

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.)

**ACTIVISION|BLIZZARD, INC.’S OBJECTION TO
SPECIAL MASTER’S ORDER DENYING SANCTIONS**

Defendant Activision|Blizzard, Inc. (“Activision”) respectfully objects to the Special Master’s Order No. 3 regarding sanctions, issued on May 19, 2017 (D.I. 155). On April 28, 2017, Activision moved the Special Master to issue sanctions pursuant to Federal Rule of Civil Procedure 37(b)(2)(4) for Plaintiff’s repeated failure to provide infringement contentions in compliance with previous orders by the Special Master. Specifically, Activision moved for “relief under Rule 37 for Plaintiff’s refusal to comply with those orders,” including but not limited to preclusionary relief.

The Special Master’s Order No. 3 granted Activision’s Motion to compel responses to the interrogatories at issue, but observed that the issue of sanctions “usually resides with the Court, rather than the Special Master.” Activision, therefore, respectfully asks the Court to consider the issue. Activision further notes that preclusionary or other sanctions requested are even more necessary in light of the fact that Plaintiff has objected to the Special Master’s Order compelling it to provide full and complete responses to Common Interrogatories 7 and 9 regarding Plaintiff’s infringement allegations. This effectively prevents Activision from receiving basic infringement discovery until after the July 31, 2017 close of discovery. The grounds for the requested relief

are set forth in the papers filed with the Special Master and the hearing transcript. Pursuant to the Court's Order Appointing Special Master (C.A. No. 15-228, D.I. 94), Activision will work with Plaintiff to compile and submit an Appendix with all necessary materials.

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CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2017, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on June 9, 2017, upon the following in the manner indicated:

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