

1 MR. HAVILAND: Again, I have to caution
2 you, Mr. Hernandez, if the belief is based upon
3 conversations with counsel, I direct you not to
4 answer the question; otherwise, you can answer
5 it.

6 THE WITNESS: I choose not to answer that
7 question, based on conversations.

8 BY MR. HEYWOOD:

9 Q So other than your conversations with
10 counsel, you have no other basis to believe that IGE
11 U.S. is engaged in gold farming; is that correct?

12 MR. HAVILAND: You can answer that,
13 actually.

14 THE WITNESS: Could you restate it,
15 please.

16 BY MR. HEYWOOD:

17 Q Other than your conversations with
18 counsel, the content of which I don't want you to
19 divulge, but other than those conversations, do you
20 have any basis to believe that IG U.S. -- IGE U.S.
21 is currently engaged in some form of gold farming?

22 A No.

23 MR. HEYWOOD: Let's mark Composite
24 Hernandez Exhibit 6, a series of what appear to
25 be Web site printouts, Bates stamped AH00001

1 There are -- there's more than one
2 company.

3 MR. HAVILAND: You know my "a lot"
4 problem.

5 MR. HEYWOOD: There is an "a lot" problem
6 here.

7 BY MR. HEYWOOD:

8 Q There's more than one company engaged in
9 RMT; isn't that correct?

10 A I'm sure there are, yes.

11 Q In fact, there's more than one company
12 currently engaged in RMT with respect to World of
13 Warcraft; isn't that right?

14 A Again, I'm sure there are, yes. I'm sure
15 there are other companies.

16 Q Do you know how many companies are engaged
17 in RMT with respect to World of Warcraft?

18 A I could not give you a ball -- ballpark
19 figure, no.

20 Q Do you know if it's more than two?

21 A I'm sure it's more than two, but besides
22 that, I could not give you an exact answer or even a
23 close approximation.

24 Q Do you know any names of companies that
25 are engaged in RMT with respect to World of Warcraft

1 saw it in glimpse and kept on going.

2 Q Would it surprise you if you found out
3 that My Super Sales, My MMO Shop, and
4 WorldofWarcraftGold.com were engaged in RMT
5 currently?

6 MR. HAVILAND: Objection to the form.

7 BY MR. HEYWOOD:

8 Q Would that surprise you to learn that?

9 A No. I have no previous knowledge of these
10 companies, so..

11 Q You testified that there is -- you know
12 that there's more than one company engaged in RMT
13 with respect to World of Warcraft today, right?

14 A Correct.

15 Q And you also know that a player can buy
16 gold from any of those other companies right now, if
17 that player wants to, right?

18 A Yes.

19 Q In fact, you could go online and buy gold
20 from any number of vendors, couldn't you?

21 A But I wouldn't.

22 Q But you could, right?

23 A It's possible, yes.

24 Q Nothing's stopping you from doing it,
25 right?

1 MR. HAVILAND: Objection to form.

2 THE WITNESS: Again, I wouldn't, but yes,
3 there's nothing stopping me.

4 BY MR. HEYWOOD:

5 Q You were mentioning earlier that there's a
6 chat feature in the game of World of Warcraft --

7 A Yes.

8 Q -- whereby people type things to each
9 other, right?

10 A Type or actually talk, converse.

11 Q Either way, right, you can type it or you
12 can say it?

13 Have you ever known anyone to use vulgar
14 or offensive language playing World of Warcraft?

15 A Yes.

16 Q You've heard people use vulgar or
17 offensive language, right?

18 A Yes.

19 Q Have you ever used vulgar or offensive
20 language playing World of Warcraft?

21 A I'm sure there's been times.

22 Q So there's -- there's been times in the
23 past where you have been chatting to other players
24 and used vulgar or offensive language, right?

25 A In-game text, I'm sure something I've said

1 but, more or less, it's been consistently 30 or 40
2 hours per week.

3 A Yes. Give or take, yes.

4 Q All right. When you say "they" sent you
5 spam, who are you referring to?

6 A Different gold farming entities. I'm sure
7 it's -- generally it feels like it's bots or
8 somebody who doesn't speak English, because if you
9 try to respond to them and ask them not to send it
10 to you, you get nothing back or you get gibberish
11 and then it's sent to you again.

12 Q You've done that before, you've asked them
13 not to respond to you?

14 A I've asked them not to send stuff. I've
15 complained. I've -- I actually went as far as to
16 find what I wanted to say in Chinese and put it into
17 a macro so I could spam it to them so they would
18 just stop and leave me alone.

19 And it does not help, no matter what I do.

20 Q You spammed who you thought were the gold
21 farmers?

22 A I didn't spam them. Spamming is --

23 MR. HAVILAND: Objection.

24 THE WITNESS: I'm sorry.

25 MR. HAVILAND: No, that's okay.

1 strictly MMO magazine, I don't remember the name of
2 it, it could have been from that as well.

3 Q Since, let's say, January '07, have you
4 received any messages that you would consider spam
5 from IGE U.S.?

6 A I could not tell you.

7 Q You can't tell me why, because you don't
8 know or you don't remember?

9 A Because I don't know, honestly.

10 The -- the spams we get generally don't
11 have the names of the companies in them anymore.
12 They used to --

13 Q Yeah.

14 A -- but they don't anymore. It's just,
15 come to this Web site.

16 Q When did that stop, the identifying the --
17 the source in the spam messages? When did that
18 cease?

19 A About the same time it died down, so year,
20 year and a half ago, roughly.

21 Q So your testimony is you simply don't know
22 whether IGE U.S. has spammed you within the last
23 year or year and a half; is that right?

24 A Yes. I would say I couldn't say from the
25 spam itself.

1 Q Could you say from anything else whether
2 it was IGE U.S.?

3 A Again, I would have to defer to my lawyers
4 to look into that.

5 Q But sitting --

6 A So..

7 Q -- here today, you don't know whether IGE
8 U.S. has spammed you or not spammed you in the last
9 year and a half, right?

10 A I could say -- yes, no.

11 Q Have you received spam from any -- have
12 you received any spam in the last year and a half
13 from someone other than IGE U.S. that you could
14 identify?

15 A Again, they generally use kind of quirky
16 names, they don't put the -- they'll be like, come
17 to antians at www.antiansbuymygold.com.

18 Not to say that that's an actual Web site,
19 I'm just kind of freelancing off the top of my head.

20 You know, they do things like that, you
21 know, hey, you won 50 percent off; hey, come here,
22 buy my gold.

23 MR. HEYWOOD: Let's mark as Exhibit 7 the
24 amended class action complaint.

25 (Whereupon, the document was marked as

1 responding to what he said. So if you want him
2 to answer it the same way, we'll go around a
3 fourth time.

4 Go right ahead.

5 THE WITNESS: As I stated before, as far
6 as real money trade and -- which IGE is
7 currently involved in -- or -- well, was
8 involved in and could be -- as far as IGE is
9 concerned as far as RMT, it affects the market.

10 What you find one day, for instance, the
11 cost of raiding went from, say, 20 gold a boss
12 to 200 -- to -- 250 to 300 gold a boss because
13 the abundance of the materials you needed for
14 certain things were not available due to RMT.

15 BY MR. HEYWOOD:

16 Q But you can't, sitting here today, provide
17 any specific concrete examples of IGE engaged in
18 gold farming, can you?

19 A The characters, as far as gold farmers go,
20 in the game don't run around with a tag on them that
21 says "IGE." They don't run around with a tag on
22 them that says any specific company.

23 So could I tell you that any specific gold
24 farmer that I saw was linked to IGE, I could not, at
25 the same time as I couldn't say that they were.

1 Q Same goes for spamming, right?

2 A As of now, yes.

3 As I stated before, I have seen -- or did
4 see, early on, IGE's name mentioned in gold spamming
5 messages.

6 Q When's the last time you saw that?

7 A It was early on. I couldn't give you an
8 exact time, but I would say within the first six to
9 nine months of my play in World of Warcraft.

10 Q Suffice it to say, you haven't seen it
11 since the beginning of 2006?

12 A As I stated, when the whole downtrend in
13 spamming occurred, it seemed like every company took
14 their marquee name off of those spamming interests.

15 Sorry.

16 Q You can -- you also contend, do you not,
17 that the actions of IGE U.S. have caused some items
18 in World of Warcraft to become more expensive,
19 right?

20 A Correct.

21 Q Which is sort of the flip side of the same
22 coin of your gold being devalued, right?

23 A Correct.

24 Q How much more expensive?

25 A Well, I can't give you the exact estimate

1 page when Burning Crusade was active. So previous
2 to that, a couple months previous to that, a month
3 or two, in that time period you saw the first jump
4 that really ticked me off, and a lot of other people
5 off as well.

6 There was an instance in a dungeon -- I'm
7 sorry -- called Naxxramas that came out, and that's
8 when it really started hitting home how little was
9 actually available to the people who needed it,
10 these reagents for potions. Because before then it
11 was used, but it wasn't as predominant.

12 And -- so people knew that it was
13 happening, but it didn't affect us as much until
14 that became part of the main game.

15 Q You mentioned the spikes in prices of this
16 certain potion.

17 Does that still exist or has the price
18 normalized since then?

19 A No, the -- it's -- the economy itself is
20 flooded with gold and the cost of the stuff is still
21 astronomical.

22 Gold farming still goes on to this day.
23 You can still see literal teams of people log in at
24 the same time, just pillage, for a lack of a better
25 word, an area and then, boom, they're gone.

1 right, if you look on the first page, top right?

2 A Correct.

3 Q Do you have any earlier versions of this
4 in your possession?

5 A I do not.

6 Q You installed World of Warcraft on your
7 computer, correct?

8 A (Nods head.)

9 Q So that means you must have agreed to be
10 bound by the terms of the end-user license
11 agreement, right?

12 A Yes, I did.

13 Q And, in fact, I believe you testified that
14 every time you installed a patch you were required
15 to agree to the end-user license agreement, right?

16 A Correct.

17 Q And you installed the patch roughly 50
18 times over the course of your ownership, right?

19 A Give or take.

20 Q You've read this agreement, have you not?

21 A I have read it at times, yes.

22 Q Have you read the whole thing, over the
23 course of --

24 A Originally, yes, I did.

25 Q Did you understand it?

1 A Every single word I can't say that I
2 understood. Some of it is, as I stated before,
3 lawyer jargon, but you get the gist of the meaning
4 behind everything.

5 Q Anything pop out at you that you don't
6 understand?

7 A Without looking through it thoroughly, not
8 that I could say.

9 Q Generally speaking, other than the
10 legalese and lawyer jargon, though, you -- you
11 understand this agreement, right?

12 A Yes.

13 Q When did you last read this?

14 A Actually read it? Probably about two
15 patches ago and when -- I skimmed over it when it
16 was printed out, but I didn't actually read it all
17 the way at that time.

18 It's been a -- it's been a couple months.

19 Q At least a couple months. Maybe more,
20 right?

21 A Yeah, at least.

22 Q Are there any provisions of this
23 agreement, this end-user license agreement, that you
24 believe don't apply to you?

25 A I'm sorry, what do you mean?

1 Q Well, you agree to be bound by the terms
2 of this end-user license agreement, right?

3 A Correct.

4 Q Do you believe that any of these terms do
5 not bind you for some reason?

6 A No.

7 Q So you are bound by all of the terms in
8 this agreement, right?

9 A Correct.

10 Q You never went to Blizzard, for example,
11 and objected to any of the terms, did you?

12 A No, I did not.

13 Q So, having read this document, Mr.
14 Hernandez, and generally understood the document,
15 you know that it allowed Blizzard to terminate your
16 account for any reason, right?

17 A Correct.

18 Q Or no reason. They can terminate your
19 account for no reason, right?

20 A Correct.

21 Q You also understand that Blizzard can
22 change or modify the game in any way it chooses at
23 any time, right?

24 A Yes.

25 Q You understand, do you not, that pursuant

1 to this end-user license agreement, Mr. Hernandez,
2 you have no interest, monetary or otherwise, in any
3 feature or content contained in World of Warcraft,
4 right?

5 A As pursuant to this claim -- as pursuant
6 to this, yes, it states it in there.

7 Q And that's binding on you, right?

8 A Correct.

9 Q All of those provisions that we just
10 talked about are clear to you, are they not?

11 A Correct.

12 Q Let's look at Exhibit 9. That's the terms
13 of use agreement.

14 You're familiar with this document, right?

15 A Again, I have seen it before, yes.

16 Q Have you read this document before?

17 A At some point, yes, I have.

18 Q When's the last time you -- you read it?

19 A Again, it's probably been a couple months.

20 Q Is this a copy of the terms of use
21 agreement that you received from Blizzard?

22 A Again, that everyone receives from
23 Blizzard, yes.

24 Q Let me just back up a second to Exhibit 8.
25 Pardon me. Let's just look at this one more time.

1 Exhibit 9, which is the terms of use agreement.

2 A Yes, sir.

3 Q Is this the terms of use agreement that
4 you received from Blizzard?

5 MR. HAVILAND: Asked and answered.

6 THE WITNESS: It's the one that everybody
7 received, yes.

8 BY MR. HEYWOOD:

9 Q And this is dated January 11, 2007, right?

10 A Correct.

11 Q Do you have any earlier versions of it?

12 A Not on my person, nor home in written log,
13 no.

14 Q And you said that you -- you -- at some
15 point you've read this whole document, right?

16 A Correct.

17 Q And you understand it, right?

18 A As stated before, as best I can.

19 Q Are there any provisions that come to mind
20 that you don't understand?

21 A Again, without reading it thoroughly and
22 having someone to advise me and help me, I couldn't
23 tell you.

24 Q If we come across a provision or we
25 discuss a provision that you don't understand, will