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and Blizzard Entertainment, Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

MDY INDUSTRIES, LLC, )

Plaintiff and Counter-Claim )

Defendant )

vs. )

BLIZZARD ENTERTAINMENT, INC., )  
and VIVENDI GAMES, INC. )

Defendants and )

Counter-Claim Plaintiffs. )

BLIZZARD ENTERTAINMENT, INC., )  
and VIVENDI GAMES, INC. )

Third-Party Plaintiffs, )

vs. )

MICHAEL DONNELLY, )

Third-Party Defendant. )

Case No.: CV06-02555-PHX-DGC

APPENDIX TO

BLIZZARD AND VIVENDI'S  
SUPPLEMENTAL  
STATEMENT OF FACTS  
IN SUPPORT OF THEIR  
RESPONSE TO MDY  
INDUSTRIES, LLC and  
MICHAEL DONNELLY'S  
MOTION FOR SUMMARY  
JUDGMENT

The Honorable David G. Campbell

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January 24, 2008

Koleman S. Strumpf, Ph.D.  
MDY Industries, LLC v. Blizzard Entertainment, Inc., et al.

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

MDY INDUSTRIES, LLC, )  
 )  
Plaintiff and Counter- )  
Claim Defendant, )  
 )  
v. ) No. CV06-2555PHX DGC  
 )  
BLIZZARD ENTERTAINMENT, )  
INC., and VIVENDI GAMES, )  
INC., )  
Defendants and Counter- )  
Claim Plaintiffs, )  
 )  
BLIZZARD ENTERTAINMENT, )  
INC., and VIVENDI GAMES, )  
INC., )  
 )  
Third-Party Plaintiffs, )  
v. )  
 )  
MICHAEL DONNELLY, )  
 )  
Third-Party Defendant. )

VIDEOTAPED DEPOSITION OF KOLEMAN S. STRUMPF,  
Ph.D., a Witness, taken on behalf of the  
Defendants, Counter-Claim Plaintiffs and  
Third-Party Plaintiffs, before Glenda Moeller,  
CCR No. 962, RMR, CRR, pursuant to Notice on the  
24th day of January, 2008, at the offices of  
Sonnenschein Nath & Rosenthal LLP, 4520 Main  
Street, Suite 1100, Kansas City, Missouri.

1 Q. I'm -- relevance will be decided at a  
2 later date.

3 A. Sure.

4 Q. But do you know of any other bot that  
5 has sold more copies or had more copies  
6 downloaded than Glider?

7 A. I do not, but I also don't -- in other  
8 words, there's two ways of answering that  
9 question. I do not know that there is none, but  
10 I can't -- I can't -- there could be.

11 Q. Did you research that?

12 A. Yes.

13 Q. Okay. What was the --

14 A. Well, I mean, I --

15 Q. -- results of your research?

16 A. Oh, I mean, in other words, one -- one  
17 of the things, I did this I guess largely in the  
18 last week or so, is I spent -- I already was  
19 reasonably familiar with Inner Space, which is  
20 a -- I mean, I guess I would broadly call it an  
21 open source platform for creating bots.

22 And I spent some time reviewing what  
23 open -- what -- what Inner Space is and the  
24 people who have created bots for it and the  
25 amount of postings on their various sites, which

1 was through a Google search similar to what was  
2 presented as Exhibit 4. So in footnote 15 it  
3 says, "Based on the search terms World of  
4 Warcraft bots and then eliminating false  
5 matches." So I sat and looked at all the matches  
6 that came out, not just the first page, but  
7 several pages.

8 Q. In some of those entries when you were  
9 examining the Google search results, did you find  
10 affiliate sites that pointed back to WoW Glider?

11 A. Sometimes, yes. Again, the main purpose  
12 of what that footnote and what the point that we  
13 were just talking about was but one of many bots.  
14 So the main thing I was interested in is are  
15 there other bots out there that they less tend to  
16 describe, and they did.

17 Q. How many affiliates sites pointing back  
18 to what -- the WoW Glider website did you find in  
19 your Google search?

20 A. I can't -- I did not look for that  
21 precisely, so I can't answer that question.

22 Q. From -- strike that.

23 What other bots of consequence -- well,  
24 strike that.

25 Other than WoW Glider and Inner Space

1 and bots based on Inner Space, do you recall any  
2 other bots from your research?

3 A. By name, I can't remember them. I don't  
4 think I actually kept a full list of them as I  
5 went.

6 Q. Okay. In your research on World of  
7 Warcraft bots, how often did Glider appear?

8 A. Could you be a little more precise by  
9 that when you say "my research"?

10 Q. You said you conducted research  
11 specifically through Google to learn more about  
12 World of Warcraft bots. How often did you see  
13 references to Glider in that research?

14 A. I can't give a specific numerical  
15 number, but I can say what struck me as once I  
16 got beyond the first page, the number of times in  
17 which Glider was the featured bot was very  
18 infrequent.

19 And again, I think what I want to stress  
20 with the Google searches is only -- the only  
21 thing -- the only reason I did a Google search  
22 was to prove the existence of these other bots,  
23 not to say in any way about the significance of  
24 their usage, and don't think that's a very good  
25 way of doing that either.