

EXHIBIT 53

ORIGINAL

1

UNITED STATE DISTRICT COURT
FOR THE 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.

CONFIDENTIAL

ATTORNEYS' EYES ONLY

Case No.

CV 06-2555 PHX DGC

VIDEOTAPED DEPOSITION OF MICHAEL M. DONNELLY
VOLUME I

CONFIDENTIAL - ATTORNEYS' EYES ONLY

Phoenix, Arizona
September 25, 2007
10:04 a.m.

REPORTED BY:
MARTA M. RICE, CSR, RPR
Certified Reporter
Certificate No. 50746

1 Glider user plays World of Warcraft?

2 A. We may be able to guess. I don't think we could
3 be definite.

4 Q. How -- how would you estimate or --

5 A. We could guess by the last time the Glider key
6 was used, but it wouldn't be definite because a key can be
7 used without logging into the game.

8 Q. How would that -- when would someone use the key
9 without logging in to World of Warcraft?

10 A. Either playing on a private server, which
11 unfortunately some of our customers do. Or if they
12 started Glider and didn't log in, because it either failed
13 to start or they tried to log into a banned account or --
14 or whatever.

15 Q. Okay. So that would show a hit or an activation
16 of the key even if they didn't progress --

17 A. Correct.

18 Q. -- into the game?

19 A. Sorry.

20 Q. And if you could explain to me what you mean by
21 they log into a -- a private server?

22 A. Well, I'm sure you understand. Some people will
23 run a piece of software to emulate the World of Warcraft
24 servers so that they can play the game without paying
25 Blizzard.

1 Q. Okay.

2 A. Unless, of course, the user right clicked the
3 shortcut and did that.

4 Q. But with the -- with the launchpad with Glider,
5 if you start World of Warcraft with launchpad, it does
6 that for you automatically?

7 A. Yes.

8 Q. Okay. Okay. Can you run Glider with World of
9 Warcraft without launching World of Warcraft with
10 launchpad?

11 A. Yes.

12 Q. Okay. And what are the consequences, if any, of
13 launching WoW independently and then launching Glider,
14 without using the launchpad?

15 A. Well, Warden will be running at the -- sorry.
16 The game will be running in full security context, so it
17 will have more access to do whatever it wants. Also,
18 the -- part of the setup process -- we haven't got into
19 the driver yet. I didn't know if you were still on
20 historical, why I created launchpad.

21 Q. Right.

22 A. There was no driver at the time I created
23 launchpad, but when we get to that, or if it matters,
24 launchpad installs the driver as well. So if you run
25 Glider without launchpad then there's no driver present.

1 game through a Windows API called read process memory. I
2 imagine that's come up a few times.

3 Glider reads the game state information
4 based on instructions I have given it in how to find the
5 data. So it knows where in memory to find your player ID.
6 And then it knows where the list of all players is. So
7 then it can walk the list, find your player, and then it
8 can look at that data structure to determine your position
9 or how much health you have or any other game information
10 that's displayed on the screen.

11 It can't read anything that a player can't
12 see on the screen, but it has to read it indirectly
13 because Glider can't read.

14 So that -- that process is -- I mean, the --
15 at -- the simplest summation is that process is repeated
16 where Gliders reads the state of the game information and
17 then makes a decision on what to do next.

18 And then as -- continuing on in the next
19 paragraph, it either uses the send input API to send input
20 into the game or it sends it directly through the listed
21 window messages and hooks.

22 Q. Okay. And the -- the input it's sending to the
23 game is meant to emulate what a person would do in the
24 game in -- in terms of key strokes or mouse movement or
25 clicks?

CONFIDENTIAL
ATTORNEYS' EYES ONLY

125

1 A. Yes.

2 Q. And what's the purpose of -- I think we covered
3 this -- but what's the purpose of hooking the kernel
4 functions, get cursor --

5 A. Oh, yeah.

6 Q. -- set cursor and get cursor info?

7 A. Those functions are hooked in order to run the
8 game in the background. Normally when the game is a
9 foreground window it's -- you can send it input through
10 the send input API listed here to inject input into the
11 game. When it's not the foreground window, I had to hook
12 those kernel functions. There may have been a better way,
13 but that was my choice.

14 Q. Okay. And -- and why did you put that
15 functionality into the -- into Glider?

16 A. To allow you to use the computer for other things
17 while gliding.

18 Q. Okay. Can you have more -- more than one
19 instance of World of Warcraft running on the same computer
20 at the same time?

21 A. I believe so, yes.

22 Q. Okay. Are you aware of people using Glider to
23 run more than -- to run more than one account on WoWGlider
24 at the same time using -- of -- World of Warcraft, more
25 than one World of Warcraft account at the same time using

1 that you would also go through the same process of seeing
2 the end user license agreement, having to scroll down and
3 click "I agree" to access the game?

4 A. Yes.

5 Q. Okay. You also familiar with the World of
6 Warcraft terms of use?

7 A. Yes.

8 Q. And when have you seen the terms of use?

9 A. I believe the terms of use usually appear after
10 the EULA during the start-up process of the game. Maybe
11 they're before. I can't remember.

12 Q. And you've read those terms? Terms of use?

13 A. Yes. Well, I've agreed -- I've scrolled down and
14 clicked "accept", yes.

15 Q. Is your understanding that use of Glider violates
16 the Blizzard terms of service?

17 MR. VENABLE: Objection. Calls for a legal
18 conclusion.

19 THE WITNESS: I think using any unapproved
20 third-party application could be seen as a EULA violation.

21 BY MR. GENETSKI:

22 Q. Is it your understanding that all World of
23 Warcraft users agree -- have to agree to the terms of use
24 and the EULA in order to gain access to the game?

25 A. I think so.