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11 Attorneys for Plaintiff
EPIC GAMES, INC.
12

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 EPIC GAMES, INC., a Maryland Corporation,
16 Plaintiff,
17 v.
18 ACCELERATION BAY LLC, a Delaware
Limited Liability Corporation,
19 Defendant.
20

Case No.: 3:19-cv-04133

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT OF
U.S. PATENT NOS. 6,701,344, 6,714,966,
6,829,634, 6,732,147, 6,910,069 6,920,497, AND
7,412,537**

JURY TRIAL DEMANDED

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1 Plaintiff Epic Games, Inc. (“Epic” or “Plaintiff”) by and through its attorneys, alleges
2 against Defendant Acceleration Bay, LLC (“Acceleration” or “Defendant”) as follows:

3 **PARTIES AND BACKGROUND**

4 1. Plaintiff Epic is one of the leading video game companies in the world. It develops
5 and publishes, among other things, the “Fortnite” video game. Epic publicly released *Fortnite*’s
6 cooperative *Save the World* game mode in or around July 2017. Epic publicly released *Fortnite*’s
7 free-to-play *Battle Royale* game mode in or around September 2017. *Fortnite* is an extremely
8 popular game with over two hundred and fifty million players.

9 2. On information and belief, sometime around February 2015, Defendant Acceleration
10 acquired certain rights to certain patents previously assigned to The Boeing Company. Those patents
11 include U.S. Patent Nos. 6,701,344 (“the ’344 Patent”), 6,714,966 (“the ’966 Patent”), 6,829,634
12 (“the ’634 Patent”), 6,732,147 (“the ’147 Patent”), 6,910,069 (“the ’069 Patent”), 6,920,497 (“the
13 ’497 Patent”) and 7,412,537 (“the ’537 Patent”) (collectively, the “Asserted Patents”). The Asserted
14 Patents are attached as Exhibits 1-7.

15 3. On December 28, 2018, Acceleration sent a letter to Epic’s address. The letter states
16 without explanation that Epic’s videogame *Fortnite* “requires a license.” The December 28 letter
17 makes an explicit and direct charge of infringement, stating that six of the Asserted Patents are
18 “Patents Infringed By Epic Games.”

19 4. The December 28 letter appears to have been a “cut-and-paste” from a letter sent to a
20 totally unrelated company. For instance, it states that “[UNRELATED COMPANY] has an
21 affirmative responsibility to ensure that it has secured all necessary patent rights to sell the products
22 and services identified in this letter” and concludes by stating “[w]e look forward to your working
23 with [UNRELATED COMPANY] on a business solution, and thank you in advance for your prompt
24 attention to this matter.” Therefore, on information and belief, Acceleration sent the same generic,
25 substance-free form letter alleging infringement to at least one, and perhaps many, other companies.

26 5. On March 4, 2019, Acceleration sent a second letter to Epic’s address. This letter
27 states without explanation that “[o]ur analysis of our patent portfolio and Epic Games’ multi-player
28 games indicates use of Acceleration Bay patented technologies, at minimum, the following games

1 require a license: Fortnite: Save the World, Fortnite Battle Royale, and potentially other games.”
2 (hereinafter, the “Accused Products”).

3 6. As with the prior letter, the March 4 letter makes an explicit and direct charge of
4 infringement, stating that six of the Asserted Patents are “Patents Infringed By Epic Games.”

5 7. Neither of these letters mention the ’537 Patent, but Acceleration subsequently
6 advised that the ’537 Patent was at issue as well.

7 8. On our around July 10, 2019, representatives of Epic and Acceleration had a
8 teleconference.

9 9. None of Acceleration’s communications provided an explanation for its repeated
10 charges of infringement. No claim charts have been provided. Neither letter explains what claims
11 Epic allegedly infringes, or which patents or claims are supposedly infringed by each of the games
12 named in the letters.

13 10. In addition, on information and belief, both letters contain statements about
14 Acceleration itself that are incorrect or, at best, misleading. For instance, the letters state that
15 Acceleration was “[f]ounded in 2012” and that it is a “technology incubator” that “partners with
16 inventors, corporations and entrepreneurs to accelerate growth in creating innovative companies.”

17 11. On information and belief, and based on publicly available records and publicly
18 available Court-filings, Acceleration is not a “technology incubator” and was not “[f]ounded in
19 2012.”

20 12. Acceleration was formed by its litigation counsel in August 2014 for the purpose of
21 acquiring and enforcing the Asserted Patents.

22 13. Acceleration is not a “technology incubator” and does not “partner” with “inventors,
23 corporations and entrepreneurs” and does not “accelerate growth in creating innovative companies.”

24 14. Publicly available information does not indicate that Acceleration provides any
25 product or service or has any non-litigation-based income or revenue.

26 15. On information and belief, Acceleration is exclusively in the business of monetizing
27 patents acquired from third parties.

28 16. Epic’s games do not infringe the Asserted Patents.

1 17. The claims of six of the seven Asserted Patents (all but the '497) all relate to a
2 computer network and/or broadcast channel with an *m*-regular, incomplete topology.

3 18. These six Asserted Patents require a specific “peer to peer” computer network where
4 computers in the network communicate directly with each other as opposed to communicating
5 through a central server.

6 19. Certain of the claims are directed to a computer network.

7 20. Computer networks existed and were in public use prior to the alleged inventions of
8 the Asserted Patents.

9 21. Certain of the claims are directed to a broadcast channel.

10 22. The Asserted Patents state that “[e]ach computer that is connected to the broadcast
11 channel receives all messages that are broadcast while it is connected.” *See, e.g.*, Ex. 1, '344 Patent
12 at 4:12–14.

13 23. Broadcast channels existed and were in public use prior to the alleged inventions of
14 the Asserted Patents.

15 24. The “Background” section of the Asserted Patents identifies “client/server
16 middleware systems” as prior art to the Asserted Patents. *See, e.g.*, Ex. 1, Background '344 Patent
17 at 1:58–2:14.

18 25. The Asserted Patents state that “The client/server middleware systems provide a
19 server that coordinates the communications between the various clients who are sharing the
20 information.” *See, e.g.*, Ex. 1, Background '344 Patent at 1:58–60.

21 26. Client-server middleware systems where a server coordinates the communications
22 between the various clients who are sharing the information existed and were in public use prior to
23 the alleged inventions of the Asserted Patents.

24 27. The main purported point of novelty for these six patents is that the claimed network
25 forms an *m*-regular, incomplete graph instead of the prior art client-server or full mesh networks.

26 28. The claims of these patents all require that (1) each participant/computer in the
27 network must have connections to at least three other neighboring participants.
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1 29. The claims of these patents all require that (2) the network must be “*m*-regular” where
2 each participant is connected to the exact same number, *m*, of neighbor participants.

3 30. The claims of these patents all require that (3) the network must be incomplete – *m*
4 must be at least two less than the total number of participants.

5 31. In other words, each participant must be connected to at least three neighbor
6 participants, and no participant can be connected to all of the other participants in the network.

7 32. Before the technologies covered by the Asserted Patents were allegedly invented,
8 other types of networks such as client-server and “full mesh” networks were well known and used
9 for videogames.

10 33. Multiplayer videogames using computer networks existed and were in public use prior
11 to the alleged inventions of the Asserted Patents.

12 34. Multiplayer videogames using broadcast channels existed and were in public use prior
13 to the alleged inventions of the Asserted Patents.

14 35. The Asserted Patents state that client-server systems are “not particularly well suited
15 to sharing of information among many participants.” *See, e.g.*, Ex. 1, Background section of ’344
16 Patent at 1:65–67.

17 36. The Asserted Patents state that client-server networks are inferior and different from
18 the claimed invention because, with a client-server network, “a failure at a single computer (i.e., the
19 server) would prevent communications between any of the clients.” *See, e.g.*, Ex. 1, Background
20 section of ’344 Patent at 1:58–2:14.

21 37. In contrast, the Asserted Patents contend that “[t]he use of a 4-regular graph means
22 that a computer would become disconnected from the broadcast channel only if all four of the
23 connections to its neighbors fail.” *See, e.g.*, Ex. 1, Background section of ’344 Patent at 4:39-42.

24 38. A comparison of the three network types is shown below:
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