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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 GEOFFREY PECOVER and JEFFREY)
15 LAWRENCE, on behalf of themselves and a)
class of person similarly situated,)
16 Plaintiffs,)
17 v.)
18 ELECTRONIC ARTS, INC., a Delaware)
19 Corporation,)
20 Defendant.)

No. 08-cv-02820 VRW
DECLARATION OF JEFFREY K.
MACKIE-MASON IN SUPPORT OF
PLAINTIFFS' REQUEST FOR
PRICING AND MARKET DEFINITION
DOCUMENTS FOR THE PERIOD
AUGUST 1, 2001 - JANUARY 1, 2004

21 ACTION FILED: June 5, 2008
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1 I, JEFFREY K. MACKIE-MASON, declare as follows:

2 1. I, Professor Jeffrey MacKie-Mason, am the Associate Dean for Academic Affairs at
3 the School of Information, University of Michigan. I am also the Arthur W. Burks Collegiate
4 Professor of Information and Computer Science, a Professor of Economics, and a Professor of
5 Public Policy at the University of Michigan. I received a Ph.D. in Economics from the
6 Massachusetts Institute of Technology. I have been providing antitrust consulting to the computer
7 hardware and software industries since the late 1980s. I have personal knowledge of the matters
8 stated herein and, if called upon, I could and would competently testify thereto. I more thoroughly
9 describe my expertise and educational background in the curriculum vitae attached hereto as
10 Exhibit A. I provide my employment and publication histories in Exhibit A, as well as cases in
11 which I testified as an expert at trial or by deposition.
12

13 2. Plaintiffs have retained me as their expert to offer my opinion on economic issues
14 relevant to case. My staff and I began work on this case in April 2008. To date we have jointly
15 invested approximately 300 hours working on this case.
16

17 3. Counsel for Plaintiffs have asked me to explain why obtaining discovery from
18 Electronic Arts (hereafter "EA") for the time period August 1, 2001 to January 1, 2004 would be
19 important for providing expert answers to economic questions relevant to this case. I am informed
20 that EA has agreed to produce discovery in these matters created after January 1, 2004. Plaintiffs
21 have also asked me to provide preliminary information on the size of the relevant market and the
22 magnitude of potential damages for the limited purpose of evaluating the burden of Electronic Arts
23 relative to total potential damages.
24

25 1. I am informed that Plaintiffs seek the following types of discovery for the pre-class
26 time period:
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- 1 • Documents concerning or relating to EA’s market share or market position with
2 respect to interactive football software.
- 3 • Documents including but not limited to studies, analyses, presentations or
4 investigations concerning actual or potential competition faced by EA with
5 respect to EA’s interactive football software.
- 6 • Contracts between EA and any retailer or wholesaler relating to EA’s interactive
7 football software and “all documents relating to the negotiation” of these
8 contracts.
- 9 • Documents relating to prices, pricing plans, pricing policies, pricing forecasts,
10 pricing strategies, pricing analyses or pricing decisions for interactive football
11 software or any software title identified by Electronic Arts as a competing
12 product.
13
14

15 4. In this declaration, I provide some background on the extent of my research into the
16 markets at issue and the methodologies one can employ to estimate damages. I also provide a
17 hypothetical estimation of the magnitude of damages. Following that, I discuss why the artificial
18 limitation to obtaining data from before January of 2004 hinders the application of commonly-
19 accepted damages methodologies. Finally, I discuss how reliance on several years of data prior to
20 the anticompetitive conduct is standard practice.
21

22 5. Our initial research focused on understanding the process of video game
23 development. I have researched the actual process of development from concept to post-
24 production, to understand the methods and investments needed at each stage to develop a video
25 game for top consoles such as Sony Playstation 2, Sony Playstation 3, Microsoft Xbox and Xbox
26 360, and Nintendo Wii. This is helpful for understanding the barriers to entry in this market, which
27
28

1 are relevant to the allegation that defendant has market power, and to the ability of the alleged acts
2 to cause impact.

3 6. I have also begun studying consumer demand for officially licensed video game
4 titles versus competitors without licenses from actual leagues and/or players unions. Video game
5 reviews and industry news (for example, from such information services such as Gamespot.com,
6 Cheatcc.com, IGN.com and Operationsports.com, which provide gamer perceptions) highlight the
7 importance of having an official license to video games. I have identified various other sports and
8 non-sports video game titles (from EA and other publishers such as Konami and Take-Two
9 Interactive) with official licenses from sports leagues including the MLB, UEFA, NCAA
10 Basketball, the NHL, the AHL and the NBA, among others.

11
12 7. Additionally, I am reviewing data on annual output in units, annual revenue,
13 average retail prices and product reviews of video games produced by the top 20 video game
14 publishers (as of 2008), including Nintendo, EA, Activision, Take Two and Sega. Among other
15 data sources, I have so far examined annual 10-Ks as well as data from third-party sources such as
16 NPD, Jupiter Research, Jon Peddie Research, DFC Intelligence, IBIS World, Isuppli, World Video
17 Game Market Report and VGChartz.com. I have also reviewed limited pricing data produced by
18 Electronic Arts to date, in particular, their responses to Plaintiffs Second Set of Interrogatories.

19
20 8. I have researched, and continue to research, the channels through which video
21 games are distributed to the final consumer. I have reviewed the role that video game hardware
22 manufacturers play in video game development and production, including royalties and licensing
23 fees charged to publishers, approval of manufacture and shipment as well as competition from
24 independent video game publishers. I am continuing to research the dynamics of the publisher-
25 retailer relationship including retail inventory behaviors, sales through direct agreements with
26 retailers and through third-party distributors. I have researched and continue to investigate
27
28

1 alternative channels of distribution including digital distribution and game rental services. Among
2 the sources of information I have looked into, I have reviewed publicly available lists of Nintendo
3 Domestic Distributors as well as annual reports for retailers such as Game Stop. In addition, I have
4 reviewed Electronic Arts' responses to the Federal Trade Commission ("FTC") in response to the
5 FTC's investigation of Electronic Arts' proposed merger with Take Two Interactive Corp.
6

7 9. I have also identified a number of academic studies relevant to the video game
8 industry. Various studies provide background and analysis of the structure and competition of the
9 U.S. home video game industry, product cycles, price points and price rigidity, product strategies
10 and competitive dynamics of the video game industry, among other topics.

11 10. In addition to my research into the relevant markets and the methodologies best
12 suited to analyze them, my staff and I have spent considerable time assisting Plaintiffs' counsel in
13 drafting discovery requests and thinking through the types of information that are important for
14 providing expert answers to the economic questions relevant to class certification, including
15 common impact, overcharge, pass-through, and the existence of a common method for the
16 calculation of damages.
17

18 11. Because the motion to dismiss in this action was only recently decided, almost no
19 pricing data has been produced by either defendants or third-party retailers. For this reason, I have
20 not conducted – indeed, cannot conduct – an expert damages study, and cannot say with any
21 certainty what the result of such a study would be. The information I present in this declaration
22 comes after making several assumptions, and the consideration of several possible scenarios. It is
23 merely suggestive of the market size and hints at the potential overcharge damages stemming from
24 the allegations in the complaint. I provide this information for the limited purposes of allowing the
25 Court to assess in rough terms the burden on Electronic Arts in relation to the magnitude of
26 potential damages.
27
28

ESTIMATED MAGNITUDE OF DAMAGES

1
2 12. In order to estimate the magnitude of potential damages, I employ unit revenue data
3 available for the damages period August 2005 to the present. I estimate the total number of units
4 sold across all platforms, for each iteration (version revision) of the game “Madden NFL” at issue.
5 Based on facts identified by Plaintiffs in the Complaint, I calculate a preliminary estimate of the
6 overcharge. Multiplying the estimated unit volume of each Madden iteration by the introductory
7 price per unit and the assumed overcharge percentage, I am able to calculate a range of potential
8 damages. If the assumptions in this hypothetical exercise were to hold, damages would be in the
9 range of \$701 to \$925 million over the entire class period.
10

11 13. In Exhibit B I present the details of my calculations. I use publicly available data
12 from VGChartz.com for an estimate of the number of units sold for each iteration of Madden NFL,
13 beginning with Madden NFL 2006, the first version at issue in this case.¹ According to
14 VGChartz.com, the Madden NFL series has experienced unit sales growth every year since 2004
15 except one year. Across all platforms, Madden NFL 2006 has sold 7.12 million units between
16 August 2005 and the present, Madden NFL 2007 has sold 8.72 million total units, Madden NFL
17 2008 has sold 7.46 million total units and Madden NFL 2009 has sold 6.74 million total units.²
18 This totals 30.04 million units sold in the US for the entire class period.
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22

23 ¹ “VGChartz was set up by Brett Walton in September 2005 with the aim of providing the gaming public with a
24 detailed view of the videogame industry; which products are selling and which are not. Today the website has evolved
25 into a detailed mixture of sales figures, discussion boards, sales analysis, developer interviews, reviews, features, social
26 networking and a sprawling game database. VGChartz averages around seven million pageviews per month and is
27 ranked in the top 20 videogame websites worldwide.” VGChartz.com, Undated, VGChartz.com About Us,
28 <http://www.vgchartz.com/welcome.php>, accessed 29 June 2009.

² Sales figures appear to be updated on a regular basis, as new sales figures are released. VGChartz.com, June 2009,
VGChartz.com Madden NFL Updates,
<http://www.vgchartz.com/games/index.php?name=MADDEN&keyword=&console=®ion=All&developer=&publis her=&genre=&boxart=Both&results=200&order=Hits>, accessed 29 June 2009.

1 14. According to the Complaint,³ EA responded to competition from Take Two by
 2 reducing the price of Madden NFL 2005 from \$49.95 to \$29.95 for most platforms.⁴ After signing
 3 the exclusive licenses, EA allegedly raised the price to \$49.95 when Madden 06 was released.
 4 Subsequent iterations of Madden, including the most current Madden title, were initially priced at
 5 \$59.95 for most platforms. Based on the prices presented in the Complaint, when TakeTwo was
 6 able to compete unhindered, Madden NFL's competitive price was in the range of \$19.95 to
 7 \$29.95. I assume for this exercise that these would have been Madden's prices but-for the alleged
 8 acts. Thus, for the purpose of this declaration, I assume the overcharge was in the range of 50-66%
 9 of actual prices.⁵

11 15. Of course, the price end customers paid for a particular product varies over time,
 12 along with the product's "life cycle." Video games are typically priced high when they first come
 13 out and their popularity is at a peak, only to see price drop significantly after months pass and
 14 subsequent versions become available. However, evidence suggests the bulk of the sales of each
 15 version of the game happen in the first few months of the game's life cycle.⁶ I therefore assume in
 16

17 _____
 18 ³ 05 June 2008, Class Action Complaint No. C08-02820, Geoffrey Pecover and Jeffrey Lawrence, on Behalf of
 Themselves and All Others Similarly Situated v. Electronics Arts Inc.

19 ⁴ Other sources confirm this. See, e.g.,

- 20 • Dutka, Ben, 11 June 2008, EA Sued Over NFL Exclusivity Rights, PSX Extreme,
<http://www.psxextreme.com/ps3-news/3226.html>, accessed 29 June 2009.
- 21 • Haas, Pete, 12 June 2008, Gamers Sue EA for Football Monopoly, CinemaBlend.com,
<http://www.cinemablend.com/games/Gamers-Sue-EA-For-Football-Monopoly-10827.html>, accessed 29 June
 22 2009.

23 ⁵ I obtain these estimates by using the price figures in the Complaint. If the competitive price was \$19.95 and the
 actual price was \$49.95, this would yield an overcharge of 50%. If the competitive price were \$19.95 and the actual
 price were \$59.95, the overcharge would be 66%.

24 ⁶ See, e.g.,

- 25 • Snider, Mike, 12 September 2008, Madden NFL 09 Clobbers the Competition,
http://www.usatoday.com/tech/gaming/2008-09-11-august-games_N.htm, accessed 29 June 2009.
- 26 • Seff, Micah, 31 August 2006, Madden NFL 07 Stiff Arms Sales Records,
<http://gameboy.ign.com/articles/729/729821p1.html>, accessed 29 June 2009.
- 27 • Gamezone.com, 19 August 2004, EA'S Madden NFL 2005 Runs Up The Score,
http://www.gamezone.com/news/08_19_04_02_29PM.htm, accessed 29 June 2009.

1 this preliminary calculation that the introductory price is the relevant price for calculating damages
2 and that all of the relevant units were sold at that price.

3 16. In order to estimate the potential magnitude of damages, I multiply each product's
4 total units times the average introductory price of the product and the assumed overcharge
5 percentage.⁷ If I assume a 50% overcharge and add across all relevant versions of EA's games,
6 damages would total \$701.5 million. Assuming a 66% overcharge would yield damages of roughly
7 \$926 million.⁸ Under California's antitrust statute, it is my understanding that these damages
8 would be trebled.
9

10 **BENCHMARK METHODS FOR OVERCHARGE CALCULATION BASED ON DATA**
11 **PRODUCED IN DISCOVERY**

12 17. The previous calculation is a simplistic exercise made possible by assuming a
13 hypothetical overcharge. Estimating an overcharge using a scientifically-reliable method requires
14 measuring and accounting for factual details of the market at issue, viz., factors that drive demand
15 and supply. Many commonly-used and reliable methods can be described as instances of a general
16 concept known as "benchmark" methods. The idea is straightforward: find a reliable benchmark
17
18

19 ⁷ I am restricting this hypothetical analysis to units of the Madden NFL videogame, in the versions listed in Exhibit B.
20 I am not including other versions of these products that may exist and be at issue, nor am I including units of NCAA
21 Football and Arena Football in any of their respective versions. Including these titles would undoubtedly increase the
22 hypothetical damages estimate.

23 ⁸ For this exercise, I did not take into account the fact that damages incurred in, say, 2005 or 2006, have to be brought
24 to the present using the well-known formula for present value. The reason for this is that I do not yet know the
25 distribution of the units sold for each product over time, I only know the total number of units sold. This would
26 undoubtedly result in higher damages since \$1 of damages in 2005 is worth more than \$1 of damages in the present
27 day. I also did not incorporate, for this preliminary analysis, considerations of the pass-through of wholesaler
28 overcharges by EA to distributors and to end consumers. For this preliminary analysis, using the data provided in the
complaint, I directly compare actual and hypothetical but-for prices paid by end customers. When discovery is
complete, it may be that the analysis will proceed first from a measurement of EA's overcharge in wholesale prices,
followed by a pass-through analysis, in order to obtain a detailed measurement of the effect of EA's pricing actions on
end consumers. For the purposes of this preliminary analysis, the direct comparison of actual and but-for end-user
prices yields approximately the correct result if distributor pass-through is on average about 100%, which is precisely
what we would expect to find in a distributor market that is highly competitive, which is indeed the case for video
game *distribution*. Note that *distribution* concerns intermediate sellers of games to end customers, stores such as Best
Buy and Game Stop. I am not declaring that the *production* of video games is highly competitive.

1 for how prices would have been set in the but-for world, and use that measure to construct
2 overcharge estimates.

3 18. For a benchmark method to be scientifically reliable, so that it produces a
4 reasonable and reliable estimate of the overcharge, the benchmark itself should either represent
5 economic conditions that are sufficiently similar to the product and damages period at issue, or
6 there should be ways to control for and adjust for differences in the economic conditions between
7 the benchmark and the product and period at issue.⁹ Examples of reliable benchmarks include
8 similar products in different markets (markets unaffected by the alleged illegal conduct) at the
9 same or different but similar time; or the same product in a period after the illegal conduct has
10 ended and its effects have ended; or the same product in a period before the illegal conduct has
11 commenced.
12

13 19. Based on the facts known before discovery in the case at hand, pricing behavior for
14 defendant EA's products at issue from a period before the commencement of the allegedly illegal
15 conduct is likely to provide a viable benchmark. The class period starts in August 2005 and
16 continues to the present. The period before August of 2005 can, in principle, serve as a benchmark
17 for the but-for world. The reasonableness and reliability of a calculation of the but-for world using
18 pre-August 2005 data as a benchmark will depend on whether sufficient data are available, and on
19 the quality of the methods used to measure and analyze the benchmark.
20

21
22 **SCIENTIFIC RELIABILITY OF STATISTICAL ESTIMATION OF AN OVERCHARGE
USING BENCHMARKS**

23 20. In order to estimate overcharges, it is necessary to estimate what price consumers
24 would have paid but for the alleged bad acts (hereafter the "but-for price"). One way of doing this
25 in the presence of a valid competitive benchmark is to estimate a model that captures the effects of
26

27 ⁹ Sometimes, good benchmarks cannot be found, or sufficient data for them are not available. In those cases,
28 economists often resort to complicated mathematical models that rely on assumptions in order to determine the
overcharge.

1 the common supply and demand factors on the prices of at-issue products. This model is typically
2 estimated during the period of competition in the relevant market, either because the
3 anticompetitive conduct had not yet occurred or it was not effective. The estimated regression
4 coefficients measure the effect of supply and demand factors on price in a competitive market.
5 These coefficients are then applied to values of the supply and demand factors during the class
6 period to estimate the predicted price. This predicted price is interpreted as the but-for price that
7 would have obtained during that time period absent the anticompetitive conduct.
8

9 21. Examples of supply and demand factors that may be relevant to the interactive
10 football game market include manufacturing and distribution costs, wages, macroeconomic
11 conditions such as income, the installed base of game consoles, and the introduction (as well as the
12 price) of new versions of competing products. Most data on supply and demand factors is likely to
13 be available on a monthly or quarterly basis. In addition, EA's internal documents regarding
14 market share and its own analyses relating to actual or potential competition during this time period
15 are highly relevant to evaluate these supply and demand factors.
16

17 22. Economists typically aggregate on a monthly basis the transaction-level data
18 (including price and quantity) obtained through discovery. If discovery were artificially restricted
19 to start in January of 2004, the regression from the "competitive" period would contain, at most, 19
20 data points per product, corresponding to the number of months between January 2004 and the date
21 release of Madden 2006 (August 8, 2005). This is a small number of observations from which to
22 estimate overcharges.
23

24 23. Having a relatively small number of observations presents two related problems: it
25 is impossible to add many explanatory variables to the regression, and the effect of any single
26 factor will be estimated with poorer precision. In short, 19 observations risks yielding less precise
27 estimates of the but-for price, and could result in a less accurate damages estimate.
28

1 24. For example, when multiple factors affect the competitive price of a product (such
2 as costs and demand factors; see ¶21, above), the precision of estimates from a multiple regression
3 is proportional to the square root of the “degrees of freedom”, or $\sqrt{(N-k-1)}$, where N is the number
4 of observations, and k is the number of explanatory variables. Thus, if I have at most 19 monthly
5 observations, and, say, six relevant explanatory variables for which I should statistically control,
6 then the precision is proportional to $\sqrt{(19-6-1)} = 3.5$.¹⁰ This precision factor is low, and may not
7 yield sufficiently reliable estimates. Though it is a matter of degree, and thus there is no
8 scientifically agreed-upon threshold, scientific confidence will be much higher for a multiple
9 regression of this sort with at least four years, or 48 months, of data. The precision factor with 48
10 observations would be 6.4, implying nearly twice as much precision.
11

12 25. In addition, the precision of statistical estimates in a multiple regression depend
13 directly on the degree of variation in the various independent factors that are included in the
14 analysis, such as cost and demand factors. Take, for example, costs. If production costs (such as
15 distributor costs) do not change much over the space of the 19 months at issue, then the precision
16 of estimated effect of costs on prices will be very low. The common-sense conclusion is that if
17 costs do not change much during the period observed, we cannot measure precisely how much
18 effect cost has.¹¹
19

20 26. The two factors discussed above (the number of observations, and the degree of
21 variation in the explanatory variables,) directly determine the “standard errors” of the estimated
22 effects that are then used in the calculation of damages. The standard error is the formal statistical
23 measure of the potential rate of error in a multiple regression analysis.¹² The U.S. Supreme Court
24

25
26 ¹⁰ Kennedy, Peter. *A Guide to Econometrics*. Sixth Edition. Blackwell Publishing, 2008.

27 ¹¹ The formal measure of relevant variation is given by the “moment” or “variance-covariance” matrix of the
independent variables.

28 ¹² Greene, W., *Econometric Analysis*, 6th Edition, Prentice Hall, 2008.

1 stated in *Daubert* that one important factor to consider when evaluating the admissibility of expert
2 testimony is the potential rate of error (509 US 579, 13). I, as an expert, always calculate standard
3 errors when I employ statistical methods, and the closeness of the standard error to zero is one
4 indicator of the reliability of the evidence. In particular, it is the factor that determines the
5 statistical “confidence interval”, or range of uncertainty, around a particular estimated effect.
6

7 27. The effect that using only 19 months of data would have on the degree of
8 confidence in the damages estimates can be explained in another intuitive way. If I use 19 months
9 of benchmark data to estimate the but-for price, and apply it to the following 12 months, then I am
10 essentially assuming that no economic factors that change in the subsequent year are significant for
11 the but-for game price. It is possible this is true: one and a half years of data *may* be a good
12 benchmark for the subsequent year. But without more data, we cannot have confidence in this
13 assumption, because we cannot precisely measure which factors do matter, and how much they
14 matter, if they do change over time. In short, it is an assumption that “this year” is just like “last
15 year”, without being able to test that assumption, or to account for changes if the assumption turns
16 out to be wrong.
17

18 **AVAILABLE FACTS SUGGEST DATA FROM JANUARY, 2004 TO AUGUST, 2005 MAY**
19 **BE INSUFFICIENT TO ACCOUNT FOR RELEVANT FACTORS**

20 28. There are factual reasons to expect that one to one-and-a-half years of data may not
21 measure sufficient variation to support a reliable estimate of damages. For example, according to
22 our preliminary research, EA’s football games may have faced the most competitive pressure in the
23 2004-05 period, and this pressure may have caused it to significantly reduce the price of Madden
24 during that time. Indeed, the complaint alleges that this was the motivation for EA to sign the
25 exclusive licenses and subsequently raise its prices. Basing the “but for” price solely on the most
26 competitive period (2004-2005) obviates the possibility that the “but for” world would have been
27 more similar to the market prior to 2004.
28

1 29. Having discovery going back to before 2004 would allow me to incorporate more
2 competitive situations in my damages estimate and provide a better range of damages scenarios.
3 More years would allow for the possibility that the but-for world looked like a combination of the
4 2004-2005 period and the period immediately preceding it, prior to the introduction of Madden
5 NFL's main competitor, Take-Two's ESPN NFL 2K5. A competitive baseline that takes into
6 account years prior to 2004 would likely result in a more conservative estimate of damages.
7

8 30. As a second example, demand for video games is highly seasonal, with a large
9 portion of annual sales occurring during the holiday season. Seasonality may affect the precision
10 of the overcharge calculation. A single year product cycle of competitive data may be insufficient
11 to estimate the effect of seasonality on price by definition: since there will be only *one* observation
12 of each season, there will be *zero* variation in the seasonal independent variable, and the precision
13 of the resulting estimate of the seasonal effect will be *zero*. At the very least, data covering two
14 annual product cycles are needed to properly identify seasonality and estimate seasonal effects, and
15 precise estimates of seasonal effects often are not possible without four or more years of data.
16

17 **ECONOMISTS GENERALLY REQUEST AND USE SEVERAL YEARS OF DATA FROM**
18 **A COMPETITIVE PERIOD WHEN AVAILABLE FOR EXPERT ANTITRUST AND**
19 **DAMAGES ANALYSES**

20 31. It is widely understood by antitrust economists that, when evaluating the effects of
21 acts such as those alleged in this case, several years of information from the time period prior to the
22 alleged bad acts are preferable than having a single year of data. For example, the FTC, in its 2008
23 review of the proposed merger between EA and Take-Two, required discovery for the years 2004-
24 2008.

25 32. The FTC's typical analysis uses historical data to construct a benchmark of the but-
26 for merger market, which is then used to conduct econometric simulations of the predicted impact
27 of the future merger. In the present case, my staff and I expect to conduct a similar benchmark
28

1 analysis, the only difference being that we then compare the benchmark to the actual (post-“bad
2 act”) market instead of a simulation.

3 33. The FTC demanded (and Electronic Arts agreed to provide) 4 years of data prior to
4 the alleged bad acts (i.e. the 2008 merger), presumably for the same reasons that Plaintiffs in the
5 present matter ask for several years of data prior to the alleged bad acts, reasons grounded in the
6 scientific method. This is standard in monopolization cases. In this case, the first version of
7 Madden NFL 2006 was released on August 8, 2005.¹³ Therefore, if we were to mirror the FTC’s
8 request, we should obtain discovery starting at least August 1, 2001.

9
10 34. I have been estimating damages as an economic expert in federal antitrust lawsuits
11 since 1989. When I expect to rely on business financial data provided by the defendant, I always
12 request several years of data (if available) prior to the alleged anticompetitive conduct, and
13 generally several years of data have been provided in discovery. This information generally
14 includes not only pricing data, but also information related to market share and internal evaluations
15 of both actual and potential competitors.

16
17 35. Changes in gaming console hardware over time do not render older market data
18 useless. Periodic changes in the gaming console hardware sold to consumers do not render earlier
19 data useless. Every four to six years console manufacturers introduce a new generation of consoles
20 that gradually replace their predecessors. Nevertheless, the older generation consoles maintain a
21 large installed base, and it takes time for the installed base of next generation consoles to rise to
22

23
24 ¹³ See, e.g.,

25 • Beridon, Craig, 05 August 2005, IGN Madden NFL 2006 Review for XBOX,
<http://xbox.ign.com/articles/639/639857p1.html>, accessed 29 June 2009.

26 • Beridon, Craig, 05 August 2005, IGN Madden NFL 2006 Review,
<http://ps2.ign.com/articles/639/639607p1.html>, accessed 07 January 2009.

1 similar levels. Consequently, game publishers continue to produce games for the older, legacy
2 consoles for years after the introduction of the new generation consoles.

3 36. For example, in August 2009 EA is expected to release Madden NFL 2009 for the
4 PlayStation 2 and Xbox consoles. The PlayStation 2 was introduced in 2000 and was followed by
5 the PlayStation 3 in 2006. The Xbox was introduced in 2001 and was followed by the next
6 generation Xbox 360 in 2005. Thus, pricing behavior for interactive football software prior to
7 2004, released for consoles like the Xbox and PlayStation 2, will be valuable for estimating but-for
8 prices during the damages period because the products at issue were also released for these older
9 consoles and those consoles were important players during part of the damages period.

11 EXAMPLES OF DATA AND DOCUMENTS I AM REQUESTING

12 37. Based on the arguments I outline in this declaration, Counsel for Plaintiffs have
13 asked me to include a partial list of documents and data that would prove useful in estimating
14 damages. An ideal list would include, at minimum:

15 (a) Retail pricing data (from NPD Group or a similar market research firm)
16 going back to at least August 1, 2001;

17 (b) An extension of Appendix C to EA's Responses to Plaintiffs' Second Set of
18 Interrogatories dating back to August 1, 2001, and an expansion that included actual transaction
19 wholesale prices charged to each retail outlet or, in the alternative, price lists reflecting the actual
20 prices for each identified shipment, with the corresponding explanation of how the data were
21 constructed and how price lists were employed in the regular course of business.

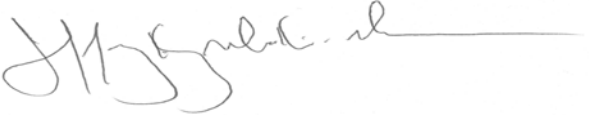
22 (c) The following EA business reports or their equivalent for the period August
23 1, 2001 to January 1, 2004:

- 24 (i) Customer Satisfaction Report,
25 (ii) EA Sports Brand Report/Update,
26 (iii) EA Sports Brand Tracking
27 (iv) EA Sports Label Report,
28

- 1 (v) EA Sports Landscape Brand Assessment,
- 2 (vi) Product Marketing Review,
- 3 (vii) Sports Deck,
- 4 (viii) Sports Demand Review,
- 5 (ix) Industry Update,
- 6 (x) Rejecter Report.

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1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct. Executed this 6th day of July, 2009, at Ann Arbor, Michigan.

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6 JEFFREY K. MACKIE-MASON

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Jeffrey K. MacKie-Mason

Contact Information

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Education

Ph.D. Economics, MIT, 1986
Master of Public Policy, University of Michigan, 1982
A.B. Environmental Policy, Summa Cum Laude, Dartmouth College, 1980

Regular Positions

Associate Dean for Academic Affairs, School of Information, 2008-present
Arthur W. Burks Collegiate Professor of Information and Computer Science, University of Michigan, 2000-present
Professor of Economics, University of Michigan, 1999-present
Professor of Public Policy, University of Michigan, 1999-present
Partner, ApplEcon LLC (antitrust and regulatory consulting), 2001-present

Past Positions

Director, Program for Socio-Technical Infrastructure for Electronic Transaction (STIET), 1996-2008
Managing Partner, ApplEcon LLC, 2001-2007
Professor of Information, University of Michigan, 1998-2008
Associate Professor of Information, University of Michigan, 1996-1998
Associate Professor of Economics, University of Michigan, 1992-1999
Associate Professor of Public Policy, University of Michigan, 1992-1999
Associate Research Scientist, Institute of Public Policy Studies, University of Michigan, 1992-1995
Research Associate, National Bureau of Economic Research, 1993-1999
Faculty Research Fellow, National Bureau of Economic Research, 1987-1993
Assistant Professor of Economics and Public Policy, University of Michigan, 1986-1992
Assistant Research Scientist, Institute of Public Policy Studies, University of Michigan, 1986-1992

Visiting Positions

Visiting Scholar, California Energy Institute, University of California, Berkeley, 1994
Visiting Faculty Scholar, University of Oslo, Norway, 1993
National Fellow, Hoover Institution, Stanford University, 1990-91

Other Positions

National Science Foundation Advisory Committee, Directorate for Computer and Information Sciences & Engineering (CISE), 2008-present
National Science Foundation Advisory Committee, Directorate for Social, Behavioral and Economic Sciences (SBE), 2008-present
Advisory Board, ACM SIGecom, 2000-present
ACM Digital Library Advisory Board, 2007-2008
Commissioner, Ann Arbor Cable Communications Commission, 1996-1998
Research Resident, U.S. Department of Energy, Office of Policy, Planning and Evaluation, 1981

Consultant, National Audubon Society, Washington, DC, 1979

Honors and Awards

University Partnership Fellow, IBM, 1998-99, 1999-2000, 2000-2001
National Fellow, Hoover Institution, Stanford, 1990-91
Joseph A. Livingston Research Scholar, University of Michigan, 1989-90
Collegiate Council Fellow, University of Michigan, 1987-88
National Tax Association Outstanding Doctoral Dissertation Award, 1986
Alfred P. Sloan Foundation Fellowship, 1985-86
National Science Foundation Fellowship, 1982-85
Phoenix Memorial Laboratory Energy Research Fellowship, 1981-82
Rackham First Year Graduate Fellowship, 1980-81
Phi Beta Kappa, Highest Distinction Honors, 1980
Andrew W. Mellon Natural Resource Economics Fellowship, 1980
Paul R. Richter Fellowship, 1979-80

Research Grants

National Science Foundation, "REU Site: Incentive-Centered Design for Cyberinfrastructure", NSF-0755147, Co-Principal Investigator, 2008-2011. Budget: \$286,743.

National Science Foundation, "STIET: Incentive-Centered Design", DGE-0654014, Project Director and Principal Investigator, 2007-2012, with co-PIs Michael Wellman, Yan Chen, Brian Noble, Tilman Borgers and Daniel Grosu. Budget: \$3 million.

National Science Foundation, "CT-ER: Incentive-Centered Technology Design For Home User Security", CNS-0716196, Principal Investigator, 2007-2009. Budget: \$200,000.

National Science Foundation, "Practical Strategic Reasoning for Intractable Games," IIS 0414710, 2005-2008, with Michael Wellman.

National Science Foundation, "Computational Markets for Decentralization of Complex Time-Dependent Activities," CSS-9988715, 2000-2004, with Michael Wellman. Budget: \$585,835.

National Science Foundation, "Socio-Technical Infrastructure for Electronic Transactions," Project Director, 2001-2007, with Michael Wellman and Michael Gordon. Budget: \$2.7 million.

National Science Foundation, "Strategic Positioning in Information Product Space," IIS-0112669, 2001-2003, with Ed Durfee. Budget: \$150,000.

IBM, University Partnership Grant, "Incentive Engineering", 1998-2001. Budget: \$120,000.

DARPA, "Market-Based Adaptive Architectures for Information Survivability," 1997-2000, with Mike Wellman and Sugih Jamin. DARPA/ITO grant F30602-97-1-0228.

IBM, University Partnership Grant, "Competition in Product Space for a Multi-Agent Information Goods Economy," 1999, with Ed Durfee. Budget: \$75,000.

Council on Library Resources, "Pricing Electronic Scholarly Information," 1997-99.

National Science Foundation Grant, "Economics of the Internet," SBR-9230481, 1994-99, with Hal Varian

National Science Foundation Grant, "Measuring Distortions from the Differential Tax Treatment of

Corporate and Noncorporate Income," SES-9122240, 1992-94, with Roger Gordon

National Science Foundation Grant, "Interactions Between Seasonal Cycles and Business Cycles," SES-8921506, 1990-92, with Jeff Miron and Robert Barsky

University of Michigan Faculty Recognition Fund Grant, 1990-93

Office of Tax Policy Research Grant, 1990

Faculty Assistance Fund Grant, 1990

Research Partnership Grant, UM, 1988-89

Rackham Faculty Research Grant, 1987-88

Biographical Listings

Who's Who in the World, 1996-present

Who's Who in Science and Engineering, 1995-present

Who's Who in America, 1993-present

Who's Who in the Midwest, 1991-present

Who's Who in Economics, 1991-present

Who's Who in Finance, 1990-present

Who's Who in American Education, 1999-present

Journal Editorial Positions

Editorial Board, IEEE *Security & Privacy*, 2009-present, (Department Co-Editor for "Security & Privacy Economics")

Editorial Board, *Information Economics and Policy*, 2004-present

Founding Editorial Board, *Netnomics: Economic research and Electronic Networking*, 1996-present

Founding Editorial Board, *SSRN E-Business and E-Commerce Abstracting Journal*, 2004-present

Founding Editorial Board, *Electronic Commerce Research*, 1999-2002

Editorial Board, *Telecommunication Systems*, 1996-2002

Associate Editor, *RAND Journal of Economics*, 1995-2002

Advisory Board, *The Ecommerce Research Forum (MIT Sloan and INFORMS)*, 1998-2004

Conference Editorial Positions

Program Committee, 5th Annual Ad Auctions Workshop, co-located with ACM Electronic Commerce (EC-09), Stanford, CA, July 2009

Program Committee, ACM Conference on Electronic Commerce (EC-08), Chicago, IL, 2008.

General Chair, ACM Electronic Commerce 2007, San Diego, CA, June 2007.

Co-Chair, Economics of Cyberinfrastructure, NSF Workshop on Cyberinfrastructure and Social Sciences, Airlie House, Virginia, March 2005.

Program Committee, *Electronic Scientific, Technical and Medical Journal Publishing and Its Implications*, National Research Council, Washington D.C., May 2003.

Co-Chair, Program Committee, ACM Conference on Electronic Commerce (EC-00), Minneapolis, Minnesota, 2000.

Chair, Conference on Economics and Usage of Digital Library Collections, Ann Arbor, Michigan, 2000.

Board of Directors, Telecommunications Policy Research Conference, 1997-2000

Program Committee, Internet Quality of Service, Massachusetts Institute of Technology, December 2-3, 1999

Program Committee, ACM Conference on Electronic Commerce (EC-99), 1999

Co-Chair, Program Committee, First International Conference on Information Economies, October 1998

Program Committee, Second European Conference on Research and Advanced Technology for Digital Libraries, September 19-23, 1998

Chair, Program Committee, 25th Annual Telecommunications Policy Research Conference, September 1997

Organizing Committee, The Economics of Digital Information and Intellectual Property Conference, Harvard University, January 1997

NSF Panel on Instrumentation for Social, Behavioral and Economic Research, 1995, 1996, 1997

Organizing Committee, 24th Annual Telecommunications Policy Research Conference, October 1996

Organizing Committee, Internet Economics Conference, Massachusetts Institute of Technology, May 1995

Organizing Committee, 10th Michigan Conference on Public Utility Regulation, April 1994

Conference Chair, NBER Universities Research Conference on Environmental Economics, Cambridge, MA, 1992

Publications

Wellman, M. P. and A. Osepayshvili and J. K. MacKie-Mason and D. Reeves (2008), "Bidding Strategies for Simultaneous Ascending Auctions", *BE Journal of Theoretical Economics*, forthcoming.

Wash, R. and J. K. MacKie-Mason (2008), "A Social Mechanism for Anti-Botnet Security", Workshop on Information System Economics (WISE) '08, Paris, France, 13-14 December 2008.

Lian Jian and Jeffrey K. MacKie-Mason (2008), "Why Share in Peer-to-Peer Networks?", International Conference on Electronic Commerce (ICEC'08), Innsbruck, Austria, 19-22 August 2008.

M. S. Bonn, W. P. Lougee, J. K. MacKie-Mason, and J. F. Riveros. "The Peak project: A field experiment in pricing and usage of a digital collection." In J. K. MacKie-Mason and W. P. Lougee, eds., *Economics and Usage of Digital Libraries: Byting the Bullet*. (University of Michigan Scholarly Publishing Office, Ann Arbor, MI, 2008. Available online at <http://hdl.handle.net/2027/spo.5621225.0001.001>.

W. P. Lougee and J. K. MacKie-Mason. "Stakeholders and successful digital transformation of the research library." In J. K. MacKie-Mason and W. P. Lougee, eds., *Economics and Usage of Digital Libraries: Byting the Bullet*. (University of Michigan Scholarly Publishing Office, Ann Arbor, MI, 2008. Available online at <http://hdl.handle.net/2027/spo.5621225.0001.001>.

J. K. MacKie-Mason and W. P. Lougee, editors. *Economics and Usage of Digital Libraries: Byting the Bullet* (edited book). University of Michigan Scholarly Publishing Office, Ann Arbor, MI, 2008. Available

online at <http://hdl.handle.net/2027/spo.5621225.0001.001>.

Rick Wash and Jeffrey K. MacKie-Mason (2007), "Security When People Matter: Structuring Incentives For User Behavior", International Conference on Electronic Commerce (ICEC'07), Minneapolis, MN, 19-22 August 2007.

Jeffrey K. MacKie-Mason and Janet S. Netz. "Manipulating Interface Standards as an Anti-Competitive Strategy", in S. Greenstein and V. Stango, *Standards and Public Policy* (Cambridge University Press, 2007).

Rick Wash and Jeffrey K. MacKie-Mason (2006), "Incentive-Centered Design for Information Security", *USENIX Hot Topics in Security (HotSec 06)*, Vancouver, BC, 31 July 2006.

Lian Jian and Jeffrey K. MacKie-Mason (2006), "Generalized Reciprocity on Peer-to-Peer Networks," *Workshop on the Economics of Networked Systems (NetEcon06)*, Ann Arbor, MI, 11 June 2006.

Yan Chen, Xin Li, and Jeffrey K. MacKie-Mason (2006) "Online Fund-Raising Mechanisms: A Field Experiment", *Contributions to Economic Analysis & Policy*, vol. 5, no. 2. Available from <http://www.bepress.com/bejeap/contributions/vol5/iss2/art4>.

Jeffrey K. MacKie-Mason and Michael P. Wellman. "Automated Markets and Trading Agents", in L. Tesfatsion and K. Judd, *Handbook of Computational Economics*, vol. 2 (North-Holland, 2006).

Anna Osepayshvili, Michael P. Wellman, Daniel M. Reeves, and Jeffrey K. MacKie-Mason. "Self-Confirming Price Prediction for Bidding in Simultaneous Ascending Auctions" *Proceedings of the 21st Conference on Uncertainty in Artificial Intelligence (UAI 2005)*, (July 2005).

Christopher H. Brooks, Robert S. Gazzale, Jeffrey K. MacKie Mason, and Edmund H. Durfee. "Improving Learning Performance by Applying Economic Knowledge", *Lecture Notes in Computer Science*, vol. 3048 (Springer-Verlag, 2004). Also appeared in *Fourth ACM Conference on Electronic Commerce* (June 2003), 252-253.

Jeffrey K. MacKie-Mason, Anna Osepayshvili, Daniel M. Reeves and Michael P. Wellman. "Price Prediction Strategies for Market-Based Scheduling", *18th International Conference on Automated Planning and Scheduling*, Whistler, British Columbia, (June, 2004).

Jeffrey K. MacKie-Mason (co-author with Committee on Electronic Scientific, Technical, and Medical Journal Publishing, The National Academies). *Electronic Scientific, Technical, and Medical Journal Publishing and Its Implications* (2004).

Daniel M. Reeves, Michael. P. Wellman, Jeffrey K. MacKie-Mason, and Anna Osepayshvili. "Exploring bidding strategies for market-based scheduling", *Decision Support Systems* 39(1): 67--85 (March 2005) (prior version published in *Fourth ACM Conference on Electronic Commerce* (June 2003), 115-124).

Daniel M. Reeves, Michael. P. Wellman, Jeffrey K. MacKie-Mason, and Anna Osepayshvili. "Exploring bidding strategies for market-based scheduling", *Fourth ACM Conference on Electronic Commerce* (June 2003), 115-124.

Aarbu, Karl Ove and Jeffrey K. MacKie-Mason, "Explaining underutilization of tax depreciation deductions: Empirical evidence from Norway" *International Tax and Public Finance* (2003).

Christopher H. Brooks, Robert S. Gazzale, Rajarshi Das, Jeffrey O. Kephart, Jeffrey K. MacKie-Mason, and Edmund H. Durfee. "Model Selection in an Information Economy: Choosing what to Learn," *Computational Intelligence*, vol. 18, no. 4 (Nov. 2002): 566-582.

Mackie-Mason, Jeffrey K., "Antitrust Immunity for Refusals to Deal in (Intellectual) Property Is a Slippery Slope" *The Antitrust Source* (July 2002).

Mackie-Mason, Jeffrey K. and John Metzler, "Links Between Vertically Related Markets: ITS v. Kodak," in *The Antitrust Revolution*, 3rd ed., J. Kwoka and L. White, eds., 1999. Revised for Kwoka and White, 4th ed., 2002.

Thomas, Panagiotis, Demosthenis Teneketzis and Jeffrey K. Mackie-Mason, "A Market-Based Approach to Optimal Resource Allocation in Integrated-Services connection-Oriented Networks." *Operations Research*, 50:4 (July-August 2002).

Wellman, M. P., W. E. Walsh, P. R. Wurman and Jeffrey K. Mackie-Mason, "Auction Protocols for Decentralized Scheduling." *Games and Economic Behavior* (35), 2001. Revised and republished as an extended abstract in *Artificial Intelligence*, 2002.

Jeffrey O. Kephart, Rajarshi Das, Christopher H. Brooks, Edmund H. Durfee, Robert S. Gazzale and Jeffrey K. Mackie-Mason., "Pricing Information Bundles in a Dynamic Environment." ACM Electronic Commerce 2001, Tampa.

Robert S. Gazzale and Jeffrey K. Mackie-Mason, "Endogenous Differentiation of Information Goods Under Uncertainty." ACM Electronic Commerce 2001, Tampa.

Christopher H. Brooks, Rajarshi Das, Jeffrey O. Kephart, Jeffrey K. Mackie-Mason, Robert S. Gazzale, and Edmund H. Durfee. "Information Bundling in a Dynamic Environment." Proceedings of the IJCAI-01 Workshop on Economic Agents, Models, and Mechanisms, Seattle, WA, August, 2001.

Kelly, Terence P., Sugih Jamin and Jeffrey K. Mackie-Mason, "Variable QoS From Shared Web Caches: User-Centered Design and Value-Sensitive Replacement." forthcoming in *Internet Service Quality Economics*, Lee McKnight, ed., MIT Press, 2001.

Borenstein, Severin, Jeffrey K. Mackie-Mason and Janet S. Netz, "Exercising Market Power in Proprietary Aftermarkets." *Journal of Economics and Management Strategy*, 9:2 (2000):157--88.
Mackie-Mason, Jeffrey K. "Economic Incentives", in *The Marshall Cavendish Encyclopedia of the Environment*, Marshall Cavendish, Tarrytown, NY, 2000.

Mackie-Mason, Jeffrey K., Juan F. Riveros and Robert S. Gazzale, "Pricing and Bundling Electronic Information Goods: Experimental Evidence." *The Internet Upheaval: Raising Questions, Seeking Answers in Communications Policy*, B. Compaine and I. Vogelsang, eds., MIT Press, 2000.

Mackie-Mason, Jeffrey K. and Juan Riveros, "Economics and Electronic Access to Scholarly Information," *Internet Publishing and Beyond: The Economics of Digital Information and Intellectual Property*, B. Kahin and H. Varian, eds. MIT Press, 2000.

Kephart, Jeffrey O., Rajarshi Das and Jeffrey K. Mackie-Mason, "Two-sided Learning in an Agent Economy for Information Bundles," in *Agent-mediated Electronic Commerce*, Lecture Notes in Artificial Intelligence. Berlin: Springer-Verlag, 2000.

Brooks, Christopher H., Scott Fay, Rajarshi Das, Jeffrey K. Mackie-Mason, Jeffrey O. Kephart and Edmund Durfee, "Automated Strategy Searches in an Electronic Goods Market: Learning and Complex Price Schedules," in *Proceedings of Electronic Commerce 1999 (EC-99)*. ACM Press, Denver, CO, November 1999.

Chan, Yee Man, Jonathan Womer, Sugih Jamin and Jeffrey K. Mackie-Mason, "The Case for Market-based Push Caching." *Proceedings of the Second International Conference on Telecommunications and Electronic Commerce*, Nashville, TN, November 1999.

Mackie-Mason, Jeffrey K. and Richard A. Pfau, "Inducements to Advocacy: The Economist as Independent Expert," in *The Expert Economist in Antitrust Litigation*, Daniel Slottje, ed. Amsterdam: North-Holland, 1999.

Mackie-Mason, Jeffrey K. and Christopher Lee, *Telecommunications Information Resource Directory*. Government Institutes, 1999.

Mackie-Mason, Jeffrey K., Juan F. Riveros, Maria S. Bonn and Wendy P. Lougee, "The PEAK Experiment: Usage and Economic Behavior," *D-lib Magazine*, vol. 5, no. 7/8, July/August 1999.

Bonn, Maria S., Wendy P. Lougee, Jeffrey K. Mackie-Mason and Juan F. Riveros, "A Report on the PEAK Experiment: Context and Design," *D-lib Magazine*, vol. 5, no. 6, June 1999.

Kelly, T.P., Y. M. Chan, S. Jamin and J. Mackie-Mason, "Biased Replacement Policies for Web Caches: Differential Quality-of-Service and Aggregate User Value," Proceedings of the Fourth International Web Caching Workshop, San Diego, CA, March 31-April 2, 1999 (refereed).

Anderson, A., I. Birgean and J. Mackie-Mason, "Bilateral Negotiation With Fees," *Proceedings of the First IAC Workshop on Internet Based Negotiation Technologies*, Hawthorne, NY, March 18-19, 1999.

Mackie-Mason, Jeffrey K. and David Waterman, eds., *Telephony, the Internet, and the Media*. Lawrence Erlbaum Associates, Inc., 1998.

Mackie-Mason, Jeffrey K. and David Waterman, "Introduction" in *Telephony, the Internet, and the Media*, Jeffrey K. Mackie-Mason and David Waterman, eds. Lawrence Erlbaum Associates, Inc., 1998.

Mackie-Mason, Jeffrey K. and Juan F. Riveros, " 'Bundling' y el Acceso Electronico a la Informacion Academica: El Proyecto PEAK" (in Spanish), Proceedings of II Seminario Internacional Computense de Telecomunicaciones e Informacion Retos Jirdicos de la Informacion en Internet, Universidad Complutense, Madrid, Spain, December 3-4, 1998.

Walsh, William E., Michael P. Wellman, Peter Wurman and Jeffrey K. Mackie-Mason, "Some Economics of Market-Based Distributed Scheduling," The 18th International Conference on Distributed Computing Systems (ICDCS'98), May 1998.

Mackie-Mason, Jeffrey K. and Alexandra Jankovich, "PEAK: Pricing Electronic Access to Knowledge," *Library Acquisitions: Practice & Theory*, vol. 21, no. 3, Fall 1997: 281-96.

Mackie-Mason, Jeffrey K. and Roger H. Gordon, "How Much Do Taxes Discourage Incorporation?" *The Journal of Finance*, June 1997.

Mackie-Mason, Jeffrey K. and Kimberly White, "Evaluating and Selecting Digital Payment Mechanisms," in *Interconnection and the Internet*, G. Rosston and D. Waterman, eds. Lawrence Erlbaum, 1997: 113-134.

Mackie-Mason, Jeffrey K., Scott Shenker and Hal Varian, "Network Architecture and Content Provision: An Economic Analysis," in *The Internet and Telecommunications Policy*, G. Brock and G. Rosston, eds. Lawrence Erlbaum: 1996. Also published as "Service Architecture and Content Provision: The Network Provider as Editor," in *Telecommunications Policy*, vol. 20, no. 3, April 1996: 203-17.

Murphy, Liam, John Murphy, and Jeffrey K. Mackie-Mason, "Feedback And Efficiency In ATM Networks," *Proceedings of the International Conference on Communications (ICC'96)*. Piscataway, NJ: IEEE, 1996.

Mackie-Mason, Jeffrey K., Liam Murphy and John Murphy, "The Role of Responsive Pricing in the Internet," *Internet Economics*, J. Bailey and L. McKnight, eds. Cambridge: MIT Press, 1996: 279-304. Also published in *The Journal of Electronic Publishing*, 1996, online at <http://www.press.umich.edu/jep/>.

Mackie-Mason, Jeffrey K. and Hal Varian, "Some Economics of the Internet," in *Networks, Infrastructure and the New Task for Regulation*, W. Sichel, ed. Ann Arbor: University of Michigan Press, 1996.

Mackie-Mason, Jeffrey K. and Hal Varian, "Economic FAQs About the Internet," *The Journal of Economic Perspectives*, vol. 8, no. 3 (Summer 1994): 75-96. Reprinted (with revisions) in *Dr. Dobbs Journal*, vol. 19 (Winter 1994). Reprinted with extensive updating and revisions in the *Journal of Electronic Publishing*, 1995 (online at <http://www.press.umich.edu/jep/>); in *Research Milestones on the Information Highway*, S. Kiesler, ed. Lawrence Erlbaum, 1996; in *Quill*, vol. 84, no. 9 (Nov. 1996); also published in *Internet Economics*, J. Bailey and L. McKnight, eds. Cambridge: MIT Press, 1996.

Borenstein, Severin, Jeffrey K. Mackie-Mason and Janet Netz, "Antitrust Policy in Aftermarkets," *Antitrust Law Journal*, vol 63, Winter 1995: 455-82.

Mackie-Mason, Jeffrey K. and Hal Varian, "Pricing Congestible Resources," *IEEE Journal of Selected Areas in Communications*, vol. 13, no. 7, Sept. 1995: 1141-49. Reprinted in *Annales des Ponts et Chaussees* as "La tarification des ressources de reeseax susceptibles de congestion: Le cas d'Internet", vol 96, October-December 2000: 49-60.

Mackie-Mason, Jeffrey K. and Hal Varian, "Pricing the Internet," in *Public Access to the Internet*, Brian Kahin and James Keller, eds. Cambridge, MA: MIT Press, 1995: 269-314.

Mackie-Mason, Jeffrey K. and Hal Varian, "Some FAQs about Usage-Based Pricing," *Computer Networks and ISDN Systems*, vol. 28, 1995: 257-65. Also in *Filling the Pipeline and Paying the Piper: Scholarly Publishing on the Electronic Network*, Association of Research Libraries Conference Proceedings. Also in *The Journal of Electronic Publishing*, online at <http://www.press.umich.edu/jep/works/mackiemason.usage.html>.

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Gordon, Roger H. and Jeffrey K. Mackie-Mason, "Why is There Corporate Taxation in a Small Open Economy?," in *International Taxation*, M. Feldstein, J. Hines and R. Glenn Hubbard, eds. Chicago: University of Chicago Press, 1995: 67-94. Also published in *The Effects of Taxation on Multinational Corporations*, Martin Feldstein, James R. Hines, Jr., and R. Glenn Hubbard, eds. Chicago: University of Chicago Press, 1995. Also NBER Working Paper No. 4690.

Gordon, Roger H. and Jeffrey K. Mackie-Mason, "Tax Distortions to the Choice of Organizational Form," *Journal of Public Economics*, vol. 55, no. 2, Oct. 1994: 279-306. Also NBER Working Paper No. 4227.

"A Reader's Guide to the Blue Book: Issues in California's Electric Industry Restructuring and Regulatory Reform" (with 13 coauthors), *Electricity Journal*, Sept. 1994. Written by the Program on Workable Energy Regulation (POWER), California Energy Institute, University of California, Berkeley.

Mackie-Mason, Jeffrey K., "Economic Issues in Building a National Information Infrastructure," in *The Economics of Information Infrastructure*, Proceedings of the Information Infrastructure Forum, Washington, DC, July 1994.

Borenstein, Severin, Jeffrey K. Mackie-Mason and Janet Netz, "The Economics of Customer Lock-in and Market Power in Services," in *The Service Productivity and Quality Challenge*, P. Harker, ed. Kluwer Academic Press, 1993.

Mackie-Mason, Jeffrey K., "Using Economic Incentives for Environmental Policy," in *The Encyclopedia of the Environment*, R. Eblen and W. Eblen, eds. Boston: Houghton Mifflin Co., 1994.
Mackie-Mason, Jeffrey K., "Econometric Software: A User's View," *Journal of Economic Perspectives*, vol. 6, no. 4, Fall 1992: 165-87.

Beaulieu, Joseph J., Jeffrey K. MacKie-Mason and Jeffrey J. Miron, "Why Do Countries and Industries With Large Seasonal Cycles Also Have Large Business Cycles?" *Quarterly Journal of Economics*, vol. 107, no. 2, May 1992: 621-56.

Bergstrom, Ted and Jeffrey K. MacKie-Mason, "Some Simple Analytics of Peak-Load Pricing," *RAND Journal of Economics*, vol. 22, no. 2, Summer 1991: 241-49. Reprinted (in Japanese) in *Kosokudoro Po Jidosha*, vol. 37, no. 4: 37-64.

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MacKie-Mason, Jeffrey K., "Do Firms Care Who Provides Their Financing?" in *Asymmetric Information, Corporate Finance, and Investment*, R. Glenn Hubbard, ed. Chicago: University of Chicago Press, 1990: 63-104. Also NBER Working Paper No. 3039.

MacKie-Mason, Jeffrey K., "Do Taxes Affect Corporate Financing Decisions?" *Journal of Finance*, vol. 45, no. 5, Dec. 1990: 1471-93. Also NBER Working Paper No. 2632.

MacKie-Mason, Jeffrey K., "Some Nonlinear Tax Effects on Asset Values and Investment Decisions Under Uncertainty," *Journal of Public Economics*, vol. 42, no. 3, Aug. 1990: 301-27. Also NBER Working Paper No. 2631.

Levinsohn, James L. and Jeffrey K. MacKie-Mason, "A Simple, Consistent Estimator for Disturbance Components in Financial Models," *Review of Economics and Statistics*, vol. 72, no. 3, Aug. 1990: 516-20.

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MacKie-Mason, Jeffrey K. and Robert S. Pindyck, "Cartel Theory and Cartel Experience in International Minerals Markets," in *Energy: Markets and Regulation*, Richard L. Gordon, Henry D. Jacoby and Martin B. Zimmerman, eds. Cambridge: MIT Press, 1987: 187-214.

Columns, Comments, Reports and Reviews

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<http://metromode.com/blogs/posts/JeffreyMacKie-Mason1107.aspx>.

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<http://metromode.com/blogs/posts/JeffreyMacKie-Mason4107.aspx>

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Mackie-Mason, Jeffrey K. and Hal R. Varian, "Pricing Internet Usage," *Internet Business Journal*, 1993.

Mackie-Mason, Jeffrey K., Comment on "Explaining the Low Taxable Income of Foreign-Controlled Companies in the United States," by H. Grubert, T. Goodspeed and D. Swenson," in *Studies in International Taxation*, Alberto Giovannini, R. Glenn Hubbard and Joel Slemrod, eds. Chicago: University of Chicago Press, 1993: 270-75.

Mackie-Mason, Jeffrey K., Comment on "The Corporate Tax Gap," by Eric Rice, in *Who Pays Their Taxes: Tax Compliance and Enforcement*, Joel Slemrod, ed. Ann Arbor: University of Michigan Press, 1992.

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Mackie-Mason, Jeffrey K., Book review of *The Political Economy of Bureaucracy* by P.D. Jackson, in *Sloan Management Review*, (Fall 1983).

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L. Jian and J. K. Mackie-Mason. Why leave Wikipedia? In iConference, UCLA, February 2008.

Extended abstract and poster.

R. Wash and J. K. MacKie-Mason. Incentive design for home computer security. In iConference, UCLA, 2008. Extended abstract and poster.

Ben Chiao and Jeffrey K. MacKie-Mason (2006), "Using Uncensored Communication Channels to Divert Spam Traffic", 34th Research Conference on Communication, Information and Internet Policy (TPRC), 29 September – 1 October 2006.

Jeffrey K. MacKie-Mason, "What to do About Unilateral Refusals to License?" Paper submitted as testimony to 2002 FTC-DOJ Hearings on "Competition and Intellectual Property Law and Policy in the Knowledge-Based Economy," available at <http://www.ftc.gov/opp/intellect/detailsandparticipants.htm#May%201:>.

Jeffrey K. MacKie-Mason, Christopher H. Brooks, Rajarshi Das, Jeffrey O. Kephart, Robert S. Gazzale and Edmund H. Durfee., "Information Bundling in a Dynamic Environment." Presented at International Conference of the Society for Computational Economics, June 2001, New Haven, CT.

Gazzale, Robert S. and Jeffrey K. MacKie-Mason, "System Design, User Cost and Electronic Usage of Journals". Presented at the Conference on Economics and Usage of Digital Library Collections, Ann Arbor, MI, 23-24 March 2000. Presented at the 28th Annual Telecom Policy Research Conference, Alexandria, VA, 23-25 September 2000.

Fay, Scott and Jeffrey K. MacKie-Mason, "Competition Between Firms that Bundle." *Proceedings of the 27th Annual Telecommunications Policy Research Conference*, Alexandria, VA, August 1999.

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Kelly, Terence P., Sugih Jamin and Jeffrey K. MacKie-Mason, "Variable QoS from Shared Web Caches: User-Centered Design and Value-Sensitive Replacement." Draft, June 1999.

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ACM Transactions on Internet Technology
American Economic Review
The B.E. Journals in Theoretical Economics
Canadian Journal of Economics
Canadian Social Science Research Council
Cambridge University Press
The Economic Journal
Economic Education
Economics Letters
Electronic Commerce Reserach
Financial Management
IEEE/ACM
IEEE Transactions on Networking
Information Economics and Policy
International Journal of Applied Intelligence
International Journal of Industrial Organization
International Tax and Public Finance
Journal of Business
Journal of Econometrics
Journal of Economic Behavior and Organization
Journal of Economic Dynamics and Control
Journal of Economics
Journal of Economics and Business
Journal of Economics and Management Strategy
Journal of Electronic Publication
Journal of Finance
Journal of Financial and Quantitative Analysis
Journal of Industrial Economics
Journal of Law and Economics
Journal of Money, Credit and Banking
Journal of Political Economy
Journal of Public Economics
MIT Press
National Science Foundation
National Tax Journal
Netnomics: Economic research and Electronic Networking
Parallel Computing
Quarterly Journal of Business and Economics
RAND Journal of Economics
Review of Economic Studies
Review of Economics and Statistics
Review of Financial Economics
Review of Industrial Organization
Scandinavian Journal of Economics
Telecommunications Systems
University of Michigan Press

Ongoing Consulting

Undisclosed computer software company, 2007-present
Antitrust litigation (liability)

Masimo Corp., 2006-present
Plaintiff in antitrust litigation against Tyco Healthcare (damages)

Cumberland Truck, Diamond International, et al., 2006-present
Plaintiff in antitrust litigation against Detroit Diesel, Inc. (liability)

Undisclosed major media buyer, 2006-present
Antitrust litigation (liability)

Past Consulting

Katun Corporation, 2005-present
Plaintiff in antitrust litigation against Ricoh

Cumberland Truck Equipment Co et al. v. Detroit Diesel, 2006-present
Plaintiff in antitrust litigation against Detroit Diesel Corp.

Masimo Corp., 2006-present
Plaintiff in antitrust litigation against Tyco Healthcare

Dealer Computer Services, Inc., 2006-present
Defendant in antitrust litigation brought by Wiebold

Hope Land Mineral Corporation, 2006- present
Plaintiff in subsurface gas storage rights litigation against Panhandle Eastern Pipe Line

Hewlett-Packard, 2005-present
Antitrust consulting

Candace Bettendorf et al., 2005-present
Antitrust litigation against Microsoft on behalf of Wisconsin consumers

Dealer Computer Services, Inc., 2004-present
Defendant in antitrust litigation brought by Larry McLeod Ford-Lincoln Mercury et al.

Dealer Computer Services, Inc., 2004-present
Defendant in antitrust litigation brought by VanDyck Motors

Joe Comes et al. v. Microsoft, 2002-present
Antitrust litigation against Microsoft on behalf of Iowa consumers

Northwest Airlines, 2005-2006
Antitrust litigation against Sabre

Qwest Communications, 2005
Antitrust consulting re: MCI-Verizon and ATT-SBC mergers

Confidential engagement, 2004-2005
Copier industry

Dealer Computer Services, Inc., 2004-2005
Defendant in antitrust litigation brought by Ray Fladeboe Lincoln Mercury

Office Depot, 2004-2005
Defendant in contract termination litigation brought by The Service Source, Inc.

Marvin Windows, 2004
Contract termination litigation

Microtune, 2003-2004
Patent and antitrust litigation against Broadcomm

Compuware, 2002-2005
Antitrust litigation against IBM

Daniel Gordon et al. v. Microsoft, 2002-2005
Antitrust litigation against Microsoft on behalf of Minnesota consumers

In re: Microsoft Corporation Massachusetts Consumer Protection Litigation, 2002-2004
Antitrust litigation against Microsoft on behalf of Massachusetts consumers

Covad, 2001-2004
Antitrust litigation against Verizon (Bell Atlantic)

AOL Time Warner, 2001-2003
Regulatory analysis and consulting

Capp et al., 2001-2002
Antitrust litigation against Microsoft on behalf of Wisconsin consumers

Mason et al., 2001-2002
Antitrust litigation against Motorola

Advanced Micro Devices (AMD), 2000-2004
Litigation consulting

Cable & Wireless Optus (Australia), 2000
Regulatory proceeding against Telstra (Internet service provider (ISP) merger); telecom and Internet regulatory restructuring

Glynn-Brunswick Memorial Hospital et al., 2000
Damages for antitrust litigation against General Electric

Henrico County, Virginia, 2000
Cable open access litigation, defendant against AT&T

SBC, 2000
Strategic consulting

Lingo et al., 1999-2003
California consumer antitrust litigation against Microsoft

Gravity et al., 1999-2002
Antitrust litigation against Microsoft on behalf of national consumers

City and County of San Francisco, 1999
Antitrust litigation against Hearst Newspapers

Intergraph, 1998-2002
Antitrust and patent litigation against Intel

Biotechnology Developer (confidential engagement), 1998-2001
Biotechnology patent and antitrust litigation

America OnLine, Inc., 1998-1999
Cable modem access proceedings and universal service proceedings before the FCC

Alfred Stephenson et al. (residential phone customer class), 1998
Class action antitrust litigation against Bell Atlantic

Borg-Warner, Inc., 1998
Antitrust litigation against United Technologies, Inc.

GTE, 1997-1999
Internet content and services antitrust litigation

HPS, Inc., et al., 1996-2003
Private plaintiff and class action antitrust litigation concerning Caller ID; plaintiff vs. AT&T

Creative Copier Services, Inc., 1996-2000
High-volume copier antitrust litigation; plaintiff vs. Xerox

Disc Manufacturing, Inc., 1996-1999
Disc manufacturing antitrust and patent litigation; plaintiff vs. Pioneer Electronics

Nationwide et al., 1996-98
High-volume copier antitrust litigation; plaintiff vs. Kodak

Acquisition Specialists, Inc., 1995-97
High-volume copier antitrust litigation; plaintiff vs. Xerox

Telcom Technical Services, Inc., et al., 1995-97
Telecommunications equipment maintenance litigation; plaintiff vs. Rolm Company

America OnLine, 1995
Antitrust consulting

AT&T, 1995
Antitrust consulting

Sun Microsystems, 1995
Antitrust consulting

Image Tech Services (ITS) et al., 1994-98
High-volume copier and micrographics antitrust litigation; plaintiff vs. Kodak

Bell Atlantic Business Systems Services, 1994-96
Antitrust consulting

Independent Service Network International, 1994-96
Antitrust consulting in re: IBM motion to lift the 1956 Consent Decree

Electronic Data Systems, Inc. (EDS), 1994-95
Computer services antitrust litigation; defendant

Southeastern Express, Inc., 1994
Computer maintenance antitrust and litigation; plaintiff

Micro Rim Corporation, 1993-97
Replacement urethane bumper antitrust litigation; plaintiff vs. The Colonel's

Datasat Company, Inc., 1992-94
Computer maintenance antitrust and intellectual property litigation; plaintiff vs. Unisys

St. John's Hospital, 1992-93
Hospital monopolization litigation; defendant vs. private plaintiff

Comm-Tract, Inc., 1991-97
Telecommunications switching equipment antitrust litigation; plaintiff vs. Northern Telecom

Systemcare, Inc., 1991-93
Computer maintenance antitrust and intellectual property litigation; plaintiff vs. Wang

Grumman Systems Support Corporation, 1990-94
Computer maintenance antitrust and intellectual property litigation; plaintiff vs. Data General

Virtual Maintenance, Inc., 1989-94
Computer maintenance antitrust litigation; plaintiff vs. Prime Computer

Intel, 1988
Semiconductor patent protection and antitrust proceedings; plaintiff vs. Hyundai

Special consultant to National Economic Research Associates, 1984-89
Antitrust and patent economics. Projects included: Pacific Telesis, 1986, cellular radio licensing and merger proceedings; Bristol-Myers, 1986, antitrust proceedings

du Pont, 1984-85
Aramid fiber patent protection and antitrust proceedings; plaintiff vs. Akzo NV

Conference and Workshop Presentations

"Motivating user-contribution: Non-monetary exclusion", OPIM Research Seminar, Wharton School of Business, University of Pennsylvania, 14 April 2009.

"Getting the Good Stuff In, Keeping the Bad Stuff Out: Incentives and User-contributed Content", Behavioral Research Seminar, University of Texas at Dallas, 22 September 2008.

"Getting the Good Stuff In, Keeping the Bad Stuff Out: Incentives and User-contributed Content", STIET Research Seminar, Ann Arbor, MI, 27 March 2008.

"A Big Thinkers Event: Getting the Good Stuff In, Keeping the Bad Stuff Out - Incentives and User-contributed Content", Yahoo! Research, Santa Clara, CA, 12 March 2008.

"Tom Sawyer production on the Internet: Getting the Good Stuff In, Keeping the Bad Stuff Out", UM Law School, Seminar on Intellectual Property, 5 Dec 2007.

"Keeping the bad stuff out: structuring incentives for user behavior", Dagstuhl International Research Center (Germany), Computational Social Systems and the Internet, 1-6 July 2007.

"Incentive-Centered Design for Information Security", Ford Motor Co. Security & Controls Community of Practice, Dearborn, MI, 28 June 2007.

"Incentive-Centered Design for Information Security", DIMACS Workshop on Information Security Economics, Rutgers University, NJ, 18-19 January 2007.

"Incentive-Centered Design for Internet Information Services", Association Lecture (invited plenary), Southern Economic Association, 20 November 2006.

"Generalized Reciprocity in Peer-to-Peer Networks", Heinz School, Carnegie-Mellon University, 22 September 2006.

"Generalized Reciprocity in Peer-to-Peer Networks", Workshop on the Economics of Networked Systems (NetEcon), 11 June 2006.

"Incentive-Centered Design for Information and Communication Systems," NSF IGERT Conference, Arlington, VA, 14-16 May 2006.

"Why Roll Back Facilities-Based Competition and Mandatory Unbundling at the Same Time?", TPRC Conference, George Mason University, 23-25 September 2005.

"Self-Confirming Price Prediction for Bidding in Simultaneous Ascending Auctions", May 2005, Microeconomics Seminar, INSEAD, Fontainebleau, France.

"Self-Confirming Price Prediction Bidding in Simultaneous Ascending Auctions", January 2005, Seminar on Computing and Markets, Dagstuhl, Germany.

"An Empirical Game-Theoretic Methodology for Intractable Games", August 2004, Stanford Institute for Theoretical Economics.

"Automating Markets and Trading Agents", Conference on Agent-Based Computational Economics, May 2004, University of Michigan.

"Manipulating Interface Standards as an Anti-Competitive Strategy", May 2004, Northwestern University and Federal Reserve Bank of Chicago Conference on Standards and Public Policy.

"An Empirical Game-Theoretic Methodology for Intractable Games", April 2004, California Institute of Technology.

"Price Prediction Strategies for Market-Based Scheduling", June 2004, 14Th International Conference on Automated Planning & Scheduling, British Columbia, Canada (presented by co-author).

"Price Prediction Strategies for Market-Based Scheduling", November 2003, STIET Research Seminar, University of Michigan.

University of Arizona Business School and Economics Department, "Improving Learning Performance by Applying Economic Knowledge", April 2003.

"What to Do About Refusals to Deal in Intellectual Property?", at the FTC-DOJ Hearings on "Competition and Intellectual Property Law and Policy in the Knowledge-Based Economy," 1 May 2002, Washington, D.C. Available online at <http://www.ftc.gov/opp/intellect/detailsandparticipants.htm#May%201>.

"Evaluating mechanism quality: An Evolutionary Games Approach" at the DIMACS Workshop on Computational Issues in Game Theory and Mechanism Design, Rutgers University, Piscataway, NJ, 31 October - 2 November 2001.

"Learning and Strategic Configuration for Information Goods", Electronic Markets Workshop, Robert H. Smith School of Business, University of Maryland, 15 February 2001.

"Auction Protocols for Decentralized Scheduling", Lucent Bell Laboratories, 6 February 2001.

"Internet Media: What are the Markets?", Allied Social Science Associations Annual Meetings, New Orleans, 5 January 2001.

"Endogenous Production Differentiation Under Uncertainty," Microeconomics Workshop, Department of Economics, Johns Hopkins University, November 2000.

"System Design, User Cost and Electronic Usage of Journals", Conference on Economics and Usage of Digital Library Collections, March 23-24, 2000, Ann Arbor, MI.

"Variable QoS From Shared Web Caches: User-Centered Design and Value-Sensitive Replacement," MIT Workshop on Internet Service Quality Economics, December 2-3, 1999, Cambridge, MA.

"Pricing and Bundling Electronic Information Goods: Experimental Evidence," 27th Annual Telecom Policy Research Conference, Alexandria, VA, September 1999.

"Competition Between Firms that Bundle Information Goods", 27th Annual Telecom Policy Research Conference, Alexandria, VA, September 1999.

"One Size Doesn't Fit All: Improving Network QoS Through Preference-Driven Web Caching," 27th Annual Telecom Policy Research Conference, Alexandria, VA, September 1999.

"Mechanisms, Institutions and Multi-Agent Systems," Northwestern/MEDS Workshop on Microeconomic Theory, Northwestern University, Evanston, Illinois, July 22-25, 1999.

"Competition Between Firms that Bundle," Invited presentation, U.S. Federal Trade Commission, Washington, DC, April 15, 1999.

"Bilateral Negotiation with Fees," Workshop on Automated Negotiation, IBM T. J. Watson Research Labs, Yorktown Heights, NY, March 18, 1999.

"Auction Protocols for Decentralized Scheduling," Computer Science Colloquium, Purdue University, March 1, 1999.

"Market-Biased Replacement Policies for QoS Web Caching," Invited presentation, Microsoft Research, Redmond, WA, February 25, 1999.

"Institutions and Multi-Agent Systems," Bell Atlantic Distinguished Lecture, Carnegie-Mellon University, Pittsburgh, PA, February 18, 1999.

"Economics in the Design of Computer-Assisted Auctions," invited paper at the IBM Conference on Trends and Research in Advanced E-Commerce, November 2-3, 1998, Ruschlikon, Switzerland.

"Multi-Agent Systems, Mechanism Design and Institutions," invited talk, First International Conference on Information and Computation Economics (ICE'98), Charleston, SC, October 25-27, 1998.

"Pricing, Bundling and Electronic Access to Information," Columbia University Business School, New York, NY, invited lecture, October 14, 1998.

"Economics of Electronic Access to Scholarly Journals," American Libraries Association, Workshop on PEAK, Washington, DC, June 28, 1998.

"Mechanism Designs for Distributed Network Scheduling," IBM T. J. Watson Research Labs lecture, Hawthorne, NY, June 18, 1998.

"Mechanism Designs for Distributed Network Scheduling," Microeconomics Seminar, University of Iowa, May 13, 1998.

"Cyberdoodling: Management in the Information Age," invited lecture at the Kellogg School of Management, Northwestern University, May 12, 1998.

"Network Architecture and Content Provision: An Economic Analysis," Columbia University Business School, New York, NY, May 4, 1998.

"Why Do Corporations Pay Too Much Tax?" Public Finance Seminar, University of Michigan, Ann Arbor, MI, April 20, 1998.

"Info Bundling: Exploring the Design Space," Conference on Electronic Markets and Economics 1998, Austin, TX, February 17, 1998.

"Mechanisms for Resource Allocation in Integrated Services Networks," Bell Labs, Murray Hill, NJ, November 21, 1997.

"A Smart Market for Resource Reservation in a Multiple QoS Network," 25th Annual Telecom Policy Research Conference, Alexandria, VA, September 28, 1997.

"Research and Policy Issues: Digital Libraries," Intellectual Property and Economics Workshop, Pisa, Italy, August 27-29, 1997.

"Why Do Some Corporations Pay More Tax Than Necessary?" NBER Summer Institute, Public Economics Workshop, Cambridge, MA, August 5, 1997.

"Allocating Bandwidth for Multiple Qualities of Service," IBM T.J. Watson Research Lab, Hawthorne, NY, June 23, 1997.

"Economic Issues For the Future Internet," Highlands Forum, Bell Labs, Murray Hill, NJ, April 28, 1997.

"Restricting and Leveraging Complementary Products After Kodak," ALI-ABA Conference, "Antitrust/Intellectual Property Claims in High Technology Markets," Boston, MA, April 24-25, 1997.

"Market-based Adaptive Architectures for Information Survivability," presented at Bell Labs, Holmdel, NJ, March 28, 1997.

"A Smart Market for Resource Reservation in a Multiple QoS Network," Columbia Workshop on Networking Games and Pricing, New York, NY, March 27, 1997.

"Economics of Distribution Restraints and Antitrust," Conference Board Conference on Antitrust, New York, NY, March 6, 1997.

"Pricing Electronic Access to Scholarly Journals: A Field Experiment," Conference on Economics of Digital Information and Intellectual Property, Harvard University, Boston, MA, January 23-25, 1997.

"Economic Issues of the Future Internet," North American Network Operators Group (NANOG), Ann Arbor, MI, October 24, 1996.

"PEAK: Pricing Electronic Access to Knowledge," PRIE Brownbag, Ann Arbor, MI, October 23, 1996.

"PEAK: Pricing Electronic Access to Knowledge," Conference on Electronic Subscriptions, Heemskerk, Netherlands, October 17, 1996.

"Aftermarket Antitrust and Intellectual Property Post-Kodak," American Bar Association Antitrust Section Annual Meetings, Orlando, FL, August 5, 1996.

"Layering and Leveraging: Making Sense of Telecom Market Structure," Federal Communications Commission, Washington, DC, July 17, 1996.

"Pricing Scholarly Information: Opportunities," Elsevier Conference on Scholarly Electronic Publishing, New York, NY, July 9, 1996.

"Digital Pricing: The University of Michigan Journals Pricing Experiment," Elsevier Conference on Scholarly Electronic Publishing, New York, NY, July 9, 1996.

"Research on Intellectual Property Economics," panel presentation, Digital Libraries Initiative Conference, School of Information, University of Michigan, Ann Arbor, MI, May 17, 1996.

"Information Economics," faculty education series, School of Information, University of Michigan, Ann Arbor, MI, April 19, 1996.

"Pricing in Information Networks," INFOCOM '96, San Francisco, March 28, 1996.

"The Role of Economics in Information Science," faculty seminar, School of Information, University of Michigan, Ann Arbor, MI, February 29, 1996.

"Network Architecture and Content Provision: An Economic Analysis," Allied Social Science Association Convention, San Francisco, CA, January 4-7, 1996.

"Pricing Congestible Resources," Allied Social Science Association Convention, San Francisco, CA, January 4-7, 1996.

"Network Architecture and Content Provision: An Economic Analysis," Microeconomics Workshop, Michigan State University, November 20, 1995.

"Network Architecture and Content Provision: An Economic Analysis," Telecommunications Policy Research Conference, Solomons, MD, September 30-October 2, 1995.

"A 'Smart' Spatial Market for Spot Electricity Exchanges," University of Michigan Business School, Ann Arbor, MI, April 14, 1995.

"Using Pricing for Efficiency in ATM Networks," 3rd International Telecommunications Systems Analysis and Design Conference, Vanderbilt University, Nashville, TN, March 17, 1995.

"Allocating Resources in Future Integrated Services Information Networks," MIT Workshop on Internet Economics, Cambridge, MA, March 10, 1995.

"Reserving Network Resources in Advance," Computer Science Department Seminar, Auburn University, February 1, 1995.

"The Economics of Future Integrated Services Information Networks," Auburn University lecture, January 31, 1995.

"Economic Attributes of High Technology Markets: Antitrust Issues," American Law Institute / American Bar Association Conference, San Francisco, CA, January 26-27, 1995.

"The Economics of Future Integrated Services Information Networks," University of Michigan Telecommunications Symposium, Ann Arbor, MI, December 9, 1994.

"The Economics of Future Integrated Services Information Networks," Conference on the Future of Mathematical Communication, Math Sciences Research Institute, University of California, Berkeley, CA, December 1-4, 1994.

"A 'Smart' Spatial Market for Spot Electricity Exchanges," Harvard University, Boston, MA, November 16, 1994.

"Information Goods and Networks: Economic Issues," FARNET Conference on Health Care and Information Networks, Washington, DC, November 10-11, 1994.

"Pricing Congestible Resources," Microeconomics Workshop, Western Michigan University, November 3, 1994.

"The Economics of Future Integrated Services Information Networks," EDUCOM '94, San Antonio, TX, October 31-November 2, 1994.

"Economic FAQs About the Internet," Time-Warner Conference on Interactive Multimedia in the Classroom, University of Michigan, Ann Arbor, MI, October 20-22, 1994.

"Economic Issues in Data and Integrated Telecommunications Networks," Forum on the Economics of Information Infrastructure, National Science Foundation, Washington, D.C., July 20, 1994.

"Antitrust Policy in Aftermarkets," US Department of Justice, Federal Trade Commission and American Bar Association Antitrust Conference, Washington, DC, May 25-26, 1994.

"Comment on 'Market Failure in the Small Group Market: Evidence from Medical Insurance,' by David Cutler," Transatlantic Public Economics Seminar, Turin, Italy, May 19-21, 1994.

"Exercising Market Power in Proprietary Aftermarkets," Industrial Organization Workshop, University of California, Berkeley, CA, April 26, 1994.

"The Importance of Income Shifting to the Design and Analysis of Tax Policy," International Taxation Policy Conference, Washington, DC, April 19, 1994.

"The Coming Integrated Services Information Networks," Micronet Workshop, University of California, Berkeley, CA, April 12, 1994.

"Information Networks and Public Policy," Graduate School of Public Policy Faculty Seminar, University of California, Berkeley, CA, April 8, 1994.

"Pricing the Internet to Manage Congestion," 2nd International Conference on Telecommunication Systems Modelling and Analysis, Vanderbilt University, Nashville, TN, March 27, 1994.

"A 'Smart' Spatial Market for Spot Electricity Exchanges," California Energy Institute, March 18, 1994.

"Controlling Internet Congestion and Other Economic Problems," UNIX SIG Forum, University of California, Berkeley, CA, March 7, 1994.

"Local Telephone Calling Demand When Customers Face Optional and Nonlinear Price Schedules," Econometrics Workshop, University of California, Berkeley, CA, March 3, 1994.

"Why is There Corporate Taxation in a Small Open Economy? The Role of Transfer Pricing and Income Shifting," Public Economics Workshop, University of California, Berkeley, CA, February 14, 1994.

"Why is There Corporate Taxation in a Small Open Economy? The Role of Transfer Pricing and Income Shifting," NBER Conference on International Taxation, Cambridge, MA, January 14, 1994.

"Why is There Corporate Taxation in a Small Open Economy? The Role of Transfer Pricing and Income Shifting," Economics Workshop, Copenhagen Business School, Copenhagen, Denmark, December 6, 1993.

"Why is There Corporate Taxation in a Small Open Economy? The Role of Transfer Pricing and Income Shifting," Public Economics Workshop, Uppsala University, Uppsala, Sweden, November 1993.

"Tax Distortions to the Choice of Organizational Form," Finance Workshop, Norwegian School of Management, Oslo, Norway, October 14, 1993.

"Why is There Corporate Taxation in a Small Open Economy? The Role of Transfer Pricing and Income Shifting," Faculty Research Seminar, Institute of Economics, University of Oslo, Norway, October 7, 1993.

"Tax Distortions to the Choice of Organizational Form," Business Economics Workshop, Norwegian School of Business and Economics, Bergen, Norway, September 27, 1993.

"Pricing the Internet," Harvard Conference on NREN Implementation, JFK School of Government, Harvard University, Boston, MA, May 1993.

"Local Telephone Calling Demand When Customers Face Optional and Nonlinear Price Schedules," 12th Annual Conference of the Advanced Workshop in Regulation and Public Utility Economics, Cape Cod, MA, May 1993.

"Tax Distortions to the Choice of Organizational Form," NBER Public Economics Meetings, April 14-15, 1993.

"Multi-national Taxes and the Financing of Foreign Direct Investment," Nordic Council Conference on International Taxation, Reykjavik, Iceland, April 1-4, 1993.

"Some Economics of the Internet," 10th Michigan Public Utilities Conference, University of Western Michigan, March 25-27, 1993.

"Exercising Market Power in Proprietary Aftermarkets," Business Economics Seminar, University of Michigan Business School, Ann Arbor, MI, March 5, 1993.

"The Excess Burden from Different Taxation of Corporate and Noncorporate Businesses," University of Michigan Public Finance Seminar, Ann Arbor, MI, December 14, 1992.

"Taxes and the Choice of Organizational Form," NBER Finance Program Meetings, December 11, 1992.

"The Economics of Customer Lock-in and Market Power in Services," Conference on the Service Industry, Wharton Graduate School of Management, University of Pennsylvania, Philadelphia, PA, October 20, 1992.

"The Excess Burden from Different Taxation of Corporate and Noncorporate Businesses," Michigan State University Microeconomics Seminar, May 11, 1992.

"The Excess Burden from Different Taxation of Corporate and Noncorporate Businesses," Northwestern University Microeconomics Seminar, May 3, 1992.

"Comment on 'Energy Tax Credits and Residential Conservation Investment', by Kevin Hassett and Gilbert Metcalf," NBER Public Economics Program Meetings, April 2-3, 1992.

"Taxes and the Choice of Organizational Form," University of Toronto Business Economics Workshop, Toronto, Canada, March 6, 1992.

Exhibit B: Hypothetical Damages Estimate

| Game | Platform | Introductory Price | U.S. Units Sold |
|--------------------|----------|--------------------|-----------------|
| Madden NFL 2006 | PS2 | \$29.99 | 3.8 |
| Madden NFL 2007 | PS2 | \$49.99 | 3.54 |
| Madden NFL 2008 | X360 | \$59.95 | 2.38 |
| Madden NFL 2008 | PS2 | \$49.95 | 2.2 |
| Madden NFL 2009 | X360 | \$59.99 | 2.19 |
| Madden NFL 2007 | X360 | \$59.99 | 1.85 |
| Madden NFL 2009 | PS3 | \$59.99 | 1.46 |
| Madden NFL 2006 | XB | \$29.99 | 1.41 |
| Madden NFL 2009 | PS2 | \$39.99 | 1.14 |
| Madden NFL 2007 | XB | \$49.99 | 0.99 |
| Madden NFL 2008 | PS3 | \$59.95 | 0.91 |
| Madden NFL 2008 | WII | \$49.99 | 0.84 |
| Madden NFL 2007 | PSP | \$39.99 | 0.82 |
| Madden NFL 2009 | WII | \$49.99 | 0.79 |
| Madden NFL 2009 | PSP | \$39.99 | 0.77 |
| Madden NFL 2006 | PSP | \$29.99 | 0.74 |
| Madden NFL 2008 | PSP | \$39.95 | 0.64 |
| Madden NFL 2006 | X360 | \$39.99 | 0.63 |
| Madden NFL 2007 | PS3 | \$59.99 | 0.47 |
| Madden NFL 2007 | WII | \$49.99 | 0.47 |
| Madden NFL 2006 | GC | \$29.99 | 0.42 |
| Madden NFL 2007 | GC | \$39.99 | 0.4 |
| Madden NFL 2009 | DS | \$29.99 | 0.28 |
| Madden NFL 2008 | XB | \$39.99 | 0.22 |
| Madden NFL 2008 | DS | \$29.95 | 0.21 |
| Madden NFL 2007 | DS | \$29.99 | 0.18 |
| Madden NFL 2006 | DS | \$29.99 | 0.12 |
| Madden NFL 2009 | XB | \$39.99 | 0.11 |
| Madden NFL 2008 | GC | \$39.95 | 0.06 |
| Total Units | | | 30.04 |

| Damages Estimate | 50% Overcharge | 66% Overcharge |
|----------------------|----------------|----------------|
| Madden NFL 2006 | \$109.9 | \$145.1 |
| Madden NFL 2007 | \$221.7 | \$292.6 |
| Madden NFL 2008 | \$196.1 | \$258.8 |
| Madden NFL 2009 | \$173.8 | \$229.4 |
| Total Damages | \$701.5 | \$925.9 |

Note(s):

Units are millions of units sold. Damages are millions of U.S. dollars.

PS = Sony Playstation 1, PS2 = Sony Playstation 2, PS3 = Sony Playstation 3, PSP = Sony Playstation Portable.

X360 = Microsoft Xbox 360, XB = Microsoft Xbox.

WII = Nintendo Wii, GC = Nintendo Game Cube, DS = Nintendo Dual Screen, GBA = Nintendo Game Boy Advance, SNES = Super Nintendo Entertainment System.

Two versions of Madden NFL 2009 for Wii were listed. Units of "U.S. & Others sales" were dropped to limit to strictly US Sales.

Sales of Madden NFL 2008 for GBA were dropped, as it does not appear to have been released for GBA.

Source File(s):

Annual Madden Sales.xls

Data Source(s):

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