

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’S DAUBERT MOTION TO EXCLUDE EXPERT OPINIONS
OF DR. NENAD MEDVIDOVIC, DR. MICHAEL MITZENMACHER
DR. CHRISTINE MEYER, DR. HARRY BIMS AND DR. RICARDO VALERDI**

Pursuant to Federal Rule of Evidence 702, Activision Blizzard, Inc. (“Activision”) hereby moves to exclude certain expert testimony propounded by Plaintiff Acceleration Bay LLC. The grounds for this motion are set forth in Activision’s accompanying brief. The precise relief sought is detailed in a proposed order accompanying this motion.

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/s/ Stephen J. Kraftschik

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February 2, 2018

7.1.1 CERTIFICATION

I hereby certify that the subject of the foregoing motion has been discussed with counsel for the plaintiff and that we have not been able to reach agreement.

/s/ Stephen J. Kraftschik

Stephen J. Kraftschik (#5623)

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[PROPOSED] ORDER

WHEREAS, the Court, having consider Activision Blizzard, Inc.’s *Daubert* Motion To Exclude Expert Opinions Of Dr. Nenad Medvidovic, Dr. Michael Mitzenmacher Dr. Christine Meyer, Dr. Harry Bims and Dr. Ricardo Valerdi;

IT IS HEREBY ORDERED this _____ day of _____, 2018, that Activision’s Motion is GRANTED. The following opinions are excluded:

- 1) All opinions of Christine Meyer related to damages including the following:
 - a. Dr. Meyer’s reliance on the date of the first lawsuit as the date of the hypothetical negotiation.
 - b. Dr. Meyer’s opinions that Boeing intended to limit the Sony License to use in internal communications.
 - c. Dr. Meyer’s opinions about the Sony License, which are inconsistent with the Court’s previous rulings.
 - d. Dr. Meyer’s opinions that the Uniloc v. Electronic Arts verdict supports a royalty rate of 20 cents per unit.
 - e. Dr. Meyer’s opinions that the 20 cents per unit royalty rate from the Uniloc v. Electronic Arts verdict should be multiplied by 10.5.

- f. Dr. Meyer's reliance on the opinions of Dr. Bims.
 - g. Dr. Meyer's opinions that the number of accused units should include future units, which the Court excluded from this case.
 - h. Dr. Meyer's reliance on the opinions of Dr. Valerdi.
 - i. Dr. Meyer's opinions regarding the value of the alleged use of the Asserted Patents for failure to apportion.
 - j. Dr. Meyer's opinions regarding all damages amounts.
- 2) All opinions of Harry Bims related to damages including the following:
- a. Dr. Bims' opinions that the Asserted Patents are comparable to U.S. Patent No. 5,490,216.
 - b. Dr. Bims' opinions that the Asserted Patents have a value between 6 and 15 times the value of U.S. Patent No. 5,490,216, based on counting the number of patents and from the trial testimony of Uniloc's expert in *Uniloc v. Electronic Arts*, No. 6:13-CV-00259-RWS (E.D. Tex.)
- 3) All opinions of Ricardo Valerdi related to cost estimates, design around costs, or non-infringing alternatives.
- 4) All opinions of Nenad Medvidovic and Michael Mitzenmacher in which they state conclusions based on string citations to extensive source code without explaining how the code supports their opinions, including Med.Rpt. ¶¶188, 191, 193-94, 196, 198-99, 201-203, 246, 279, 305, 415, 416, 461, 206, 213-14, and 248 and Mitz.Rpt. ¶¶121-22, 126-131, 133-35, 160, 186, 193, 295-96, and 320-21.

Judge Richard G. Andrews

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