

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.,) **REDACTED**
) **PUBLIC VERSION**
 Defendant.)

**DECLARATION OF KATHLEEN B. BARRY IN SUPPORT OF
ACTIVISION’S MOTIONS FOR SUMMARY JUDGMENT AND
EXCLUSION OF PLAINTIFF’S EXPERT WITNESSES**

I, Kathleen B. Barry, declare:

1. I am a Partner at the law firm of Winston & Strawn LLP and counsel to Activision Blizzard, Inc. (“Activision”) in the above-captioned matter. I declare that the following statements are true to the best of my knowledge, information, and belief, and that if called upon to testify, I could and would testify competently thereto. I make this declaration in support of Activision’s Motions for Summary Judgment and Exclusion of Plaintiff’s Expert Witnesses.

2. Attached as Exhibit A-1 is a true and correct copy of excerpts from the Expert Report of Nenad Medvidović, Ph.D., dated September 23, 2017.

3. Attached as Exhibit A-2 is a true and correct copy of excerpts from the Expert Report of Michael Mitzenmacher, Ph.D., dated September 23, 2017.

4. Attached as Exhibit A-3 is a true and correct copy of excerpts from the Reply Expert Report of Nenad Medvidović, Ph.D., dated December 14, 2017.

5. Attached as Exhibit A-4 is a true and correct copy of excerpts from the Reply Expert Report of Michael Mitzenmacher, Ph.D., dated December 14, 2017.

6. Attached as Exhibit A-5 is a true and correct copy of excerpts from the Supplemental Reply Expert Report of Nenad Medvidović, Ph.D., dated January 5, 2018.

7. Attached as Exhibit A-6 is a true and correct copy of excerpts from the Supplemental Reply Expert Report of Michael Mitzenmacher, Ph.D., dated January 2, 2018.

8. Attached as Exhibit A-7 is a true and correct copy of excerpts from the confidential source code for Call of Duty.

9. Attached as Exhibit A-8 is a true and correct copy of excerpts from the confidential source code for World of Warcraft

10. Attached as Exhibit A-9 is a true and correct copy of excerpts from the confidential source code for Destiny.

11. Attached as Exhibit A-10 is a true and correct copy of excerpts from Expert Report of Nenad Medvidović, Ph.D., dated September 23, 2017 and from the Expert Report of Michael Mitzenmacher, Ph.D., dated September 23, 2017 related to the doctrine of equivalence.

12. Attached as Exhibit B-1 is a true and correct copy of excerpts from the Expert Report of David R. Karger, Ph.D., dated September 25, 2017.

13. Attached as Exhibit B-2 is a true and correct copy of excerpts from the Expert Report of Michael Goodrich, Ph.D., dated November 13, 2017.

14. Attached as Exhibit B-3 is a true and correct copy of excerpts from the Reply Expert Report of David R. Karger, Ph.D., dated December 14, 2017.

15. Attached as Exhibit B-4 is a true and correct copy of excerpts from the Supplemental Expert Report of David R. Karger, Ph.D., dated January 23, 2018.

16. Attached as Exhibit C-1 is a true and correct copy of the Expert Report of Dr. Harry Bims, dated September 24, 2017.

17. Attached as Exhibit C-2 is a true and correct copy of the Expert Report of Dr. Ricardo Valerdi, dated September 23, 2017, and errata, dated October 23, 2017.

18. Attached as Exhibit C-3 is a true and correct copy of excerpts from the Expert Report of Christine S. Meyer, Ph.D., dated September 25, 2017 and errata, dated October 31, 2017.

19. Attached as Exhibit C-4 is a true and correct copy of the Reply Expert Report of Dr. Harry Bims, dated December 14, 2017.

20. Attached as Exhibit C-5 is a true and correct copy of the Reply Expert Report of Dr. Christine S. Meyer, Ph.D., dated December 14, 2017.

21. Attached as Exhibit E-1 is a true and correct copy of excerpts from the videotaped deposition of Virgil Evan Bourassa, dated February 13, 2017.

22. Attached as Exhibit E-2 is a true and correct copy of excerpts from the videotaped deposition of Virgil Bourassa, dated July 18, 2017.

23. Attached as Exhibit E-3 is a true and correct copy of excerpts from the videotaped deposition of Roger D. Wolfson, dated May 10, 2017, and errata.

24. Attached as Exhibit E-4 is a true and correct copy of excerpts from the deposition of Pat Griffith, dated May 17, 2016, and errata.

25. Attached as Exhibit E-5 is a true and correct copy of excerpts from the video deposition of John Kirk, dated May 18, 2017, and errata.

26. Attached as Exhibit E-6 is a true and correct copy of excerpts from the videotaped deposition of Fred B. Holt, Ph.D., dated May 31, 2017.

27. Attached as Exhibit E-7 is a true and correct copy of excerpts from the videotaped deposition of Michael Goodrich, Ph.D., dated December 20, 2017, and errata.

28. Attached as Exhibit E-8 is a true and correct copy of excerpts from the transcript of testimony of Kurtis McCathern, dated September 8, 2017.

29. Attached as Exhibit E-9 is a true and correct copy of excerpts from the videotaped deposition of Patrick Dawson, dated June 2, 2016.

30. Attached as Exhibit E-10 is a true and correct copy of excerpts from the transcript of testimony of Christine S. Meyer, Ph.D., dated January 23, 2018.

31. Attached as Exhibit E-11 is a true and correct copy of excerpts from the videotaped deposition of Ricardo Valerdi, Ph.D., dated December 21, 2017.

32. Attached as Exhibit E-12 is a true and correct copy of excerpts from the videotaped deposition of Nenad Medvidovic, Ph.D., dated January 12, 2018.

33. Attached as Exhibit E-13 is a true and correct copy of excerpts from the transcript of the Markman Hearing Before the Honorable Richard G. Andrews, dated November 11, 2017.

34. Attached as Exhibit E-14 is a true and correct copy of excerpts from the videotaped deposition of Michael Mitzenmacher, Ph.D., dated January 5, 2018.

35. Attached as Exhibit E-15 is a true and correct copy of excerpts from the videotaped deposition of Expert Harry Bims, Ph.D., dated January 4, 2018, and errata.

36. Attached as Exhibit F-1 is a true and correct copy of Plaintiff Acceleration Bay LLC's Letter Brief in Opposition to Activision's Motion to Compel, dated July 12, 2017.

37. Attached as Exhibit F-2 is a true and correct copy of an excerpt from Plaintiff Acceleration Bay LLC's Second Supplemental Objections & Responses to Defendant Activision Blizzard, Inc.'s First Set of Party Specific Interrogatories (No. 1), dated August, 18, 2017.

38. Attached as Exhibit F-3 is a true and correct copy of an agreement entered into by Activision Publishing, Inc. and Bungie, Inc. on September 13, 2013.

39. Attached as Exhibit F-4 is a true and correct copy of excerpts from Acceleration Bay, LLC's Preliminary Response to Petition Pursuant to 37 C.F.R. § 42.107.

40. Attached as Exhibit F-5 is a true and correct copy of a Transmittal of Amendment Under 37 C.F.R. § 1.111, dated September 10, 2003.

41. Attached as Exhibit F-6 is a true and correct copy of excerpts from a Declaration of Michael Goodrich, Ph.D., dated July 18, 2016.

42. Attached as Exhibit F-7 is a true and correct copy of excerpts of a presentation entitled "Matchmaking in Destiny," which was produced by Bungie.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 2nd day of February, 2018, in Chicago, Illinois.

/s/ Kathleen B. Barry

Kathleen B. Barry

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