

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|----------------------------|---|-----------------------|
| ACCELERATION BAY LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 16-453 (RGA) |
| |) | |
| ACTIVISION BLIZZARD, INC., |) | |
| |) | |
| Defendant. |) | |

| | | |
|-----------------------|---|-----------------------|
| ACCELERATION BAY LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | C.A. No. 16-454 (RGA) |
| v. |) | |
| |) | |
| ELECTRONIC ARTS INC., |) | |
| |) | |
| Defendant. |) | |

| | | |
|------------------------------------|---|-----------------------|
| ACCELERATION BAY LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | C.A. No. 16-455 (RGA) |
| v. |) | |
| |) | |
| TAKE-TWO INTERACTIVE SOFTWARE, |) | |
| INC., ROCKSTAR GAMES, INC., and 2K |) | |
| SPORTS, INC., |) | |
| |) | |
| Defendants. |) | |

~~PROPOSED~~ ORDER

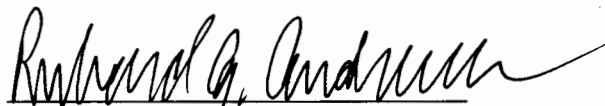
WHEREAS, the Court having considered Plaintiff Acceleration Bay LLC's ("Acceleration Bay") Motion for Leave to Amend its Preliminary Election of Asserted Claims (No. 16-453, D.I. 140, 145) and the related briefing;

IT IS HEREBY ORDERED this 8 day of May, 2017, that Acceleration Bay's Motion is hereby GRANTED ~~IN PART~~ IN PART

(1) Within three (3) days, Acceleration Bay shall serve its Amended Preliminary Election of Asserted Claims on Defendants (a) withdrawing its election of claims found unpatentable in *inter partes* review proceedings; (b) adding claim 12 of U.S. Patent No. 6,701,344; and ^{and} ~~(c) adding claim 10 of U.S. Patent No. 6,829,634;~~

(2) Within ten (10) days, Acceleration Bay shall serve infringement contentions for claim 12 of U.S. Patent No. 6,701,344; and ~~claim 10 of U.S. Patent No. 6,829,634;~~ and

(3) Within thirty one (31) days, Defendants shall serve invalidity contentions for claim 12 of U.S. Patent No. 6,701,344; and ~~claim 10 of U.S. Patent No. 6,829,634. Failure to serve invalidity contentions within that time period shall be deemed an admission that the claims are valid.~~


Honorable Richard G. Andrews
United States District Judge

FN I have the parties' positions. I see ^{dependent} claim 12 as being a replacement for claim 1 of the same patent, with no likely disruption to the schedule, and accept that there is good cause based on the IPR claim constructions. There should also be some simplification, as at least some invalidity arguments will now be estopped. On the other hand, I see claim 10 as likely to raise additional claim construction issues, and I do not see Plaintiff as making any "good cause" argument.