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September 16, 2016

BY CM/ECF & HAND DELIVERY

The Honorable Richard G. Andrews
U.S. District Court for the District of Delaware
U.S. Courthouse
844 North King Street
Wilmington, DE 19801

Re: *Acceleration Bay LLC v. Activision Blizzard, Inc. et al*.
        D. Del., C.A. No. 15-228-RGA, 15-282-RGA, 15-311-RGA

Dear Judge Andrews:

    Pursuant to Local Rule 7.1.2(b), Plaintiff Acceleration Bay writes to inform the Court
about the Northern District of California's order transferring the declaratory judgment actions
filed by Defendants against Acceleration Bay to the District of Delaware (the "Order"). The
Order, issued on September 1, 2016, further supports denying Defendants' motion for attorneys'
fees in the above-captioned actions (e.g., D.I. 161 in C.A. No. 15-228).

    In the Order, Judge Richard Seeborg found that Acceleration Bay's

> re-filed complaints functionally amended the co-pending 2015
> Delaware complaints, and the amendments effectively relate back
> to the original pleadings, such that AB's current Delaware actions
> were first-filed. ***As the parties and issues are also the same,***
> transfer of the Northern California actions is warranted under the
> first-to-file rule.

Order at 9 (emphasis added). Based on Judge Seeborg's holding that the issues and parties are
the same in the 2015 and 2016 Acceleration Bay actions, there is no requisite "material alteration
of the legal relationship of the parties necessary to permit an award of attorney's fees."
Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Res., 532 U.S. 598,
603-04 (2001). A copy of the Order is attached at Exhibit A for the Court's convenience.

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Respectfully,

/s/ Philip A. Rovner

Philip A. Rovner (#3215)

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cc: All Counsel of Record (Via ECF Filing, Electronic Mail)
Attachment