

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-228 (RGA)
)	
ACTIVISION BLIZZARD, INC.)	REDACTED – PUBLIC VERSION
)	
Defendant.)	
<hr/>		
ACCELERATION BAY LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-282 (RGA)
)	
ELECTRONIC ARTS INC.,)	REDACTED–
)	PUBLIC VERSION
)	
Defendant.)	
<hr/>		
ACCELERATION BAY LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-311 (RGA)
)	
TAKE-TWO INTERACTIVE SOFTWARE,)	REDACTED –
INC., ROCKSTAR GAMES, INC. and)	PUBLIC VERSION
2K SPORTS, INC.,)	
)	
Defendants.)	

**DECLARATION OF COUNSEL (MICHAEL A. TOMASULO) IN SUPPORT OF
DEFENDANTS' OPENING BRIEF IN SUPPORT OF THEIR
MOTION TO DISMISS FOR LACK OF STANDING**

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Original Filing Date: March 1, 2016

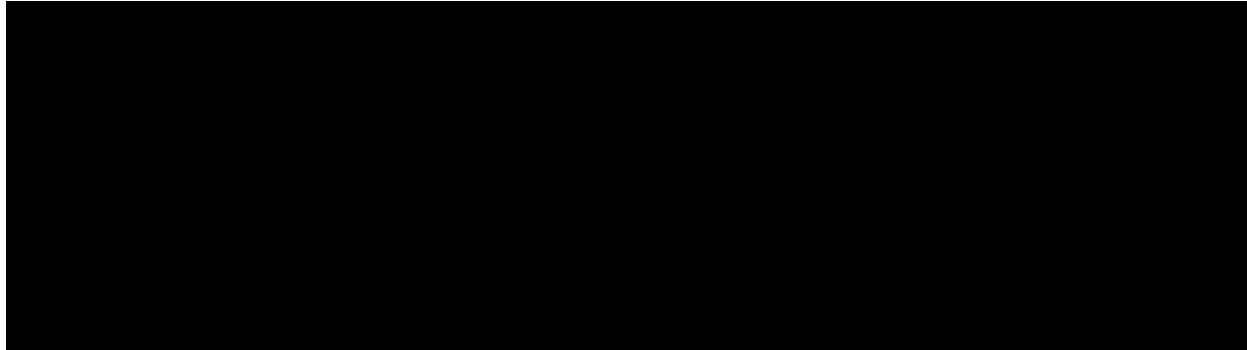
Redacted Filing Date: March 8, 2016

DECLARATION OF MICHAEL A TOMASULO

I, Michael A. Tomasulo, make the following Declaration pursuant to 28 U.S.C. § 1746:

1. I am counsel for defendants in the above-captioned actions. I make this declaration of my own personal knowledge.

2. Attached hereto are true and correct copies of the following:



3. Attached hereto as Exhibits are true and correct copies of the packaging for the following Accused Products for the Sony PlayStation platform. The games themselves are publicly available and Defendants reserve the right to rely on them for evidence, including showing depictions of them at any hearing on this motion:

Exhibit D	FIFA 15
Exhibit E	FIFA 16
Exhibit F	NHL 15
Exhibit G	NHL 16
Exhibit H	Tiger Woods PGA Tour 14
Exhibit I	Rory McIlroy PGA Tour
Exhibit J	Crysis 3
Exhibit K	Plants v. Zombies: Garden Warfare
Exhibit L	NBA 2K15

Exhibit M	NBA 2K16
Exhibit N	Grand Theft Auto V
Exhibit O	Call of Duty: Advanced Warfare
Exhibit P	Call of Duty: Black Ops 3
Exhibit Q	Destiny

4. Attached hereto as Exhibits are true and correct copies of screen shots of game play for the following Accused Products:

Exhibit R	Call of Duty: Advanced Warfare
Exhibit S	Call of Duty: Black Ops 3
Exhibit T	World of Warcraft
Exhibit U	Destiny

5. Attached hereto as Exhibits are true and correct copies of the following documents:

Exhibit V	Declaration and screen shots re Grand Theft Auto Online
Exhibit W	Declaration and screen shots re Crysis 3 and Plants v. Zombies: Garden Warfare
Exhibit X	https://www.vocabulary.com/dictionary/simulation
Exhibit Y	https://en.wikipedia.org/wiki/Simulation
Exhibit Z	http://www.waaytv.com/tech_alabama/boeing-wants-employees-to-play-video-games/article_f3f1877e-4db2-11e5-8ca7-630e60eace1d.html

6. Attached hereto as Exhibits are true and correct copies of the following documents:

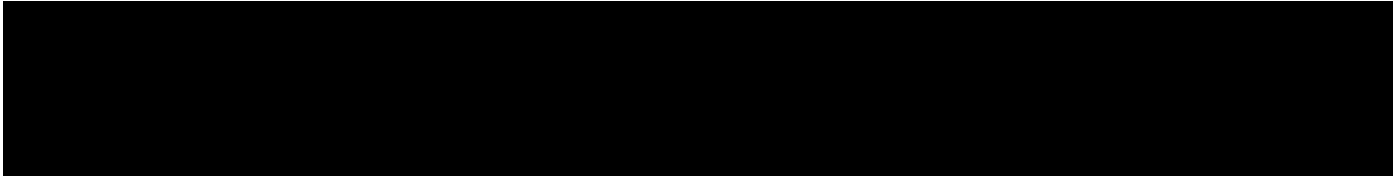


Exhibit CC	<i>Luminara Worldwide, LLC v. Liown Electronics Co.</i> , No. 2015-1671, slip op. at 6 (Fed. Cir. Feb. 29, 2016)
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I declare under penalty of perjury that the foregoing is true and correct.

Date: March 1, 2016

By: /s/ Michael A. Tomasulo

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