

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

**PLAINTIFF ACCELERATION BAY LLC'S  
MOTION FOR LEAVE TO FILE SUR-REPLY**

Plaintiff Acceleration Bay LLC respectfully moves the Court for an Order granting leave to file the attached, two-page sur-reply (Ex. 1 hereto), in response to Defendants' Reply Brief in Support of Their Motion For Attorneys' Fees ("Reply Brief," C.A. No. 15-228-RGA, D.I. 165). The requested relief is sought in order to address *TufAmerica, Inc. v. Diamond*, 12-cv-3529-AJN, 2016 WL 3866578 (S.D.N.Y. July 12, 2016), which issued after Defendants filed the instant

motion and was raised by Defendants for the first time in their Reply Brief. *See* Reply Brief at 1, 2, 7. While, as discussed more fully in Acceleration Bay's attached sur-reply brief, *TufAmerica* is inapposite to Defendants' motion, a response is still required to address Defendants' mischaracterization of that decision.

On August 17, 2016, Delaware counsel for Acceleration Bay contacted Defendants' Delaware counsel by telephone to discuss this motion. In a subsequent response, Defendants conditioned their consent to Acceleration Bay's motion for leave to file a sur-reply on Acceleration Bay's agreement that Defendants could file a sur-sur-reply, which Acceleration Bay believes is neither appropriate nor necessary.

OF COUNSEL:

Paul J. Andre  
Lisa Kobialka  
James R. Hannah  
KRAMER LEVIN NAFTALIS  
& FRANKEL LLP  
990 Marsh Road  
Menlo Park, CA 94025  
(650) 752-1700

Aaron M. Frankel  
KRAMER LEVIN NAFTALIS  
& FRANKEL LLP  
1177 Avenue of the Americas  
New York, NY 10036  
(212) 715-9100

Dated: August 23, 2016

By: /s/ Philip A. Rovner

Philip A. Rovner (# 3215)  
Jonathan A. Choa (#5319)  
Potter Anderson Corroon LLP  
1313 North Market Street 6th Floor  
Wilmington, Delaware 19801  
Telephone: (302) 984-6000  
Facsimile: (302) 658-1192  
provner@potteranderson.com  
jchoa@potteranderson.com

*Attorneys for Plaintiff Acceleration Bay  
LLC*