

1 you -- will you let me know, please?

2 A Of course.

3 Q Otherwise I'm going to assume that you
4 understand the provision.

5 Is that fair?

6 A Of course.

7 Q You agreed to be bound by the terms of
8 this terms of use agreement, did you not?

9 A I agreed, yes.

10 Q You don't believe that any of the
11 provisions or terms in this agreement don't apply to
12 you, do you?

13 A No. I believe that they're across the
14 board for everybody's benefit.

15 Q And just as with the end-user license
16 agreement, you never went to Blizzard and objected
17 to any of these provisions or terms, right?

18 A No, I did not.

19 Q You accept them, right?

20 A Yes, I do.

21 Q And you believe all of them are binding on
22 you, don't you?

23 A Yes, I do.

24 Q This terms of use agreement contains
25 certain rules of conduct, does it not?

1 A Yes, it does.

2 Q And specifically, I'm referring to Bates
3 stamped page AH00035, section five.

4 That's where the rules of conduct begin,
5 correct?

6 A Yes, they do.

7 Q All right. You understand these rules of
8 conduct, right?

9 A Correct.

10 Q So you know that when you create a
11 character name, you're not permitted to refer to any
12 religious deities, right?

13 MR. HAVILAND: Mr. Hernandez, I want to
14 make sure because of the preface to the
15 question that when Counsel asks you about a
16 specific provision, he says he wants to assume
17 and you understand that, so if you need to take
18 time to read it, then please do.

19 BY MR. HEYWOOD:

20 Q Specifically, I'm referring to rule of
21 conduct number six on AH00036, Mr. Hernandez, and
22 I'm going to read it and you tell me if I read it
23 wrong.

24 And I'm going to -- I'm going to back up
25 to the previous page to put it in context.

1 Q Let's take a look at number four in the
2 rules of conduct. Same page.

3 Quote: That belongs to a popular culture
4 figure, celebrity or media personality, close quote.

5 You named your character after John Rambo,
6 didn't you?

7 A Right, and I misspelled his name "Ramboo"
8 and I decided to keep it that way.

9 Q If you look at the same page under number
10 13, it says -- and you tell me if I read this
11 right -- you may -- quote: You may not use a
12 misspelling or an alternate spelling to circumvent
13 the name restrictions listed above, nor can you have
14 a first and last name that when combined violate
15 that above name and restrictions, closed quote.

16 My question to you is: You did, in fact,
17 name one of your characters after John Rambo,
18 correct?

19 A I made him with the effect, yes.

20 Q Number eleven in the rules of conduct
21 prohibit you from, quote, referring to pop culture
22 icons or personas, parenthetical, e.g.,
23 Britney Spears, comma, Austin Powers, comma, Batman,
24 closed quotes.

25 Is that right?

1 MR. HAVILAND: All right?

2 MR. HEYWOOD: I'm going to -- I don't want
3 to ambush anybody here. Bear with me for a
4 second.

5 BY MR. HEYWOOD:

6 Q Let me strike that last question and
7 rephrase it.

8 You know that from reading this terms of
9 use agreement, and in particular paragraph number
10 nine -- I mean paragraph number eight beginning on
11 AH00038 and continuing on AH00039 -- and if you
12 would like to read it, you may.

13 MR. HAVILAND: Go right ahead.

14 BY MR. HEYWOOD:

15 Q -- you know that under the terms of use
16 agreement, you have no right or title to any of the
17 content of the game, Mr. Hernandez, including the
18 gold and items that you've collected in the game,
19 right?

20 A Can I finish reading, please?

21 Q Certainly.

22 A I would like to answer your question as
23 "yes," and I'd also like to kind of direct towards
24 the last sentence in there in answering.

25 "Accordingly, you may not sell items for

1 real money or otherwise exchange items for value
2 outside of the game."

3 Q And you were reading the terms of use
4 agreement when you made that statement, correct?

5 A Yeah.

6 Q Now, I want to be clear so the record is
7 clear.

8 My question to you was that you know from
9 reading paragraph eight that you have no right or
10 title to any content of the game, including any
11 items or gold you've collected while playing the
12 game.

13 You know that, right?

14 A Correct, only to my time and my experience
15 in the game.

16 Q Where in the terms of use agreement or the
17 end-user license agreement does Blizzard give you a
18 right to your experience in the game?

19 MR. HAVILAND: Objection to the breadth of
20 that question.

21 BY MR. HEYWOOD:

22 Q Are you basing that statement on a
23 contractual provision?

24 A No, I am not.

25 Q And you know also from reading paragraph

1 seven of the terms of use agreement, Mr. Hernandez,
2 that -- and I'll give you a chance to look at it.

3 A I'm sorry, is it the same page?

4 MR. HAVILAND: Yeah, same one.

5 BY MR. HEYWOOD:

6 Q You know that Blizzard may suspend,
7 terminate, modify or delete your account at any time
8 with or without reason and with or without notice;
9 you know that, right?

10 MR. HAVILAND: Asked and answered.

11 THE WITNESS: Yes.

12 BY MR. HEYWOOD:

13 Q Is it your contention that the terms of
14 use agreement is also binding on IGE U.S.?

15 A Yes.

16 Q How so?

17 MR. HAVILAND: Asked and answered.

18 Answer again.

19 THE WITNESS: It's violated, and I
20 answered in the -- I'm sorry -- answers that we
21 sent to you earlier.

22 BY MR. HEYWOOD:

23 Q And you were speaking to your answer to
24 interrogatory number eight?

25 A I'm sorry, I have like seven pages open in

1 be honest.

2 BY MR. HEYWOOD:

3 Q Are you paying your lawyers an hourly
4 rate?

5 A I am not paying any upfront, out-of-pocket
6 fees.

7 Q Is anyone paying them upfront and
8 out-of-pocket fees in connection with this
9 litigation?

10 A I'm sorry, when you speak of "anyone," you
11 mean of my relation of people --

12 Q Is anyone in the world paying your lawyers
13 for their time in this case on an hourly basis?

14 A I don't believe so, no.
15 I believe I signed a --

16 Q Does a "contingency agreement" ring a
17 bell?

18 A Yes. Thank you.

19 Q So your attorneys are working on a
20 contingency basis; is that right?

21 A Yes.

22 Q Have you paid them anything, to date?
23 No, as stated before.

24 Do you know if they've been paid by anyone
25 to date in this litigation?