provides that a player may select various types of “wagering units” to be used in the gaming system, some of which are non-monetary, such as customer bonus points or frequent flyer points. *Id.* at 3:25-53, 13:16-39. Customer bonus points are used by gaming operators to provide bonuses to players based on the amount of time they play or the amount of money wagered, and can be used for redemption of prizes or free accommodations. *Id.* at 11:63-12:24. The player’s account is maintained at a remote “intermediate processing facility” that receives information from the user, stores and modifies information relating to the user including the current account balance of various types of credits in the account, and sends user-specific account information to the

⁵ Lucero was filed on September 20, 1996, as a continuation-in-part of an application filed on April 28, 1995 that issued as U.S. Patent No. 5,559,312 on Sept. 24, 1996. Ex. 1013, ‘312 Patent. Lucero is entitled to April 28, 1995 for its 102(e) date except for the portions not included in the ‘312 Patent. For example, the following portions of Lucero are not included in the ‘312 Patent: 2:8-12, 3:11-62, 11:18-13:45, Figs. 8 and 9.

player's gaming apparatus. *Id.* at 5:60-6:22, 6:38-40, 9:25-10:6, 12:44-64, 13:26-29, Figs. 6,

9. One of ordinary skill in the art would understand these references to disclose a

“server” and “database server.” Ex. 1007, *Crevelt Decl.* at ¶¶102-104. Claims 1-5, 7, 11, 26-

35 and 42-47 of the ‘432 Patent are anticipated by Lucero.

<i>Claim 1</i>	<i>Anticipated by Lucero (Ex. 1004)</i>
1. A method for providing a network gaming system, comprising:	<p>Lucero provides a networked gaming system in which an intermediate processing system maintains information relating to player accounts by communicating with the gaming machines in the network and a financial institution.</p> <p>“One object of this invention is to provide a method, and apparatus for performing the method, of using information concerning an account maintained at an institution for use in playing games of chance played on a gaming machine at a location which is remote from and is different from the institution, having the steps of: (1) causing information concerning the account to be received by the gaming machine; (2) accessing a gaming account at a processing facility based on information concerning the account; (3) conditioning the gaming machine in accordance with the gaming account to permit plays; (4) maintaining information about the plays on the gaming machine; and (5) selectively causing the gaming machine to transmit information respecting the plays to the processing facility for maintaining the gaming account.” Ex. 1004, <i>Lucero</i> at Abstract; <i>also</i> Fig. 6, Abstract, 5:7-6:24, 7:6-21, 9:25-10:10.</p>
[1a] receiving a request at a server from a user for the purchase of credits in exchange for legal currency, wherein the credits are usable within the network gaming	<p>Lucero describes an intermediate processing facility (i.e., server) receiving a request for credits from a player to be used in the gaming system in exchange for legal currency, such as credit with a financial institution or cash at the gaming machine. The intermediate processing facility deposits approved credits into the player's stored account, which enable the player to play at a gaming machine. <i>See also</i> Ex. 1007, <i>Crevelt Decl.</i> at ¶¶102-104.</p> <p>“As shown in block diagram form in FIG. 2, the gaming machine 10 includes a card reader 26 having a slot or groove in which the charge card 24 is inserted as illustrated in FIG. 1 or through which the charge card may be swiped. The reader 26 is coupled with a remote card approval financial institution 28 where it is determined if the charge card is entitled to the credit requested ...</p>

system;
depositing the
credits into an
account of the
user;

In this case, the credit approved by the remote financial institution is transferred to the machine and the machine operates in a well known manner to allow the player to continue to use the credit indicated, or the approved credit is transferred to an intermediate processing system where information pertaining to that credit is stored and can be accessed and updated as the player uses the credit so that the intermediate processing system can keep the updated status of the credit for some period of time, thus reducing the number of times the remote financial institution would be accessed in connection with the approved credit. Thus, with the novel features of the invention forming part of the gaming machine as illustrated in FIG. 1, the player does not need to leave the machine to obtain further credit, but simply inserts the charge card in slot 22 or swipes the card in the appropriate slot, enters the desired credit amount through keyboard 20 and when the remote institution has approved the credit, the machine indicates the amount of credit obtained and allows the player to continue to play the machine with the credit that was so obtained. When an intermediate processing system is used, located functionally between the gaming machine and the remote financial institution, that intermediate system maintains a net playing credit by initially receiving and recording in memory information regarding the approved credit, then communicating with the gaming machine to receive therefrom information respecting the win/lose/draw plays to keep track of a net playing credit, and communicating information respecting the net playing credit as needed to the remote financial institution. In this embodiment, the intermediate processing system serves as a processing facility which is different from and typically is remote from said financial institution.” Ex. 1004, *Lucero* at 5:34-6:24; *also* 8:33-47, Fig. 6.

“Additionally, this invention provides that gaming machines for multiple players, as with gaming machines for individual players, desirably can be located in business establishments and similar locations where the receiving and dispensing of coins or tokens is impractical. ... [T]his invention provides that where the computer is serving as part of the gaming machine in a multiple player game, the computer can connect to a processing facility of the gaming operator and then directly or through other intermediate processing facilities to each of the players' remote financial institutions to obtain playing credit from each player's respective general purpose charge card. Alternatively, a player can connect directly to the remote financial institution and have the remote financial institution provide the credit

	<p>approval to the gaming operator's processing facility. <u>Once a computer is connected to the gaming operator's processing facility, the processing facility provides the means for each player to effect one or more of the following: (1) to obtain playing credit from the player's remote financial institution in accordance with this invention using a general purpose charge card; (2) to have a net playing credit maintained electronically; and (3) to have information about the game being played sent to and received from the processing facility.</u> <i>Id.</i> at 9:25-57; <i>also</i> 2:40-54, 3:25-53, 5:7-7:21, 7:34-48, 7:61-8:4.</p>
[1b] depositing additional credits into the account of the user in response to an outcome of a gameplay;	<p>Lucero describes that the credit balance maintained by the intermediate processing system is increased or decreased depending on the outcome of the player playing games. <i>Id.</i> at 6:13-22 (“When an intermediate processing system is used, located functionally between the gaming machine and the remote financial institution, that intermediate system maintains a net playing credit by initially receiving and recording in memory information regarding the approved credit, then communicating with the gaming machine to receive therefrom information respecting the win/lose/draw plays to keep track of a net playing credit”); <i>also</i> 7:21-27 (“As the machine is played the credit balance is reduced or increased.”), 2:14-27, 2:54-62, 3:25-53, 7:45-48, 8:13-22, 8:41-46, 9:49-57.</p>
[1c] receiving at the server a second request to provide a selection of items available in the network gaming system; responsive to the second request, sending the selection of items to the user from the server; receiving at the server an	<p>Lucero discloses that players can play games with monetary and non-monetary wagering units (i.e., game credits). The monetary and non-monetary credits are stored and maintained by the processing facility. When a player plays a game at a gaming machine, they can select an option to access their gaming account information through the processing facility and be presented with a selection of available wagering units or subaccounts with which to play the game. Based on the player's selection, the processing facility debits or credits the account based on the selected wagering unit and the player's wager. The selected wagering units can be bonus points or frequent flyer miles (i.e., prize credits) that can be used (i.e., redeemed) as game credits (i.e., prize) or to redeem other prizes.</p> <p>“This invention also includes a method having one or more of the following additional steps, and apparatus for performing the steps of: [...] (h) <u>selecting an option for accessing the gaming account, the option being a request for: credit, account linkage, monetary or non-monetary wagering unit, activity monitoring or gaming account information change The wagering units can be frequent flyer miles, credit card bonus points, customer bonus points, and free sample gaming points.</u>” <i>Id.</i> at 3:25-53.</p>

<p>item selection from the user; responsive to receiving the item selection, providing an item to the user based on the item selection; and debiting the account of the user by an amount associated with the item.</p>	<p>“Another embodiment of this invention allows linkage and game play with other types of exchange, for example, frequent flyer miles. <u>In this embodiment, a player can select the kind of playing credit to be used. For example, the player could elect to play games with money, such as dollars, or with frequent flyer miles.</u> Similar to the entry of the general purpose charge card information, the player need only enter the frequent flyer account number. As discussed above, if the types of exchange are not transferrable, <u>the processing facility separates each type into separate gaming subaccounts of the gaming account. For example, a gaming account may have \$50, 10,000 frequent flyer miles for one airline, and 5,000 player bonus points from a casino in three separate subaccounts.</u> If a particular type of subaccount does not exist in the gaming account 160, a new subaccount is added. Since some general purpose charge cards offer bonus points, <u>the gaming account according to this invention can be credited or debited with the dollars as well as the bonus points earned or lost with the credit or debit. Because one account may permit access to money credits and one or more bonus point credits, the player may be queried through the gaming machine to select which type of exchange is desired or which subaccount to use.</u></p> <p>In another aspect of this embodiment, the processing facility can also exchange bonus points in one subaccount for another subaccount. For example, if the casino and the airline allow for transfer of gaming bonus points into frequent flyer miles, the processing facility can offer such an exchange as an option to the player.” <i>Id.</i> at 13:16-45; <i>see also id.</i> at 11:6-17, 11:63-12:24.</p> <p>Lucero also discloses that when a player is finished gaming, the player can select how the processing facility should distribute their winnings. <i>Id.</i> at 11:51-62; 5:3-6 (“elect to receive cash or tokens for the credit available, and appropriate value is obtained either by coins or tokens dropped or dispensed into a slot or tray 16 or the credit is redeemed from a cashier”), 9:22-24.</p>
<i>Claim 2</i>	
<p>2. The method of claim 1 wherein the credits represent a type of universal currency that can be used in the context of the network gaming</p>	<p>Lucero as applied to claim 1. Lucero describes various types of casino games, such as slots and poker, offered by the gaming system. <i>Id.</i> at 2:14-26, 4:28-31, 8:9-13, 8:61-63. The credits can also be converted to the wagering unit of the game being played. <i>Id.</i> at 10:63-11:17. Player bonus points, which can be used as a wagering unit, can also be redeemed</p>

system.	for prizes. <i>Id.</i> at 11:65-67, 12:63, 13:34-39.
<i>Claim 3</i>	
3. The method of claim 2 further comprising debiting or crediting the account of the user based on a gameplay of the user.	Lucero as applied to claim 2. Lucero describes a system that tracks a player's winning and losses and debits or credits an account accordingly. <i>Id.</i> at 6:13-22 (reproduced above); <i>also</i> 2:14-27, 7:21-27, 2:54-62, 3:25-53, 7:45-48, 8:13-22, 8:41-46, 9:49-57.
<i>Claim 4</i>	
4. The method of claim 3 wherein the gameplay comprises the user playing a plurality of games and wherein a database server keeps track of the credits in the account of the user based on a plurality of outcomes of the plurality of games.	<p>Lucero as applied to claim 3. Lucero describes various types of casino games, such as slots and poker, offered by the gaming system. <i>Id.</i> at 2:14-26, 4:28-31, 8:9-13, 8:61-63. Lucero also describes that an "intermediate processing system" or "processing facility" stores and updates information relating to a player's account in a database, including credits won and lost and current balance, as the user plays games.</p> <p>"FIG. 9 illustrates how the information is stored in a gaming account 160 at the processing facility according to one embodiment of this invention. In FIG. 9, the associated data is stored as a variable length record in a computer database, but other implementations of the gaming account are also encompassed by this invention." <i>Id.</i> at 12:44-50; Fig. 9; <i>also</i> 5:60-6:24, 2:54-62, 3:2-10; 3:25-53, 7:21-27, 7:45-48, 8:41-46, 9:49-57, 11:49-62; Ex. 1007, <i>Crevelt Decl.</i> at ¶¶102-104.</p>
<i>Claim 5</i>	
5. The method of claim 4 wherein the server and the database server are the same.	Lucero as applied to claim 4. Lucero describes that the processing facility is capable of processing requests for additional credits as well as tracking credits based on the outcome of games. Ex. 1004, <i>Lucero</i> at 5:60-6:24, 9:25-63. Lucero teaches that the same server, i.e., the processing facility, can store the account in a database. <i>Id.</i> at 12:44-50, Fig. 9; <i>also</i> Ex. 1007, <i>Crevelt Decl.</i> at ¶¶102-104.
<i>Claim 7</i>	
7. The method of claim 4 wherein an application programming interface is used to allow the server to perform calculations on behalf of a game apparatus associated with the user.	Lucero as applied to claim 4. Lucero discloses that a remote processing facility performs calculations on behalf of a user's gaming machine, such as maintaining account balances. Lucero specifically discloses that prior to playing a game, the player obtains a credit balance from the processing facility for displaying to the player the number of credits that are available. Ex. 1004, <i>Lucero</i> at 7:16-21, 5:60-6:24, 9:49-59; <i>also</i> 2:57-62, 8:13-22, 8:41-46, 11:49-62, Figs. 2, 3; Ex. 1007, <i>Crevelt Decl.</i> , at ¶105.

<i>Claim 11</i>	
11. The method of claim 3 wherein the user's account comprises a plurality of types of credits.	Lucero as applied to claim 3. Lucero also describes that a player's account may comprise a number of different types of "credits" that can be used to play games, such as dollars, bonus points, and frequent flyer miles. Ex. 1004, <i>Lucero</i> at 3:51-53, 12:58-64, 13:16-30. A player is permitted to select the type of playing credit to be used. <i>Id.</i> at 13:18-39.
<i>Claim 26</i>	
26. A method for providing a network gaming system, comprising:	Lucero as applied to claim 1.
receiving a request at a server from a user for credits, wherein the credits are usable within the network gaming system; depositing the credits into an account of the user;	Lucero as applied to limitation [1a] of claim 1.
receiving at the server a second request to provide a selection of items available in the network gaming system; responsive to said second request, sending the selection of items to the user from the server; receiving at the server an item selection from the user; responsive to receiving the item selection, providing an item to the user based on the item selection; and debiting the account of the user by an amount associated with the item.	Lucero as applied to limitation [1c] of claim 1.
<i>Claim 27</i>	
27. The method of claim 26 wherein the credits represent a type of universal currency that can be used in the context of the network gaming system.	Lucero as applied to claim 2.
<i>Claim 28</i>	
28. The method of claim 27 further comprising debiting or crediting the account of the user based on a gameplay of the user.	Lucero as applied to limitation [1b] of claim 1 and claim 3.
<i>Claim 29</i>	
29. The method of claim 28 wherein the gameplay comprises the user playing a plurality of games and wherein a database server keeps track of the credits in the account of the user based on a plurality of outcomes of the plurality of games.	Lucero as applied to claim 4.
<i>Claim 30</i>	
30. The method of claim 1 wherein the selection of items comprises an award.	Lucero as applied to claim 1. Lucero discloses that a user may select the wagering unit (i.e., game credit) that can be won or lost based on gameplay. <i>Id.</i> at 13:16-39, 3:25-53. The wagering unit can be monetary (i.e., cash or "prize"). <i>Id.</i> Lucero also discloses that when a player is finished gaming, the player can select how the processing facility should distribute their winnings, e.g., cash or tokens. <i>Id.</i> at

	11:51-62; 5:3-6, 9:22-24.
<i>Claim 31</i>	
31. The method of claim 1 wherein the selection of items comprises a prize.	Lucero as applied to claim 1. Lucero discloses that a user may select the wagering unit (i.e., game credit) that can be won or lost based on gameplay. <i>Id.</i> at 13:16-39, 3:25-53. The wagering unit can be monetary (i.e., cash or “prize”). <i>Id.</i> Lucero also discloses that when a player is finished gaming, the player can select how the processing facility should distribute their winnings, e.g., cash or tokens. <i>Id.</i> at 11:51-62; 5:3-6, 9:22-24.
<i>Claim 32</i>	
32. The method of claim 1 wherein the selection of items comprises prize credits.	Lucero as applied to claim 1. Lucero discloses that a user may select the wagering unit that can be won or lost based on gameplay. <i>Id.</i> at 13:16-39, 3:25-53. The wagering unit can include non-monetary wagering units, such as bonus points (i.e., prize credits) that can be redeemed for other prizes (<i>see, e.g., id.</i> at 11:63-24) or frequent flyer points (i.e., prize credits) that can later be redeemed, e.g., for a flight or discount on a flight. <i>Id.</i> at 13:16-39, 3:25-53.
<i>Claim 33</i>	
33. The method of claim 1 wherein the selection of items comprises game credits.	Lucero as applied to claim 1. Lucero discloses that a user may select the wagering unit (i.e., game credit) to be used in a game. <i>Id.</i> at 13:16-39, 3:25-53. Lucero also discloses that when a player is finished gaming, the player can select how the processing facility should distribute their winnings, e.g., playing credit, cash or tokens. <i>Id.</i> at 11:51-62; 5:3-6, 9:22-24.
<i>Claim 34</i>	
34. The method of claim 1 wherein the selection of items comprises cash.	Lucero as applied to claim 1. Lucero discloses that a user may select the wagering unit that can be won or lost based on gameplay. <i>Id.</i> at 13:16-39, 3:25-53. The wagering unit can be monetary (i.e., cash). <i>Id.</i> Lucero also discloses that when a player is finished gaming, the player can select how the processing facility should distribute their winnings, e.g., playing credit, cash or tokens. <i>Id.</i> at 11:51-62; 5:3-6, 9:22-24.
<i>Claim 35</i>	
35. The method of claim 1 wherein the selection of items are selected from the group consisting of an award, a prize, prize credits, cash and game credits.	Lucero as applied to claim 1. For the reasons discussed with respect to claims 30-34, Lucero discloses this limitation.
<i>Claim 42</i>	
42. The method of claim 26 wherein the selection of items comprises an award.	Lucero as applied to claim 26. For the reasons discussed with respect to claim 30, Lucero discloses this limitation.

<i>Claim 43</i>	
43. The method of claim 26 wherein the selection of items comprises a prize.	Lucero as applied to claim 26. For the reasons discussed with respect to claim 31, Lucero discloses this limitation.
<i>Claim 44</i>	
44. The method of claim 26 wherein the selection of items comprises prize credits.	Lucero as applied to claim 26. For the reasons discussed with respect to claim 32, Lucero discloses this limitation.
<i>Claim 45</i>	
45. The method of claim 26 wherein the selection of items comprises game credits.	Lucero as applied to claim 26. For the reasons discussed with respect to claim 33, Lucero discloses this limitation.
<i>Claim 46</i>	
46. The method of claim 26 wherein the selection of items comprises cash.	Lucero as applied to claim 26. For the reasons discussed with respect to claim 34, Lucero discloses this limitation.
<i>Claim 47</i>	
47. The method of claim 26 wherein the selection of items are selected from the group consisting of an award, a prize, prize credits, cash and game credits.	Lucero as applied to claim 26. For the reasons discussed with respect to claims 30-35, Lucero discloses this limitation.

C. Kelly ‘490 in view of Heckel Renders Claims 12-14, 16-18, 23-24, 36-38 and 40-41 Obvious Under 35 U.S.C. § 103(a)

Patent Application No. 08/628,490 to Kelly et al. (“Kelly ‘490,” Ex. 1005) was filed on April 5, 1996 and became published and publicly available upon the October 6, 1998 issuance date of the ‘918 patent (Ex. 1009). Kelly ‘490, therefore, qualifies as prior art with regard to claims 12-25 and 36-41 of the ‘432 Patent under 35 U.S.C. § 102(b) based on the November 3, 1999 priority date for these claims. *See* Sec. III.C, *supra*; *see also* MPEP § 2127, § 901.02; 37 C.F.R. § 1.14(a)(1). Kelly ‘490, Heckel and the ‘432 Patent, each describe a network gaming system that involves software residing on a computer. *See e.g.*, Ex. 1005, *Kelly ‘490* at 34:32-35:10; Ex. 1006, *Heckel* at 1:7-12, Fig. 1. Heckel is prior

art under 35 U.S.C. § 102(e) based on the priority date of November 3, 1999 for claims 12-25 and 36-41. *See* Sec. III.C, *supra*.

Kelly '490 describes a network of game apparatuses connected through the Internet that all have game software stored in memory. Ex. 1005, *Kelly '490* at 17:33-18:5, 34:32-35:10. In operation, a player can receive a selection of a plurality of items available in the gaming system, choose an item and have its account debited in an amount corresponding to the value of the item. *Id.* at 29:22-30:10, 31:7-27, 31:37-32:18, Fig. 5, Fig. 3C. The operations are performed by one or more servers (e.g., centralized ticket account server, remote prize server) connected to the game apparatus through the Internet (i.e., a wide area network). *Id.* at 31:7-13, 32:6-18.

Heckel describes a network game system comprising a game server, an ad server and a user computer. Ex. 1006, *Heckel* at Fig. 1. Heckel recognizes his invention may be used to play betting games on the Internet such as “blackjack, poker, craps, roulette, baccarat and pai gow” as described in U.S. Patent No. 5,823,879 to Goldberg. *Id.* at 2:5-8, 1:24-29; *see e.g.*, Ex. 1013, *Goldberg* at 8:28-49 (describing that a “wagering accounting module” performs wagering accounting for a player’s wins and losses). In order to obtain game software in Heckel, a user must log on to the game server using his or her user ID and password. *Id.* at 4:35-43. The user may select a game to download, which is subsequently downloaded to the user’s computer. *Id.* at 4:10-19. Heckel also recognized the additional value to player’s and advertiser’s in utilizing a player’s account information for targeted, in-game advertising. Ex. 1006, *Heckel* at 2:35-3:3. The operations described

in Heckel are also performed by one or more servers (e.g., game server, ad server) connected to a user's computer over the Internet. *Id.* at 1:7-12, 4:10-19.

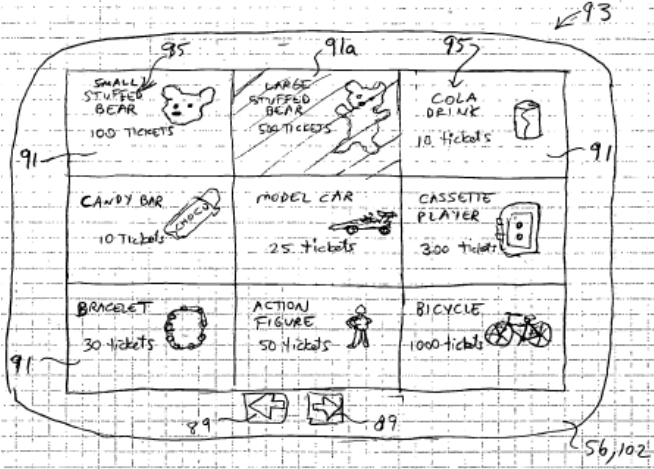
Thus, upon reading the disclosure of Kelly '490, a skilled artisan would have recognized that combining the software delivery system of Heckel with the game system as described in Kelly '490 would be desirable. Ex. 1007, *Crevelt Declaration*, at ¶¶ 118-120. This would clearly increase the number of paying gamblers in the system of Kelly '490 by permitting potential gamblers the opportunity and convenience of gambling from home. *Id.* at ¶119. Kelly '490 recognizes that its system may be used on a user's home computer. Ex. 1005, *Kelly '490* at 8:14-16. Moreover, Heckel describes that his invention can be used in connection with Internet gambling games, such as those described in Kelly '490 and Goldberg. Ex. 1006, *Heckel* at 2:5-10. This improvement to Kelly '490 could have been achieved simply by using the system described in Heckel for delivering game software and providing advertising with the software game programming described in Kelly '490. Ex. 1007, *Crevelt Dec.* ¶119. This is simply a combination of the two known systems and, therefore, would have been natural and application of nothing more than ordinary skill and common sense. Therefore, claims 12-14, 16-18, 23-24, 36-38, 40-41 are unpatentable.

<i>Claim 12</i>	<i>Obvious over Kelly '490 (Ex. 1005) in view of Heckel (Ex. 1006)</i>
12. A method for providing a network gaming system comprising the following steps:	Kelly '490 discloses providing a network gaming system. “In addition, multiple game apparatuses 100 at one gaming environment can be linked to gaming apparatuses 100 at other gaming environments (such as a bar down to the street, or a bar across the world) to allow additional numbers of players to interact and/or compete in networked games. For example, such game apparatuses 10, 50 or 100 at different gaming environments can be conveniently

	<p>linked through an existing global network such as the Internet and/or the World Wide Web, where the communication between different game apparatuses is accomplished using telephone lines, ISDN lines, direct-connect data lines, fiber optic lines, cellular phone or pager wireless receiver/transmitter devices, and/or other types of communication devices and channels. The game apparatuses can communicate using well known network protocols, such as TCP/IP, IPX, or other standards.” Ex. 1005, <i>Kelly ‘490</i> at 34:32-35:10; <i>see also id.</i> at 35:17-20 (“Game apparatus 100 can likewise be linked to other types of computing and electrical devices through communication device 26. Centralized servers can mon[<i>it</i>]or and c[<i>oo</i>]rdinate games for several game apparatuses.”); 32:13-18, 31:7-27, 17:16-22, 38:9-13; Ex. 1007, <i>Crevelt Dec.</i> ¶¶115-120</p>
<p>[12a] receiving a first request wherein the first request contains information identifying a user that initiated the first request; transmitting a game client software to a game apparatus of the user responsive to receiving the first request;</p>	<p>Kelly ‘490 discloses a game apparatus that can be located in non-public gaming environments such as a user’s home. Ex. 1005, <i>Kelly ‘490</i> at 8:14-16, 7:12-13. Game software is stored in memory. <i>Id.</i> at 17:33-18:5. Kelly ‘490, however, is silent on how a game apparatus located in a user’s home would be provided with game software.</p> <p>Heckel discloses a game server that requires a user to log in with a username and password (i.e., first request contains information identifying a user) in order to “allow the retrieval” of game software stored on the game server. The game software is then downloaded to the user’s computer.</p> <p><u>“When a user 1 logs onto the game server 20 from his or her computer 11, he or she provides a user ID and preferably a password 53 to authenticate his or herself and allow for retrieval of the game and any demographic data 13. When the user 1 on the computer 11 chooses a game that is enabled by the present invention, the game software 16, now downloaded or installed and running on the computer 11 [.]”</u> Ex. 1006, <i>Heckel</i> at 4:35-43.</p> <p><u>“The game server 20 is then loaded with the game server software 22. The game server 20, which is networked, or on a same system as the ad server 26, may share software with the ad server 26 and includes the capability to work in unison with the ad server 26, and will provide and extract ID 53 data between the user database 24 and the ad server 26. The game software 16 is downloaded by the user 1 from the game server software 22 at no charge [...].”</u> <i>Id.</i> at 4:10-19; <i>see also id.</i> at Fig. 1.</p>
<p>[12b] debiting</p>	<p>Kelly ‘490 discloses a centralized service that stores player “ticket</p>

or crediting an account of the user based on a gameplay of the user;	<p>account” information. When a player wins tickets from playing a game, the player can elect to “save tickets” and the centralized service will store the amount of tickets won along with player identification information on a remote storage device.</p> <p>“In an embodiment which can make use of the menu 93 or “prize catalog” of Figure 5, the player can save up or accumulate a number of tickets or credits through the use of game apparatus 50 and/or other linked game apparatuses or electronic devices. For example, <u>at the end of a game process, a player may have won a certain number of tickets, such as 25.</u> The player may decide, after looking through the prize menu 93 or prizes offered within a display area of the gaming environment, that he or she does not want any of the prizes that can be exchanged for 25 tickets or less. Instead of being dispensed universal tickets 60 from dispenser 22 and manually accumulating the tickets, the player can opt to accumulate the tickets or credits “electronically.” <u>That is, the player can select a “save tickets” option, which will store the amount of tickets won on a local or a remote storage device as well as identification information to associate the winnings with that player (name, address, etc.).</u> For example, the ticket information can be stored in a special account for the player that is kept by the operator of the gaming environment or by a more centralized service. When the player next plays a game apparatus that has access to the amount of tickets previously won, the player can add any present winnings to previously stored winnings and thus be able to exchange the combined amount of tickets for a more valuable prize. <u>The player has access to previous winnings by playing a game that is linked to the storage device that stores the “ticket account” information for the player.</u> If all the available game apparatuses are connected to a global network or other large scale network, such ticket account information can be easily retrieved.” Ex. 1005, <i>Kelly</i> ‘490 at 31:28-32:18; <i>see also id.</i> at 35:17-20 (“Game apparatus 100 can likewise be linked to other types of computing and electrical devices through communication device 26. Centralized servers can mon[it]or and c[oo]rdinate games for several game apparatuses.”).</p>
[12c] transmitting to the game apparatus a selection of a plurality of	<p>Kelly ‘490 discloses a remote prize supplier or “central prize server” that transmits to a game apparatus a selection of prizes available to the user in a network gaming system.</p> <p><u>“[T]he prize menu 93 can be offered and updated by a remote service or company which is linked to game apparatus 50 through communication device 26.</u> For example, when connecting game</p>

<p>items available to the user in the network gaming system;</p>	<p>apparatus 10 or 50 to other game apparatuses or other computing devices using a global network (as described in greater detail with respect to Figure 4), game apparatus 50 can receive information from remote sites or nodes. This information can include the menu 93 of prizes or a "prize catalog" which offers an up-to-date listing of all available prizes. The player can select a desired prize which costs less than or equal to his amount of won tickets. The player can then be dispensed a specific prize ticket 62 from dispenser 24, as described above; or, the player might be mailed the selected prize from a central supplier of prizes. If the prize is mailed, the prize supplier requires an address of the player where the selected prize can be sent to. The player can manually enter the requested address information in game apparatus 100 using an input device, or the address information might automatically be entered when the player provided monetary input to game apparatus 50 through the use of a credit or debit card or similar electronic identification." Ex. 1005, <i>Kelly</i> '490 at 31:7-27; also 38:9-13 ("a more centralized prize-offering service can be implemented in networked games to provide service for several game apparatuses and/or gaming environments. For example, a central prize "server" connected by a network can offer a prize menu [93] to linked game apparatuses as described in Figure 5.").</p> <p>"FIGURE 5 shows an example prize selection menu 93 for an alternate embodiment of the present invention that allows a player to select prizes from game apparatus 50, 10, or other embodiments disclosed herein. Menu 93 can be displayed on display screen 56 or a different output device of the game apparatus. [...]</p> <p><u>Menu 93 portrays various prizes that are available to be exchanged for universal tickets.</u> Each prize can be displayed in its own selection box 91. A description 95 of each prize can include the name of the prize and/or any other information related to the prize. Pictorial information 97 preferably portrays each prize accurately and realistically to the player. Ticket prices 99 preferably indicate the current number of tickets required for the player to receive the prize." <i>Id.</i> at 29:22-30:10.</p>
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	 <p>Figure 5</p> <p><i>Id.</i> at Fig. 5; <i>see also id.</i> at Fig. 3c (item 56).</p>
<p>[12d] receiving a second request for one of the plurality of items available within the network gaming system; and</p>	<p>Kelly '490 discloses that when a user selects a prize from the prize menu, the remote prize supplier receives a request for the selected item.</p> <p><u>"[T]he prize menu 93 can be offered and updated by a remote service or company which is linked to game apparatus 50 through communication device 26. For example, when connecting game apparatus 10 or 50 to other game apparatuses or other computing devices using a global network (as described in greater detail with respect to Figure 4), game apparatus 50 can receive information from remote sites or nodes. This information can include the menu 93 of prizes or a "prize catalog" which offers an up-to-date listing of all available prizes. The player can select a desired prize which costs less than or equal to his amount of won tickets. The player can then be dispensed a specific prize ticket 62 from dispenser 24, as described above; or, the player might be mailed the selected prize from a central supplier of prizes. If the prize is mailed, the prize supplier requires an address of the player where the selected prize can be sent to. The player can manually enter the requested address information in game apparatus 100 using an input device, or the address information might automatically be entered when the player provided monetary input to game apparatus 50 through the use of a credit or debit card or similar electronic identification."</u> <i>Id.</i> at 31:7-27; <i>also</i> 30:10-17, 38:9-13.</p>
<p>[12e] debiting the account of the user by an amount equal to a value assigned to</p>	<p>Kelly '490 discloses a centralized service that updates a player's "ticket account" by "exchanging" the selected prize for the amount of tickets assigned to the value of the selected prize (i.e., debiting the player's ticket account).</p> <p>"Instead of being dispensed universal tickets 60 from dispenser 22</p>

<p>the item,</p>	<p>and manually accumulating the tickets, the player can opt to accumulate the tickets or credits "electronically." That is, the player can select a "save tickets" option, which will store the amount of tickets won on a local or a remote storage device as well as identification information to associate the winnings with that player (name, address, etc.). <u>For example, the ticket information can be stored in a special account for the player that is kept by the operator of the gaming environment or by a more centralized service.</u> When the player next plays a game apparatus that has access to the amount of tickets previously won, <u>the player can add any present winnings to previously stored winnings and thus be able to exchange the combined amount of tickets for a more valuable prize.</u> The player has access to previous winnings by playing a game that is linked to the storage device that stores the "ticket account" information for the player. If all the available game apparatuses are connected to a global network or other large scale network, such ticket account information can be easily retrieved.” <i>Id.</i> at 31:37-32:18; <i>see also</i> 31:7-27, 35:17-33.</p>
<p>[12f] wherein the foregoing steps are performed by one or more servers and wherein at least one of the one or more servers is configured for connection to the game apparatus through a wide area network.</p>	<p>As discussed with respect to elements a through e, the steps are performed by one or more servers including a game server, a centralized ticket account server, and a remote prize server. Additionally, each of the servers is configured for connection to the game apparatus using a global network (i.e., wide area network).</p> <p>“<u>The game server 20 is then loaded with the game server software 22. The game server 20, which is networked, or on a same system as the ad server 26, may share software with the ad server 26 and includes the capability to work in unison with the ad server 26, and will provide and extract ID 53 data between the user database 24 and the ad server 26. The game software 16 is downloaded by the user 1 from the game server software 22 at no charge[...].</u>” Ex. 1006, <i>Heckle</i> at 4:10-19; <i>also</i> 1:46-51 (“The wide variety of people using a global network such as the worldwide web makes it difficult for the advertiser to know which advertisement or location of the advertisement is most effective, and, in particular, there is no way of measuring an actual audience.”), 2:35-39.</p> <p>“[T]he prize menu 93 can be offered and updated by a remote service or company which is linked to game apparatus 50 through communication device 26. <u>For example, when connecting game apparatus 10 or 50 to other game apparatuses or other computing devices using a global network (as described in greater detail with respect to Figure 4), game apparatus 50 can receive information from</u></p>

	<p>remote sites or nodes.” Ex. 1005, <i>Kelly ‘490</i> at 31:7-13.</p> <p>“For example, the ticket information can be stored in a special account for the player that is kept by the operator of the gaming environment or by a more centralized service. [...] The player has access to previous winnings by playing a game that is linked to the storage device that stores the "ticket account" information for the player. <u>If all the available game apparatuses are connected to a global network or other large scale network, such ticket account information can be easily retrieved.</u>” <i>Id.</i> at 32:6-18; <i>also</i> 35:17-23, 17:16-22, 38:9-13, 37:1-8.</p>
<i>Claim 13</i>	
13. The method of claim 12 wherein the one or more servers comprises a game server and a database server and wherein the account of the user is stored on the database server and the step transmitting a game client software is performed, at least in part, by the game server.	<p><i>Kelly ‘490</i> in view of <i>Heckel</i> as applied to claim 12. For the reasons discussed with respect to element [a] of claim 12, <i>Heckel</i> discloses a game server that transmits game software to the user’s game apparatus. For the reasons discussed with respect to elements [b] and [c] of claim 12, <i>Kelly ‘490</i> discloses a centralized service that provides for remote storage of each player’s ticket account information together with the player’s identification information. <i>Kelly ‘490</i> also discloses that player identification information may be stored on a storage device at a “central database” that is accessible by the game apparatus. Ex. 1005, <i>Kelly ‘490</i> at 37:27-30; Ex. 1007, <i>Crevelt Decl.</i> at ¶¶115-120.</p>
<i>Claim 14</i>	
14. The method of claim 13 wherein the one or more servers further comprises a web server for interacting with the game client software during the gameplay.	<p><i>Kelly ‘490</i> in view of <i>Heckel</i> as applied to claim 13. <i>Heckel</i> further discloses that the game server may be a web server a web server, through which the user must login to download the game and which interacts with the downloaded game software during gameplay.</p> <p>“It is the objective of the present invention to provide a non-interactive method of advertising within game screen environments on the Internet, which does not interrupt the playing of the game, yet exposes the user to the advertisement.” Ex. 1006, <i>Heckel</i> at 2:35-39; <i>see also id.</i> at 2:66-67 (“the variety of games made available over the worldwide web or other server”).</p> <p>“<u>When a user 1 logs onto the game server 20 from his or her computer 11, he or she provides a user ID and preferably a password 53 to authenticate his or herself and allow for retrieval of the game and any demographic data 13. When the user 1 on the computer 11 chooses a game that is enabled by the present invention, the game</u></p>

	<p>software 16, now downloaded or installed and running on the computer 11, queries the ad server 26 with the user's ID, game identification, level of play etc.” Ex. 1006, <i>Heckel</i> at 4:35-43.</p> <p>“Once all of the ad textures 15 are loaded and ready, and the user 1 and the game server 20 are ready, play will commence. During play of the game, the game control engine 10 of the computer 11 builds a graphical image out of an internal representation of the virtual space that the game occurs within. [...] At the completion of the game, the user computer 11 sends score and other statistical information from the user's computer 11 to the game server 20.” <i>Id.</i> at 4:59-5:23; <i>also</i> Fig. 1.</p>
<i>Claim 16</i>	
<p>16. The method of claim 12 further comprising transmitting from the one or more servers a plurality of variables to the game client software for use by the game client software to tailor a game environment to the user.</p>	<p>Kelly ‘490 generally discloses the advantages of providing promotional opportunities to product/service suppliers, but does not disclose a server for transmitting advertising variables for controlling advertisements. <i>See</i> Ex. 1005, <i>Kelly</i> ‘490, 13:30-14:9, 26:8-11.</p> <p>Heckel discloses an ad server that transmits advertising plug-ins (i.e., a plurality of variables) to the game software for use by the game software to tailor advertisements viewed in the game environment to the user.</p> <p>“It is a secondary objective of the present invention to direct advertising to network game players who fit varying demographic profiles. Many games are played via the Internet that users enjoy, which are directly related to age, sex, income group, etc. In the present method, advertisers would seek user information from a particular database on the game server provided to them from a game user login query. Coupling the variety of games made available over the worldwide web or other server with a particular user's demographic profile would be beneficial to companies or services wishing to direct advertising to particular groups of people matching a desired demographic range.” Ex. 1006, <i>Heckel</i> at 2:59-3:3; <i>also</i> 2:35-46, 3:58-4:9, 4:20-32, 4:59-5:25, 3:4-16.</p> <p>“When a user 1 logs onto the game server 20 from his or her computer 11, he or she provides a user ID and preferably a password 53 to authenticate his or herself and allow for retrieval of the game and any demographic data 13. When the user 1 on the computer 11 chooses a game that is enabled by the present invention, <u>the game software 16, now downloaded or installed and running on the computer 11, queries the ad server 26 with the user's ID, game identification, level of play etc.</u> If the ad server 26 has a copy of the</p>

	<p>user's demographic data 13 in the ad server database 26a, it searches to locate appropriate advertising for the game and user from the advertising sources 30. Otherwise, the ad server 26 queries the user database 24 implemented in the game server 20 for the user's demographic data 13 and performs the ad matching. Upon choosing advertising appropriate for the game and user 1, the ad server 26 presents the information as ad textures 15 to the user's computer 11 for download into a local texture store 14, along with intended viewing profiles. After the ad textures 15 have been received from the ad server 26 and loaded into the local texture store 14, they are loaded as a plug-in 2 to the server software 22, which selects individual advertising material for presentation to the game player inside the virtual environment of the game.” <i>Id.</i> at 4:35-58.</p>
<i>Claim 17</i>	
17. The method of claim 16 wherein the plurality of variables comprises an advertising variable for controlling advertisements that are displayed to the user.	Kelly ‘490 in view of Heckel as applied to claim 16.
<i>Claim 18</i>	
18. The method of claim 16 wherein the plurality of variables are determined by the one or more servers based on a profile of the user stored on the one or more servers.	Kelly ‘490 in view of Heckel as applied to claim 16. Further, Heckel discloses that the advertisement plug-ins are determined by the ad server based on a demographic profile of the user stored in a user database in either the ad server or the games server. <i>See</i> Ex. 1006, <i>Heckel</i> at 4:20-36, 4:35-58, 2:59-3:3.
<i>Claim 23</i>	
23. The method of claim 12 wherein one or more features associated with the gameplay is determined based on one or more identifiers received by the one or	<p>Kelly ‘490 in view of Heckel as applied to claim 12. As discussed with respect to claim 16, Heckel discloses an ad server that provides advertising plug-ins (i.e., features associated with the gameplay) to the game software for use by the game software to tailor advertisements viewed in the game environment to the user. <i>See e.g.</i>, Ex. 1006, <i>Heckel</i> at 2:35-46, 2:59-3:3, 4:35-58. Heckel specifically discloses that the ad server selects advertisements based on a received user’s ID and game identification (i.e., identifiers).</p> <p>“When a user 1 logs onto the game server 20 from his or her computer 11, he or she provides a user ID and preferably a password 53 to authenticate his or herself and allow for retrieval of the game and any demographic data 13. When the user 1 on the computer 11 chooses a game that is enabled by the present invention, <u>the game software 16, now downloaded or installed and running on the computer 11, queries the ad server 26 with the user's ID, game</u></p>

more servers.	identification, level of play etc. If the ad server 26 has a copy of the user's demographic data 13 in the ad server database 26a, it searches to locate appropriate advertising for the game and user from the advertising sources 30. Otherwise, the ad server 26 queries the user database 24 implemented in the game server 20 for the user's demographic data 13 and performs the ad matching. Upon choosing advertising appropriate for the game and user 1, the ad server 26 presents the information as ad textures 15 to the user's computer 11 for download into a local texture store 14, along with intended viewing profiles. After the ad textures 15 have been received from the ad server 26 and loaded into the local texture store 14, they are loaded as a plug-in 2 to the server software 22, which selects individual advertising material for presentation to the game player inside the virtual environment of the game.” <i>Id.</i> at 4:35-58.
<i>Claim 24</i>	
24. The method of claim 23 wherein the one or more features comprises a game interface displayed to the user.	Kelly ‘490 in view of Heckel as applied to claim 23. Heckel discloses that the advertisements are part of the game interface displayed to the user. <i>See, e.g.,</i> Ex.1006, <i>Heckel</i> at 2:35-46, 4:53-5:20.
<i>Claim 36</i>	
36. The method of claim 12 wherein the plurality of items comprises an award.	Kelly ‘490 in view of Heckel as applied to claim 12. As discussed for element [c] of claim 12, Kelly ‘490 discloses transmission of a selection of prizes (i.e., awards) to a game apparatus.
<i>Claim 37</i>	
37. The method of claim 12 wherein the plurality of items comprises a prize.	Kelly ‘490 in view of Heckel as applied to claim 12. As discussed for element [c] of claim 12, Kelly ‘490 discloses transmission of a selection of prizes to a game apparatus.
<i>Claim 38</i>	
38. The method of claim 12 wherein the plurality of items comprises prize credits.	Kelly ‘490 in view of Heckel as applied to claim 12. Kelly ‘490 also discloses that in addition to the prize menu, players are presented with a selection option to “save tickets” (i.e., prize credits). Ex. 1005, <i>Kelly ‘490</i> at 31:28-18.
<i>Claim 40</i>	
40. The method of claim 12 wherein the plurality of items comprises cash.	Kelly ‘490 in view of Heckel as applied to claim 12. As discussed for element [c] of claim 12, Kelly ‘490 discloses transmission of a selection of prizes to a game apparatus. “Prize” options include a “coupon for monetary value outside the game environment” (i.e., cash). Ex. 1005, <i>Kelly ‘490</i> at 10:34-11:5.

<i>Claim 41</i>	
41. The method of claim 12 wherein the plurality of items are selected from the group consisting of an award, a prize, prize credits, cash and game credits.	Kelly '490 in view of Heckel as applied to claim 12. As discussed for element [c] of claim 12, Kelly '490 discloses a remote prize supplier or "central prize server" that transmits to a game apparatus a selection of prizes available to the user in a network gaming system.

D. Lucero in view of Heckel Renders Claims 12-18, 22-24 and 36-41 Obvious Under 35 U.S.C. § 103(a)

Heckel, Lucero⁶ and the '432 Patent, each generally describe network gaming systems. *See e.g.*, Ex. 1006, *Heckel* at 1:7-12; Ex. 1004, *Lucero* at 5:60-6:37, 9:15-10:62. Lucero describes a network gaming system that interacts with a remote server, for purposes of processing gameplay and receiving authorization to play, in at least some embodiments, via the entry of a valid credit card and PIN number. Ex. 1004, *Lucero* at 2:28-45. Lucero describes that a player may utilize its gaming system on a personal computer from virtually any location so long as it has the appropriate gaming software and is capable of connecting with a processing facility. Ex. 1004, *Lucero* at 9:25-46, 9:67-10:10. As described above in Section IV.B, Lucero describes a system that sends a player a selection of items, receives a player's selection and debits a player's account corresponding to that selection. These operations may be performed by an intermediate facility or processing facility. *Id.* at 5:60-6:24, 9:29-59. Lucero teaches that its system can be implemented as software on a personal computer, "from virtually any location," if it is capable of connecting to a

⁶ Lucero is 102(b) prior art with respect to claims 12-25 and 36-41 based on the November 3, 1999 priority date. *See* Sec. III.C *supra*.

processing facility, i.e., intermediate facility, of the gaming operator. *Id.* at 9:25-10:62. The processing system operates in the same manner as the intermediate system by allowing players to obtain credit and maintaining a net playing credit balance. *Id.* at 9:49-57.

Heckel describes a network game system comprising a game server, an ad server and a user computer. Ex. 1006, *Heckel* at Fig. 1. Heckel recognizes his invention may be used to play games on the Internet such as “blackjack, poker, craps, roulette, baccarat and pai gow” as described in U.S. Patent No. 5,823,879 to Goldberg. *Id.* at 2:5-8, 1:24-29. In order to obtain game software in Heckel, a user must log on to the game server using his or her user ID and password. *Id.* at 4:35-38. The user may select a game to download, which is subsequently downloaded to the user’s computer. *Id.* at 4:16-19.

Thus, upon reading the disclosure of Heckel, a skilled artisan would have recognized that providing the software of Lucero to users via the method described in Heckel would be desirable. Ex. 1007, *Crevelt Decl.*, at ¶¶121-126. Making the gaming software available to every person with a computer and internet connection, as taught by Heckel, would increase the number of players (i.e., revenue) by providing the convenience of playing at home. *Id.* at ¶124. As noted above, Heckel expressly recognized that his invention would be compatible with gaming software. Heckel also recognized the value in providing additional value to players and advertisers by utilizing a player’s account information for targeted, in-game advertising. Ex. 1006, *Heckel* at 2:35-3:3. Thus, it would have been natural and nothing more than ordinary skill and common sense to combine the software delivery and advertising systems of Heckel with the

gaming software of Lucero. *Id.* at ¶125. Indeed, it would have yielded predictable results with little effort. *Id.* at ¶126. Therefore, claims 12-18, 22-24 and 36-41 of the ‘432 Patent are unpatentable as obvious over Lucero in view of Heckel.

<i>Claim 12</i>	<i>Obvious over Lucero (Ex. 1004) in view of Heckel (Ex. 1006)</i>
12. A method for providing a network gaming system comprising the following steps:	<p><i>See</i> Lucero as applied to the preamble claim 1 in Section IV.B.</p> <p>Heckel also describes a gaming network provided over the Internet that allows the additional functionality of providing advertising to a user.</p> <p>“The present invention is a method for advertising within virtual environments of games played over a network. Advertisements are used as plug-ins for 3D texture areas within an Internet game, as a non-interactive means of advertising, which is directed to a wide variety of players having a multitude of different demographic profiles.” Ex. 1006, <i>Heckel</i> at 1:7-12; <i>see id.</i> at 2:66-3:3.</p> <p>“U.S. Pat. No. 5,823,879, Oct. 20, 1998 (Goldberg et al.) teaches a game playing method and apparatus for automating games such as blackjack, poker, craps, roulette, baccarat and pai gow. The invention may also be used to play such games on the Internet or an interactive cable television network.” <i>Id.</i> at 2:5-10.</p> <p>Heckel describes that a game server provides information, including game software to a user after the user logs in with an ID and password. <i>Id.</i> at 4:35-43; <i>also</i> Heckel as applied to claim 12 in Section IV.C; Ex. 1007, <i>Crevelt Decl.</i>, at ¶¶ 121-126.</p>
[12a] receiving a first request wherein the first request contains information identifying a user that initiated the first request; transmitting a game client software to a game apparatus of the user responsive to receiving the first request;	<i>See</i> Heckel as applied to element [12a] of claim 12 in Section IV.C.
[12b] debiting or crediting an account of the user based on a gameplay of the user;	<i>See</i> Lucero as applied to element [1b] claim 1 and claim 3 in Section IV.B.
[12c] transmitting to the game apparatus a selection of a plurality of items available to the user in the network gaming system;	<i>See</i> Lucero as applied to element [1c] of claim 1 in Section IV.B.
[12d] receiving a second request for one of the plurality of items available within the	<i>See</i> Lucero as applied to element [1c] of claim 1 in Section IV.B.

network gaming system; and	
[12e] debiting the account of the user by an amount equal to a value assigned to the item,	<i>See</i> Lucero as applied to element [1c] of claim 1 in Section IV.B.
[12f] wherein the foregoing steps are performed by one or more servers and wherein at least one of the one or more servers is configured for connection to the game apparatus through a wide area network.	The combination of Lucero and Heckel provides that the foregoing steps are performed by one or more servers, such as the game server in Heckel and the intermediate facilities (or processing facilities) of Lucero. Lucero and Heckel also describe that the gaming machine or user computer and the servers are connected through a wide area network, such as the Internet. <i>See</i> Lucero as applied to claim 1 in Section IV.B; Heckel as applied to claim 1 in Section IV.C.
<i>Claim 13</i>	
13. The method of claim 12 wherein the one or more servers comprises a game server and a database server and wherein the account of the user is stored on the database server and the step transmitting a game client software is performed, at least in part, by the game server.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Heckel as applied to claim 13 in Section IV.C.
<i>Claim 14</i>	
14. The method of claim 13 wherein the one or more servers further comprises a web server for interacting with the game client software during the gameplay.	Lucero in view of Heckel as applied to claim 13. <i>See</i> Heckel as applied to claim 14 in Section IV.C.
<i>Claim 15</i>	
15. The method of claim 12 further comprising receiving a third request at the one or more servers for the purchase of credits in exchange for legal currency and depositing the credits into an account of the user stored on the one or more servers, wherein the credits are usable within the network gaming system.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Lucero as applied to element [1a] of claim 1 in Section IV.B.
<i>Claim 16</i>	
16. The method of claim 12 further comprising transmitting from the one or more servers a plurality of variables to the game client software for use by the game client software to tailor a game environment to the user.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Heckel as applied to claim 16 in Section IV.C; <i>see id.</i> at Ex. 1007, <i>Crevelt Dec.</i> at ¶124.
<i>Claim 17</i>	
17. The method of claim 16 wherein the	Lucero in view of Heckel as applied

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plurality of variables comprises an advertising variable for controlling advertisements that are displayed to the user.	to claim 16. <i>See</i> Heckel as applied to claim 17 in Section IV.C.
<i>Claim 18</i>	
18. The method of claim 16 wherein the plurality of variables are determined by the one or more servers based on a profile of the user stored on the one or more servers.	Lucero in view of Heckel as applied to claim 16. <i>See</i> Heckel as applied to claim 18 in Section IV.C.
<i>Claim 22</i>	
22. The method of claim 12 wherein the selection of a plurality of items available to the user in the network gaming system is based on one or more identifiers received by the one or more servers.	Lucero in view of Heckel as applied to claim 12. Lucero also discloses that the intermediate processing facility (i.e., server) transmits the selection of wagering units in response to receiving, for example, the user's gaming account number or player identification number, or user charge card information (i.e., identifier). Ex. 1004, <i>Lucero</i> at 6:25-37, 11:29-51, 12:50-52, 13:34-39.
<i>Claim 23</i>	
23. The method of claim 12 wherein one or more features associated with the gameplay is determined based on one or more identifiers received by the one or more servers.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Heckel as applied to claim 23 in Section IV.C.
<i>Claim 24</i>	
24. The method of claim 23 wherein the one or more features comprises a game interface displayed to the user.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Heckel as applied to claim 24 in Section IV.C.
<i>Claim 36</i>	
36. The method of claim 12 wherein the plurality of items comprises an award.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Lucero as applied to claims 30 and 42 in Section IV.B.
<i>Claim 37</i>	
37. The method of claim 12 wherein the plurality of items comprises a prize.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Lucero as applied to claim 31 and 43 in Section IV.B.
<i>Claim 38</i>	
38. The method of claim 12 wherein the plurality of items comprises prize credits.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Lucero as applied to claim 32 and 44 in Section IV.B.
<i>Claim 39</i>	
39. The method of claim 12 wherein	Lucero in view of Heckel as applied to claim 12.

the plurality of items comprises game credits.	<i>See</i> Lucero as applied to claim 33 and 45 in Section IV.B.
<i>Claim 40</i>	
39. The method of claim 12 wherein the plurality of items comprises cash.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Lucero as applied to claim 34 and 46 in Section IV.B.
<i>Claim 41</i>	
41. The method of claim 12 wherein the plurality of items are selected from the group consisting of an award, a prize, prize credits, cash and game credits.	Lucero in view of Heckel as applied to claim 12. <i>See</i> Lucero as applied to claim 35 and 47 in Section IV.B.

E. Lucero Renders Claim 10 Obvious Under 35 U.S.C. § 103(a)

Lucero discloses that the intermediate processing facility can link multiple gaming accounts and combine accounts. Ex. 1004, *Lucero* at 12:25-13:15. This disclosure is similar to that in the ‘432 Patent disclosure of transferring credits to and from secondary accounts in order to pool a user’s credits. Ex. 1001, ‘432 *Patent* at 9:53-67. It would have been obvious to allow multiple users to combine accounts for the purpose of transferring and pooling credits in the manner disclosed by Lucero. *See* Ex. 1007, *Crevelt Decl.*, at ¶111. Therefore, claim 10 is unpatentable under §103(a) as obvious over Lucero.

<i>Claim 10</i>	<i>Obvious over Lucero (Ex. 1004)</i>
10. The method of claim 3 further comprising transferring a selected number of credits from the user to a second user upon receiving a request by the user.	Lucero as applied to claim 3 in Section IV.B. Lucero describes that an account can be linked to an earlier established gaming account and the balances can be combined. Ex. 1004, <i>Lucero</i> at 12:25-13:15; Ex. 1007, <i>Crevelt Decl.</i> , at ¶111.

F. Martin Renders Claims 4-7 and 29 Obvious Under 35 U.S.C. § 103(a)

Martin describes a centrally located system controller that maintains account balances of users using an “account balance register.” *See e.g.*, Ex. 1002, *Martin* at 3:66-

4:13, 4:45-49, 5:45-62, Fig. 1 and as applied in Section IV.A. It would have been obvious to one of ordinary skill in the art to modify the Martin system to utilize a “database server” as the system controller to perform the functions of storing, organizing, and updating account balances. Ex. 1007, *Crevelt Decl.* at ¶¶89-95. Such a modification would have been well within the level of ordinary skill in the art, would have had more than a reasonable expectation of success, and would not have yielded unexpected results. *Id.* at ¶¶95. Therefore, claims 4-7 and 29 are unpatentable under §103(a) as obvious over Martin.

<i>Claim 4</i>	<i>Obvious over Martin (Ex. 1002)</i>
4. The method of claim 3 wherein the gameplay comprises the user playing a plurality of games and wherein a database server keeps track of the credits in the account of the user based on a plurality of outcomes of the plurality of games.	<p>Martin as applied to claims 1-3 in Section IV.A. Martin describes that the account balance register may be maintained at the centrally located system controller. The account balance register at the system controller is connected to the scoring circuitry of the gaming device and increments or decrements the account balance register based on a plurality of outcomes of a plurality of games played. <i>See</i> Ex. 1007, <i>Crevelt Decl.</i> at ¶¶93-95.</p> <p><u>“An account balance register indicated by box 14 is provided for use in connection with the operation of the machine or device in the gaming or gambling mode, and the account balance register 14 is suitably interconnected with the scoring circuitry 13 to increment or decrement the account balance when the machine is in a gaming mode in accordance with the success or lack of success of the player. Suitable account balance circuitry or software arrangements are also known in the art, with electronic machines used for gaming in casinos and the like providing a "credit balance" indication or talley. The account balance register can be incorporated into each machine, or can alternatively or additionally be incorporated into the system operator controller 20 for providing an account balance for each player at a central location.”</u> Ex. 1002, <i>Martin</i> at 3:66-4:12; <i>also id.</i> at 4:54-65.</p> <p><u>“In the gaming mode, either a system controller or the electronic game machines themselves have registers for maintaining an indication of player credit balance, and for incrementing or decrementing the player credit balance in accordance with the outcome of games played by the player in the gaming mode.”</u> <i>Id.</i> at 2:3-9.</p>

	<p>“The machine 11 is provided with the usual scoring circuitry illustrated by box 13, which can function while the machine is either in a gaming mode or an amusement mode. The scoring circuitry or software is of course dependent on the particular game or <u>games</u> provided on the machine, and appropriate circuitry or software for the <u>various games</u> is well known.” <i>Id.</i> at 3:59-65.</p> <p>“The input of cash, tokens, or credit card debit can be with regard to one wager on one game to be played, or as a <u>general increase</u> to a player’s account balance from <u>which individual wagers are later debited</u> or subtracted by the player.” <i>Id.</i> at 4:24-28.</p>
<i>Claim 5</i>	
5. The method of claim 4 wherein the server and the database server are the same.	Martin as applied to claims 1-4. As described above, the account balance register (i.e., database server) located at the system controller is capable of processing requests for additional credits as well as tracking credits based on the outcome of games. <i>Id.</i> at 2:3-9, 3:66-4:30; <i>see</i> Ex. 1007, <i>Crevelt Decl.</i> at ¶¶89-95.
<i>Claim 6</i>	
6. The method of claim 4 wherein the database server is located on one or more of a plurality of game apparatuses connected to a wide area network.	Martin as applied to claims 1-4. Martin also describes that the account balance register, i.e., database server, may be incorporated into the gaming machine. <i>Id.</i> at 4:9-13; <i>see also id.</i> at 2:3-9, 4:54-60, 5:45-62.
<i>Claim 7</i>	
7. The method of claim 4 wherein an application programming interface is used to allow the server to perform calculations on behalf of a game apparatus associated with the user.	<p>Martin as applied to claims 1-4. Martin describes that a player interacts with the gaming device and the gaming device is configured to communicate with the system controller. The system controller performs calculations, such as incrementing or decrementing the account value register, based on signals received from the scoring circuitry that are previously sent from the gaming device to the system controller. Ex. 1007, <i>Crevelt Decl.</i> at ¶¶ 96-98.</p> <p><i>See</i> Ex. 1002, Martin at Fig. 1.</p> <p>“Player input means are provided which can be in the form of knobs, buttons or touch screen areas on a CRT or LCD screen. ... In the gaming mode, either a system controller or the electronic game machines themselves have registers for maintaining an indication of player credit balance, and for incrementing or decrementing the player credit balance in accordance with the outcome of games played by the player in</p>

	<p>the gaming mode.” <i>Id.</i> at 1:62-2:9.</p> <p>“An account balance register indicated by box 14 is provided for use in connection with the operation of the machine or device in the gaming or gambling mode, and the account balance register 14 is suitably interconnected with the scoring circuitry 13 to increment or decrement the account balance when the machine is in a gaming mode in accordance with the success or lack of success of the player. Suitable account balance circuitry or software arrangements are also known in the art, with electronic machines used for gaming in casinos and the like providing a "credit balance" indication or talley. The <u>account balance register can be incorporated into each machine</u>, or can alternatively or additionally be incorporated into <u>the system operator controller 20 for providing an account balance for each player at a central location.</u>” <i>Id.</i> at 3:66-4:13; <i>also</i> 2:3-9, 4:54-60, 5:45-62.</p>
<i>Claim 29</i>	
29. The method of claim 28 wherein the gameplay comprises the user playing a plurality of games and wherein a database server keeps track of the credits in the account of the user based on a plurality of outcomes of the plurality of games.	Martin as applied to claim 28 in Section IV.A. <i>See also</i> Martin as applied to Claim 4.

G. Lucero in view of Martin Renders Claims 1-5, 7, 10, 11, 26-35 and 42-47 Obvious Under 35 U.S.C. § 103(a)

As described above, Martin, Lucero and the '432 Patent, each describe remote gaming systems involving the requesting and winning of credits and exchanging those credits for things of value, whether it be cash, gaming credits or physical goods. *See e.g.*, Ex. 1002, *Martin* at 3:36-4:65; Ex. 1004, *Lucero* at 4:48-6:24. In both Martin and Lucero, a player at a gaming machine requests credits by, for example, inputting cash, tokens or credit card debit. Ex. 1002, *Martin* at 4:14-30; Ex. 1004, *Lucero* at 4:48-53, 4:63-67. Similarly, the systems of both Martin and Lucero maintain accounts that track a player's wins and

losses and credit or debit his account accordingly. Ex. 1002, *Martin* at 3:66-4:13; Ex. 1004, *Lucero* at 4:48-53, 4:63-67.

The player's account in Lucero is maintained at a remote "intermediate processing facility" that stores data including the current account balance of various types of credits in the account. *Id.* at 12:44-64, 13:26-29, Fig. 9. A player may cash out his account by "elect[ing] to receive cash or tokens for the credit available" in the account. *Id.* at 5:3-6. Lucero also provides that a player may be presented with and select various types of "wagering units" to be used in the gaming system. *Id.* at 3:25-53, 13:16-39. Lucero also describes that the selection of "wagering units" provided to the player is based on an option for "accessing the gaming account." *Id.* at 3:45-53, 13:16-19. One way of accessing a gaming account is by entering a general purpose charge card, i.e., identifier, into the gaming machine, which then communicates with the processing facility to identify the gaming account. *Id.* at 12:25-13:6.

As previously noted, Martin describes an "ordering mode" in which a player can order drinks, food or merchandise using the gaming account. Ex. 1002, *Martin* at 5:45-62. Martin also describes that when a player is finished playing and would like to "cash out," he is able to do so by crediting a credit card or receiving tokens or cash provided directly at the gaming machine. *Id.* at 4:31-45. Martin further teaches that payouts are controlled by the account balance register, which may be centrally located. *Id.* at 4:9-13, 4:49-53.

Thus, upon reading the disclosure of Martin, a person of ordinary skill in the art would have recognized that modifying Lucero to include an option to request a payout

from the intermediate processing system or processing facility, such facility providing one or more options for “cashing out,” e.g., a “payout mode” akin to the “ordering mode” in Martin, would be desirable. Ex. 1007, *Crevelt Decl.*, at ¶¶106-114. Lucero and Martin both recognize the desirability of controlling such payouts from a central location. *Id.* at 4:45-53; Ex. 1004, *Lucero* at 6:12-22, 9:29-59. Martin expressly teaches a gaming machine can “cash out” in various ways. Ex. 1002, *Martin* at 4:31-45. Lucero similarly recognizes various ways to “cash out” and that a player may “elect” whether to receive cash or tokens when he is finished playing. However, Lucero does not expressly state that the cash out options are presented as a “selection of items.” Martin provides that disclosure with respect to prizes and awards, which would be equally applicable to cash and game credits in Lucero.

One of ordinary skill would thus have appreciated that this simple improvement to Lucero could be achieved by merely programming the gaming machine of Lucero to perform the function of providing a selection of items as taught by Martin. *Id.* at ¶112. For example, to permit a player to request a selection of methods for “cashing out,” such as with a selection of credit, cash or tokens (i.e., gaming credits), one would merely program the gaming machine to request the “cash out” methods from the intermediate system or processing facility in Lucero. *Id.* at ¶¶110-114. This could be achieved in a manner similar to the “ordering mode” of Martin by way of a “payout mode” or similar functionality. *Id.* at ¶110. This is simply a modification of the system of Lucero to provide a selection of items for cashing out, as taught by Martin that would have yielded

predictable results without requiring undue experimentation. *Id.* at ¶112. Thus, it would have been natural and an application of nothing more than ordinary skill and common sense to combine Martin with the selectable payout method and selectable wagering units in Lucero. *Id.* at ¶¶113, 114. Therefore, claims 1-5, 7, 10, 11, 26-35 and 42-47 are unpatentable under §103(a) as obvious over Lucero in view of Martin. *See* Lucero as applied in Sections IV.B and IV.E.

H. Claims 1-5, 7, 10-18, 22-24, 26-47 Obvious Under 35 U.S.C. § 103(a) Based on an Obvious Modification of Lucero

Lucero describes an “intermediate processing facility” that is remote from the user receives information from the user, stores and modifies information relating to the user, and sends information specific to the user to a user station. *See e.g.*, Ex. 1004, *Lucero* at 5:60-6:22, 6:38-40, 9:25-10:6, Figs. 6, 9 and as applied in Section IV.B. One of ordinary skill in the art would understand these references to disclose a “server” and “database server.” Ex. 1007, *Crevelt Decl.* at ¶102-104. In the unlikely event that Lucero is found to be lacking a “server” or “database server” for any of the claims (which Petitioners would strongly disagree with), modifying the intermediate processing facility to include a “server” that performs the disclosed functions would have been obvious to one of skill in the art. *Id.* at ¶102-104. Such a modification would have been well within the level of ordinary skill in the art, would have had more than a reasonable expectation of success, and would not have yielded unexpected results. *Id.* at ¶104. Therefore:

- Claims 1-5, 7, 10, 11, 26-35, 42-47 would be obvious on this basis in view of Lucero alone. *See* Lucero as applied in Sections IV.B and IV.E.
- Claims 12-18, 22-24, and 36-41 would be obvious on this basis in view of Lucero in view of Heckel. *See* Lucero in view of Heckel as applied in Section IV.D.
- Claims 1-5, 7, 10, 11, 26-35 and 42-47 would be obvious on this basis in view of Lucero in view of Martin. *See* Lucero in view of Martin as applied in Section IV.G.

I. Claims 1-7, 26-31, 35, 42, 43 and 47 are Obvious under § 103(a) Based on Obvious Modification of Martin

Martin describes that a centrally located system controller receives information from the user, stores and modifies information relating to the user, and sends information specific to the user to a user station. *See e.g.*, Ex. 1002, *Martin* at 3:66-4:13, 4:45-49, 5:45-62, Fig. 1 and as applied in Section IV.A. One of ordinary skill in the art would understand these references to disclose a “server.” Ex. 1007, *Crevelt Decl.* at ¶¶89-95. In the unlikely event that Martin is found to be lacking a “server” for any of the claims (which Petitioners would strongly disagree with), modifying the system controller to include a “server” that performs the disclosed functions would have been obvious to one of skill in the art. *Id.* Such a modification would have been well within the level of ordinary skill in the art, would have had more than a reasonable expectation of success, and would not have yielded unexpected results. *Id.* at ¶¶95. Therefore, claims 1-7, 26-31, 35, 42, 43 and 47 would be obvious on this basis in view of Martin alone. *See* Martin as applied in Sections IV.A and IV.F.

**J. Handelman Renders Claims 1-5, 26-31, 35, 42, 43 and 47 Obvious
Under 35 U.S.C. § 103(a)**

Handelman was not cited or considered during prosecution and generally discloses methods and systems directed to gaming systems that are provided over cable or satellite television network. Ex. 1003, *Handelman* at 2:25-34. Handelman describes that a subscriber may select one or more gaming programs that are provided by the network, such as card games or roulette. *Id.* at 6:50-55. An accounting apparatus debits or credits the subscriber's account depending on the outcome of the games played. *Id.* at 7:13-25. In addition, Handelman describes a shopping program as part of its network from which items may be selected. *Id.* at 8:54-60. The accounting apparatus debits the subscriber's account based on purchases made through the shopping program. *Id.* at 9:11-20. Handelman discloses that "control circuitry" provides available games to the user for selection and available products for purchase. *Id.* at 7:4, 9:3-4, 24:35-43, 26:59-27:10. The accounting apparatus interfaces with the "control circuitry" for administering financial transactions related to gaming and shopping. *Id.* at 7:13-17, 9:11-15. The accounting apparatus and control circuitry are illustrated as being separate functional components. *Id.* at Figs. 1, 3. Modifying Handelman to include a single server for performing the functional capabilities of the accounting apparatus and control circuitry would have been obvious to one of skill in the art. Ex. 1007, *Crevelt Decl.* at ¶¶99-101. A single server implementation of the Handelman system would be capable of storing, organizing, and updating data relating to the current value of the subscriber's account and, therefore, would constitute a database server. *Id.* Such a modification would

have been well within the level of ordinary skill in the art, would have had more than a reasonable expectation of success, and would not have yielded unexpected results. *Id.* at

¶101. As shown below, there is a reasonable likelihood that claims 1-5, 26-31, 35, 42, 43 and 47 are obvious over Handelman.

<i>Claim 1</i>	<i>Obvious over Handelman (Ex. 1003)</i>
1. A method for providing a network gaming system, comprising:	<p>Handelman describes a pay television network gaming system, including apparatuses for settling gaming debts and winnings and providing shopping in the network.</p> <p>“There is additionally provided in accordance with a preferred embodiment of the present invention a television gaming system including a television network and a multiplicity of subscriber units each including a television, communication apparatus for receiving gaming inputs from the multiplicity of subscriber units; apparatus for transmitting to the multiplicity of subscriber units information relating to gaming results; and accounting apparatus for settling gaming debts and winnings via the communication apparatus.” Ex. 1003, <i>Handelman</i> at 2:35-42.</p> <p>“In accordance with a preferred embodiment of the invention, the broadcast television network 30 provides one or more gaming programs which may be selected by subscribers and in connection with which subscribers may enter gaming inputs, such as bets in a card game or roulette, via the subscriber input unit 38.” <i>Id.</i> at 7:55-60; <i>also</i> 6:50-59, 6:36-33, 2:25-34, 2:54-62, 3:5-4:2, Figs. 1-6.</p>
[1a] receiving a request at a server from a user for the purchase of credits in exchange for legal currency, wherein the credits are usable within the network gaming	<p>Handelman describes receiving a request at a remote “accounting apparatus 24” from a subscriber for the purchase of gaming credits in exchange for money, where the “accounting apparatus 24” deposits the requested credits into the subscribers account. The gaming credits are useable within the network to place.</p> <p>“Gaming is administered by gaming control circuitry 22, which interfaces with apparatus 20 and with transmission apparatus 26, which transmits the gaming program and results to subscribers along the pay television network. The functionality and structure of the gaming control circuitry 22 will be described in detail hereinafter in connection with FIGS. 9A and 9B. [...]</p> <p>In accordance with a preferred embodiment of the present invention,</p>

<p>system; depositing the credits into an account of the user;</p>	<p>accounting apparatus 24 interfaces with gaming control circuitry 22 for administering financial transactions related to the gaming between the subscribers and the pay television network. The accounting apparatus 24 may be operated as part of the pay television network accounting system, and may debit and credit, losses and winnings as the case may be to the subscribers' pay television accounts. Alternatively and preferably, separate accounts for pay television programs and gaming are maintained. The functionality and structure of the accounting apparatus 24 will be described in detail hereinafter in connection with FIGS. 10A and 10B.” <i>Id.</i> at 7:4-25; <i>see also id.</i> at 8:9-28, Figs 10A, 10B; Ex. 1007, <i>Crevelt Decl.</i> at ¶¶ 99-101.</p> <p><i>See generally</i> Ex. 1003, <i>Handelman</i> at 11:27-64, 14:66-15:14, 15:27-35, 16:17-25 (describing routing of “gaming credit amount requests” from a subscriber unit to accounting apparatus 24); 13:12-59 (describing accounting apparatus 24 account credit and balance registers); Fig. 33 (“Your Credit: \$ 10.95); <i>also</i> Figs. 1, 2, 9, 20b, 22b.</p> <p>“If the subscriber is authorized to obtain additional credit he is requested to select the required credit amount. The menu does not allow the subscriber to request credits above his entitlements. After the selection of required credit the subscriber approves the credit selection and a request for credit is transmitted. The subscriber then accepts the credit and verifies the reception of the transmitted credit.</p> <p>Once the subscriber has additional credit to cover his gambling request, he is transferred back to the menu in which he is requested to enter the amount of money he wishes to gamble in this game.” <i>Id.</i> at 24:7-17, Figs. 27A-C; <i>also</i> 26:29-38, 27:50-55.</p>
<p>[1b] depositing additional credits into the account of the user in response to an outcome of a gameplay;</p>	<p><i>See generally</i> <i>Handelman</i> as applied element [a] of claim 1. <i>Handelman</i> describes increasing the amount in a subscriber’s account based on the subscriber’s winnings.</p> <p>“In accordance with a preferred embodiment of the present invention, accounting apparatus 24 interfaces with gaming control circuitry 22 for administering financial transactions related to the gaming between the subscribers and the pay television network. The accounting apparatus 24 may be operated as part of the pay television network accounting system, and <u>may debit and credit, losses and winnings as the case may be to the subscribers' pay television accounts.</u> Alternatively and preferably, separate accounts for pay television programs and gaming are maintained. The functionality and structure of the accounting apparatus 24 will be described in detail</p>

	<p>hereinafter in connection with FIGS. 10A and 10B.” <i>Id.</i> at 7:13-25; <i>see also id.</i> at 2:25-33.</p> <p>“In accordance with a preferred embodiment of the present invention, accounting apparatus 46 interfaces with gaming control circuitry 42 for administering financial transactions related to the gaming between the subscribers and the broadcast television network. The <u>accounting apparatus may debit and credit, losses and winnings as the case may be to the subscribers' accounts.</u>” <i>Id.</i> at 8:9-15.</p> <p>Handelman also describes the gaming control circuitry of the CATV network providing a “winnings” output to a multiplexer. The outputs of these numbers are combined and transmitted as “gaming credits & codes” on a subscriber-by-subscriber basis to a memory bank where they are stored in a, for example, “gaming credit register” or “gaming balance register.” <i>Id.</i> at 12:31-13:59; <i>see id.</i> at Figs. 9A, 9B, 10A, 10B.</p>
<p>[1c] receiving at the server a second request to provide a selection of items available in the network gaming system; responsive to the second request, sending the selection of items to the user from the server; receiving at the server an item selection from the user; responsive to receiving the item selection,</p>	<p>Handelman teaches that “[g]aming is administered by gaming control circuitry 22.” <i>Id.</i> at 7:4, Fig. 1, 9A and B. After the subscriber turns to the gaming channel, the subscriber is provided with a listing of games. After selecting a game and a supplier, the subscriber is provided with a selection of betting combinations. The subscriber’s account is debited for each betting combination selected.</p> <p>“After selection of the game option the subscriber is presented with a screen, such as the screen appearing in FIG. 33 and is requested to <u>select his betting combinations.</u> At the end of each sequence of selections the subscriber is asked if he wishes to make more selections. If the answer is "Yes" the <u>costs of the successive gambling activities are accumulated and subtracted from the remaining credit.</u> The system then returns to the test in which it checks if the sum is under the available credit and proceeds accordingly.” <i>Id.</i> at 24:35-43; <i>see also id.</i> at 23:46-55, 27:23-28:6, Figs. 1, 8, 27A-C, 33, 31A-31C, 35; Ex. 1007, <i>Crevelt Decl.</i> at ¶¶ 99-101.</p> <p>Handelman also describes a subscriber making shopping purchases through a requested shopping menu of available items, where “[s]hopping is administered by shopping control circuitry 62” (i.e., server). <i>Id.</i> at 9:3-4, Fig. 3, 19A and 19B. Purchases are debited from the subscriber’s account, which may be the same as the account from which gaming winnings and losses are tracked.</p> <p><i>See</i> Ex. 1003, <i>Handelman</i> at 7:13-21 (reproduced above); <i>also</i> 9:11-20, Ex. 1007, <i>Crevelt Decl.</i> at ¶¶ 99-101.</p>

providing an item to the user based on the item selection; and debiting the account of the user by an amount associated with the item.	<p>“To start, a subscriber who wishes to purchase goods or to participate in an auction is presented with a screen, such as the screen shown in FIG. 34 and is requested to make the following sequential selections:</p> <p>A shopping pay television channel; A shopping menu; An item code; A supplier. [...]</p> <p>After the selection of each different item the subscriber is asked if he wants to select more products. If he does <u>the system accumulates the costs of the products and subtracts the accumulated sum from the remaining credit.</u> [...]</p> <p>When the subscriber has completed his purchases, he is asked if he wishes to transmit the data. [...] If the subscriber approves the transmission of data, he is requested to initiate selection of the payment option, as described above with reference to FIG. 28. The data is then transmitted to the shopping opportunities receiving apparatus 60.” Ex. 1003, <i>Handelman</i> at 26:59-27:10; <i>see id.</i> at Fig. 28.</p> <p><i>See generally id.</i> at 18:12-24, Fig. 18 (describing subscriber selections transmitted to and received by shopping control circuitry 62); <i>also</i> 19:48-20:5, 20:23-37, Figs. 19A and 19B (describing accounting apparatus 24 account credit and balance registers); 8:54-60.</p>
<i>Claim 2</i>	
2. The method of claim 1 wherein the credits represent a type of universal currency that can be used in the context of the network gaming system.	<p>Handelman as applied to claim 1. The account credits in Handelman can be used to place bets in a game, for pay television programming, or to purchase goods from a store.</p> <p>“The accounting apparatus 24 may be operated as part of the pay television network accounting system, and may debit and credit, losses and winnings as the case may be to the subscribers' pay television accounts. Alternatively and preferably, separate accounts for pay television programs and gaming are maintained. [...] The accounting apparatus 24 may interface directly with transmission apparatus 26 for providing information to subscribers regarding their winnings, losses, and account balances via the pay television system. [...] Preferably the accounting apparatus 24 maintains separate accounts for pay television program charges and for non-program charges.” <i>Id.</i> at 7:17-33; <i>see also id.</i> at 8:13-23, 9:11-27.</p>
<i>Claim 3</i>	
3. The method of claim 2 further	Handelman as applied to claim 2. Handelman

comprising debiting or crediting the account of the user based on a gameplay of the user.	describes debiting and crediting a subscriber's account based on wins or losses. <i>See, e.g., id.</i> at 7:17-33 (reproduced above); <i>also</i> 8:13-23, Figs. 10A-B, 27A-C.
<i>Claim 4</i>	
4. The method of claim 3 wherein the gameplay comprises the user playing a plurality of games and wherein a database server keeps track of the credits in the account of the user based on a plurality of outcomes of the plurality of games.	Handelman as applied to claim 3. Handelman describes that an accounting apparatus on the network tracks a subscriber's winnings and/or losses as a result of the subscriber playing games. <i>See, e.g., id.</i> at 7:17-33 (reproduced above); <i>also</i> 6:50-55 ("one or more gaming programs . . . [such as] a card game or roulette"); 8:13-23, Figs. 10A, 10B, 11, 33, 35; Ex. 1007, <i>Crevelt Decl.</i> at ¶¶ 99-101.
<i>Claim 5</i>	
5. The method of claim 4 wherein the server and the database server are the same.	Handelman as applied to claims 1-4. The accounting apparatus in Handelman can both track credits in an account based on the outcome of gameplay and process requests for additional credits in exchange for legal currency. <i>See</i> Handelman as applied to element [a] of claim 1 and claim 4.
<i>Claim 26</i>	
26. A method for providing a network gaming system, comprising:	Handelman as applied to claims 1 and 12.
receiving a request at a server from a user for credits, wherein the credits are usable within the network gaming system; depositing the credits into an account of the user;	Handelman as applied to limitation [1a] of claim 1.
receiving at the server a second request to provide a selection of items available in the network gaming system; responsive to said second request, sending the selection of items to the user from the server; receiving at the server an item selection from the user; responsive to receiving the item selection, providing an item to the user based on the item selection; and debiting the account of the user by an amount associated with the item.	Handelman as applied to limitation [1c] of claim 1.
<i>Claim 27</i>	
27. The method of claim 26 wherein the credits represent a type of universal currency that can be used in the context of the network gaming system.	Handelman as applied to claim 2.
<i>Claim 28</i>	
28. The method of claim 27 further comprising debiting or crediting the account of the user based on a gameplay of the user.	Handelman as applied to limitation [b] of claim 1 and claim 3.
<i>Claim 29</i>	

29. The method of claim 28 wherein the gameplay comprises the user playing a plurality of games and wherein a database server keeps track of the credits in the account of the user based on a plurality of outcomes of the plurality of games.	Handelman as applied to claim 4.
<i>Claim 30</i>	
30. The method of claim 1 wherein the selection of items comprises an award.	Handelman as applied to claim 1. Handelman describes that a subscriber may select and purchase merchandise or physical goods (i.e., award) from a shopping network provided within its network gaming system. <i>See e.g.</i> , Ex. 1003, <i>Handelman</i> at 3:17-31, 8:32-9:26, 17:11-20:61, 25:65-27:22, Figs. 3, 17A-C, 18, 30A-C.
<i>Claim 31</i>	
31. The method of claim 1 wherein the selection of items comprises a prize.	Handelman as applied to claim 1. Handelman describes that a subscriber may select and purchase merchandise or physical goods (i.e., prize) from a shopping network provided within its network gaming system. <i>See e.g.</i> , <i>id.</i> at 3:17-31, 8:32-9:26, 17:11-20:61, 25:65-27:22, Figs. 3, 17A-C, 18, 30A-C.
<i>Claim 35</i>	
35. The method of claim 1 wherein the selection of items are selected from the group consisting of an award, a prize, prize credits, cash and game credits.	Handelman as applied to claim 1. Handelman describes that a subscriber may select and purchase merchandise or physical goods (i.e., prize or award) from a shopping network provided within its network gaming system. <i>See e.g.</i> , <i>id.</i> at 3:17-31, 8:32-9:26, 17:11-20:61, 25:65-27:22, Figs. 3, 17A-C, 18, 30A-C.
<i>Claim 42</i>	
42. The method of claim 26 wherein the selection of items comprises an award.	Handelman as applied to claim 26. For the reasons discussed with respect to claim 30, Handelman discloses this limitation.
<i>Claim 43</i>	
43. The method of claim 26 wherein the selection of items comprises a prize.	Handelman as applied to claim 26. For the reasons discussed with respect to claim 31, Handelman discloses this limitation.
<i>Claim 47</i>	
47. The method of claim 26 wherein the selection of items are selected from the group consisting of an award, a prize, prize credits, cash and game credits.	Handelman as applied to claim 26. For the reasons discussed with respect to claim 35, Handelman discloses this limitation.

V. STATEMENT REGARDING NON-REDUNDANCY

Petitioners note that the primary references (Martin, Handelman and Lucero) and the various grounds for unpatentability based thereon, including anticipation and differing obviousness grounds, are non-redundant from a substantive perspective. In addition, Martin is prior art under §102(e) that discloses a gaming device having two modes of play – amusement and gambling. Handelman is prior art with a §102(e) date of June 1993 that relates to providing game programs to a subscriber over a network. Lucero is prior art with a §102(e) date of September 1996 for independent claims 1, 12 and 26 based on a priority date of November 14, 1996, but is prior art under §102(b) based on independent claim 12 not being entitled to a priority date of November 3, 1999. Further, portions of Lucero should be accorded a priority date of its parent ‘312 Patent, which makes those portions of Lucero prior art under §102(a) for independent claims 1 and 12 and portions prior art under §102(b) for independent claim 12 (if given the proper priority date of November 3, 1999). Petitioners note that these differences, in addition to the substantive differences that are readily apparent from the references themselves and the above charts, render the grounds of unpatentability set forth herein non-redundant.

VI. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8(A)(1)

Petitioners provide the following mandatory notices as part of this Petition.

A. Real Party-In-Interest and Related Matters

Petitioners are the real parties-in-interest. 37 C.F.R. § 42.8(b)(1). Other real-parties-in-interest include Activision Blizzard, Inc. and Hasbro, Inc. The ‘432 Patent is

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presently the subject of a series of patent infringement lawsuits filed by Agincourt Gaming, LLC against Petitioners in the United States District Court for the District of Delaware. *See* Ex. 1014, Case No. 14-cv-198 (Sony Online Entertainment, Inc.); Ex. 1015, Case No. 14-cv-196 (Blizzard Entertainment, Inc.); Ex. 1016, Case No. 14-cv-497 (Backflip Studios, LLC); 37 C.F.R. § 42.8(b)(2). The ‘432 Patent is also asserted in the following action in the District of Delaware: *Agincourt Gaming, LLC v. Zynga, Inc.*, (11-cv-7200). Petitioners have concurrently filed two additional *inter partes* review petitions regarding two patents that are related to the ‘432 Patent: U.S. Patent No. 6,758,755 and U.S. Patent No. 6,306,035.

B. Lead and Back-Up Counsel Under 37 C.F.R. § 42.8(b)(3)

Petitioners provide the following designation and service information for lead and back-up counsel.

Lead Counsel	Back-Up Counsel
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C. Payment of Fees Under 37 C.F.R. § 42.103

The undersigned submitted payment by deposit account with the filing of this Petition authorizing the Office to charge fees required under 37 C.F.R. § 42.103(a) and

42.15(a).

VII. CONCLUSION

For the forgoing reasons, Petitioners respectfully request *inter partes* review of claims 1-7, 10-18, 22-24, and 26-47 of U.S. Patent No. 8,454,432.

Respectfully submitted,
ERISE IP, P.A.

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*Petition for Inter Partes Review of
U.S. Patent No. 8,454,432*

APPENDIX OF EXHIBITS

Exhibit 1001	U.S. Patent No. 8,454,432 to Matthew F. Kelly, et al. (“the ‘432 Patent”) entitled, “Method for Providing Network Gaming System,” filed on December 9, 2011, and issued on June 4, 2013.
Exhibit 1002	U.S. Patent No. 5,618,232 to Martin (“Martin”) entitled, “Dual Mode Gaming Device Methods and Systems,” filed on March 23, 1995, and issued on April 8, 1997, which is available as prior art under 35 U.S.C. §102(e)
Exhibit 1003	U.S. Patent No. 5,539,450 to Handelman (“Handelman”) entitled, “Methods and Systems for Providing Additional Service Application in Pay Television,” filed on June 21, 1993, and issued on July 23, 1996, which is available as prior art under 35 U.S.C. §102(a) or (e)
Exhibit 1004	U.S. Patent No. 5,811,772 to Lucero (“Lucero”) entitled, “Gaming Machine System Operable with General Purpose Charge Cards,” filed on September 20, 1996, and issued on September 22, 1998, which is available as prior art under 35 U.S.C. §102(b) or (e)
Exhibit 1005	U.S. Appln. Ser. No. 08/628,490 to Kelly et al. (“Kelly ‘490”), entitled “Redemption Game for Awarding Specific Prizes”, and filed on April 5, 1996, and published on October 6, 1998, which is available as prior art under §102 (b)
Exhibit 1006	U.S. Patent No. 6,036,601 to Heckel (“Heckel”) entitled, “Method for Advertising Over a Computer Network Utilizing Virtual Environments of Games,” filed February 24, 1999 and issued on March 14, 2000, which is available as prior art under §102(e)
Exhibit 1007	Expert Declaration of Dwight E. Crevelt
Exhibit 1008	File History of U.S. Patent No. 8,454,432
Exhibit 1009	U.S. Patent No. 5,816,918 to Kelly, et al. (“the ‘918 Patent”), entitled, Prize Redemption System for Games, filed on November 14, 1996 and issued on October 6, 1998
Exhibit 1010	U.S. Patent No. 6,007,426 to Kelly, et al. (“the ‘426 Patent”), entitled “Skill Based Prize Games for Wide Area Networks,” filed on March 17, 1998 and issued on December 28, 1999
Exhibit 1011	U.S. Patent No. 6,758,755 to Kelly, et al. (“the ‘755 Patent”) entitled, “Prize Redemption System for Games Executed Over a Wide Area Network,” filed on November 3, 1999 and issued on July 6, 2004
Exhibit 1012	U.S. Appln. No. 11/277,339, November 1, 2010 Amendment and

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	Response to Office Action
Exhibit 1013	U.S. Patent No. 5,559,312 to Lucero (“the ‘312 Patent”) entitled, “Gaming Machine System Operable with General Purpose Charge Cards,” filed on September April 28, 1995, and issued on September 24, 1996, which is available as prior art under 35 U.S.C. §102(b) or §102(e)
Exhibit 1014	U.S. Patent No. 5,823,879 to Goldberg, et al., entitled, “Network Gaming System,” filed on December 3, 1996 and issued on October 20, 1998
Exhibit 1015	Complaint in <i>Agincourt Gaming, LLC v. Sony Online Entertainment LLC</i> , Case No. 14-cv-198 (D. Del.)
Exhibit 1016	Complaint in <i>Agincourt Gaming, LLC v. Blizzard Entertainment, Inc.</i> , Case No. 14-cv-196 (D. Del.)
Exhibit 1017	Complaint in <i>Agincourt Gaming, LLC v. Backflip Studios, LLC</i> , Case No. 14-cv-197 (D. Del.)

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**CERTIFICATE OF SERVICE ON PATENT OWNER
UNDER 37 C.F.R. § 42.105(a)**

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(b), the undersigned certifies that on August 8, 2014, a complete and entire copy of this Petition for *Inter Partes* Review was provided via Federal Express to the Patent Owner by serving the correspondence address of record for the '432 Patent and Patent Owner's litigation counsel:

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