

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ACCELERATION BAY LLC,)
)
)
Plaintiff,)
) C.A. No. 16-453 (RGA)
v.)
)
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.)

**PLAINTIFF ACCELERATION BAY'S OPPOSITION
TO DEFENDANTS' MOTION TO STRIKE PROPOSED CLAIM CONSTRUCTIONS**

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Acceleration Bay LLC (“Acceleration Bay”) submits this opposition brief in response to Defendants Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Inc., Rockstar Games, Inc. and 2K Sports, Inc.’s (collectively, “Defendants”) motion to strike Plaintiff Acceleration Bay LLC’s proposed claim constructions (the “Motion”). For the reasons set forth below, Defendants’ Motion should be denied.

I. SUMMARY OF THE ARGUMENT

Defendants’ Motion, long on vitriol and short on actual facts, is entirely baseless. Indeed, its main two premises are plainly wrong. First, contrary to Defendants’ claim that Acceleration Bay “proposed constructions for nearly every claim term identified by Defendants,” even a cursory review of the Declaration of Nenad Medvidović in Support of Plaintiff Acceleration Bay LLC’s Opening Claim Construction Brief (D.I. 166-1 (“Def. Ex.”), Ex. 13) proves that Acceleration Bay never changed its position from the Joint Claim Construction Chart. Acceleration Bay has maintained from the very beginning that the vast majority of the claim terms proposed by Defendants should be given their plain and ordinary meaning, as shown in Exhibit A to the Declaration of Aaron Frankel (“Frankel Decl.”), a table comparing the claim constructions Acceleration Bay proposed in the Joint Claim Construction Chart and in the claim construction briefing.

Second, Defendants offer a selective and misleading characterization of the parties’ meet and confer regarding their claim construction positions. Contrary to their claims, Acceleration Bay’s counsel was fully prepared to discuss the claim terms at issue and discussed those positions with Defendants’ counsel for over an hour. Thus, Defendants’ Motion is nothing more than a trumped up collateral attack on Acceleration Bay, a side show that falls apart upon even a quick review of the facts, which confirm that Acceleration Bay disclosed its claim construction

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