

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY LLC, a Delaware)	
Limited Liability Corporation,)	
) C.A. No. 15-228-RGA
Plaintiff,)	
) DEMAND FOR JURY TRIAL
v.)	
)
ACTIVISION BLIZZARD, INC.,)	
a Delaware Corporation,)	
)
Defendant.)	

**PLAINTIFF ACCELERATION BAY LLC'S OPPOSITION TO
ACTIVISION BLIZZARD, INC.'S JOINDER IN MOTION TO DISMISS
JOINT INFRINGEMENT CLAIMS FILED BY ELECTRONIC ARTS, INC.**

On May 4, 2015, Defendant, Activision Blizzard, Inc. ("Activision"), filed a motion to dismiss the claims for induced infringement of U.S. Patent Nos. 6,732,147, 6,910,069 and 6,920,497 (collectively the "Method Patents") in Acceleration Bay LLC's ("Acceleration Bay") Amended Complaint (D.I. 7). D.I. 12. On June 1, 2015, Activision filed a joinder to Electronic Arts Inc.'s ("EA") motion to dismiss filed in C.A. No. 15-282-RGA, D.I. 11-12 on May 21, 2015. D.I. 17. By its joinder, Activision seeks to dismiss the claims for direct infringement of the Method Patents. While it incorporated EA's motion to dismiss and supporting opening brief, Activision did not file a separate brief in support of its joinder.

Therefore, Acceleration Bay hereby incorporates by reference its Opposition Brief filed against EA and requests that the Court deny Activision's request to dismiss Acceleration Bay's claims for direct infringement of the Method Patents. C.A. No. 15-282-RGA, D.I. 14. For the same reasons stated in its Opposition Brief filed against EA, Activision's request to dismiss the direct infringement claims of the Method Patents should be denied because (1) Acceleration Bay

plausibly pleads that Activision, *acting alone*, performs *all* of the steps of the claims of the Method Patents and thereby satisfies the requirements set forth in Form 18 for direct infringement; and (2) because Activision has direction and control over its users, developers and customers, giving rise to direct infringement under a joint infringement theory due to Activision's vicarious liability.

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1192985

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