

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

ACCELERATION BAY LLC,) C.A. No. 16-453 (RGA)
)
Plaintiff,) **PUBLIC VERSION**
) March 7, 2018
v.)
)
ACTIVISION BLIZZARD, INC.,)
)
Defendant.)
_____)

**DECLARATION OF PAUL J. ANDRE IN SUPPORT OF PLAINTIFF
ACCELERATION BAY LLC.'S OPPOSITION TO DEFENDANT
ACTIVISION BLIZZARD, INC.'S MOTIONS FOR SUMMARY JUDGMENT
AND EXCLUDE EXPERT OPINIONS UNDER FRE 702**

VOLUME 2 OF 2

(Exhibits 74-102)

I, Paul J. Andre, hereby declare as follows:

1. I am an attorney with the law firm Kramer Levin Naftalis & Frankel LLP, counsel of record for Plaintiff Acceleration Bay LLC (“Acceleration Bay”). I have personal knowledge of the facts set forth in this declaration and can testify competently to those facts. I submit this declaration in support of Acceleration Bay’s Opposition to Defendant Activision Blizzard, Inc.’s Motions for Summary Judgment and Exclude Expert Opinions.

2. Attached hereto as Exhibit 63 is a true and correct copy of U.S. Patent No. 6,829,634 produced by Acceleration Bay, bearing bates numbers AB-AB 001086 – 141.

3. Attached hereto as Exhibit 64 is a true and correct copy of U.S. Patent No. 6,910,069 produced by Acceleration Bay, bearing bates numbers AB-AB 001392 – 448.

4. Attached hereto as Exhibit 65 is a true and correct copy of U.S. Patent No. 6,732,147 produced by Acceleration Bay, bearing bates numbers AB-AB 000779 – 836.

5. Attached hereto as Exhibit 66 is a true and correct copy of the Supplemental Reply Expert Report of Michael Mitzenmacher, Ph.D., Regarding Infringement by Activision Blizzard Inc. of U.S. Patent Nos. 6,701,344; 6,829,634; 6,732,147; 6,714,966; 6,920,497; 6,910,069, dated January 2, 2018.

6. Attached hereto as Exhibit 67 is a true and correct copy of the Expert Report of Dr. Harry Bims Regarding Technology of U.S. Patent Nos. 6,701,344; 6,829,634; 6,732,147; 6,714,966; 6,920,497; 6,910,069, dated September 24, 2017, and accompanying errata dated October 23, 2017.

7. Attached hereto as Exhibit 68 is a true and correct copy of the Reply Expert Report of Dr. Harry Bims Regarding Technology of U.S. Patent Nos. 6,701,344; 6,829,634; 6,732,147; 6,714,966; 6,920,497; 6,910,069, dated December 14, 2017.

8. Attached hereto as Exhibit 69 is a true and correct copy of the Expert Report of Christine S. Meyer, Ph.D., dated September 25, 2017, with accompanying errata dated October 30, 2017.

9. Attached hereto as Exhibit 70 is a true and correct copy of the Reply Expert Report of Christine S. Meyer, Ph.D., dated December 14, 2017.

10. Attached hereto as Exhibit 71 is a true and correct copy of the Expert Report of Dr. Ricardo Valerdi Regarding Cost Estimates, dated September 23, 2017.

11. Attached hereto as Exhibit 72 is a true and correct copy of pages 27-30, 35-36, 38, 42-43, 44-45, 47-49, 54-58, 68-70, 93-95, 179, 185-186, 190-191, 193-194, 199-202, 240-242, 250-253, and 262-266 from the transcript of the deposition of Dr. Michael Macedonia, taken on January 8, 2018.

12. Attached hereto as Exhibit 73 is a true and correct copy of the Software Publishing and Development Agreement between Bungie, LLC and Activision Publishing, Inc. produced by Acceleration Bay, bearing bates numbers AB-AB 002296 – 322.

13. Attached hereto as Exhibit 74 is a true and correct copy of a webpage produced by Acceleration Bay, bearing bates numbers AB-AB 009810 – 41.

14. Attached hereto as Exhibit 75 is a true and correct copy of pages 82-85, 105-108, 177-178, and 237-238 from the transcript of the deposition of Roger D. Wolfson, taken on May 10, 2017.

15. Attached hereto as Exhibit 76 is a true and correct copy of pages 24-25, 30, 35-36, 102-104, 108-109, and 166-167 from the transcript of the deposition of John Kirk, taken on May 18, 2017.

16. Attached hereto as Exhibit 77 is a true and correct copy of pages 121-123, and 148 from the transcript of the deposition of John Kelly, Ph.D., taken on January 25, 2018.

17. Attached hereto as Exhibit 78 is a true and correct copy of pages 46-49, 87-88, 106, 119-121, 123-124, 166-167, 174-175, 248-251, 276, 287, 295-296, 301-302, 319-320, 330, and 337 from the transcript of the deposition of Pat Griffith, taken on May 17, 2016.

18. Attached hereto as Exhibit 79 is a true and correct copy of pages 123-124, 159-160, and 182-184 from the transcript of Nenad Medvidovic, Ph.D., taken on January 12, 2018.

19. Attached hereto as Exhibit 80 is a true and correct copy of page 46 of the Expert Report of Dr. John P.J. Kelly Regarding Non-Infringement of U.S. Patent Nos. 6,701,344; 6,829,634; 6,714,966; and 6,920,497, dated November 13, 2017.

20. Attached hereto as Exhibit 81 is a true and correct copy of webpage bearing bates numbers MSFT/ACCELERATION BAY 000044 – 159.

21. Attached hereto as Exhibit 82 is a true and correct copy of webpage bearing bates numbers MSFT/SUB ACCELERATION BAY 000160 – 165.

22. Attached hereto as Exhibit 83 is a true and correct copy of a webpage bearing bates numbers MS/SUB ACCELERATIONBAY 000105 – 112.

23. Attached hereto as Exhibit 84 is a copy of a webpage available at https://en.wikipedia.org/wiki/Hash_function, last accessed on February 22, 2018.

24. Attached hereto as Exhibit 85 is a true and correct copy of Defendant Activision Blizzard, Inc.'s July 31, 2017 Supplemental Responses to Acceleration Bay LLC's First Set of Common Interrogatories (No. 3) and Second Set of Common Interrogatories (No. 6) from *Acceleration Bay LLC v. Activision Blizzard, Inc.*, Case No. 16-cv-00453 (RGA) (D. Del.), dated July 31, 2017.

25. Attached hereto as Exhibit 86 is a true and correct copy of pages 68-70 from the transcript of the proceedings held on January 29, 2018, in *Acceleration Bay LLC v. Activision Blizzard, Inc.*, Case No. 16-cv-00453-RGA (D. Del.).

26. Attached hereto as Exhibit 87 is a true and correct copy of pages 64-65 and 87 from the transcript of the *Markman* hearing held on November 21, 2017, in *Acceleration Bay LLC v. Activision Blizzard, Inc.*, Case No. 16-cv-00453-RGA, *Acceleration Bay LLC v. Electronic Arts Inc.*, Case No. 16-cv-00454-RGA, *Acceleration Bay LLC v. Take-Two Interactive Software, Inc., et al.* Case No. 16-cv-00455-RGA (D. Del.).

27. Attached hereto as Exhibit 88 is a true and correct copy of Activision's Brief in Support of its Renewed Motion for Sanctions and Motion to Strike Acceleration Bay's Infringement Reports from *Acceleration Bay LLC v. Activision Blizzard, Inc.*, Case No. 16-cv-00453 (RGA) (D. Del.), dated October 20, 2017.

28. Attached hereto as Exhibit 89 is a true and correct copy of pages 97-101 and 127-133 from the transcript of the proceedings held on November 2, 2017, in *Acceleration Bay LLC v. Activision Blizzard, Inc.*, Case No. 16-cv-00453 (RGA), *Acceleration Bay LLC v. Electronic Arts Inc.*, Case No. 16-cv-00454 (RGA), *Acceleration Bay LLC v. Take-Two Interactive Software, Inc., et al.* Case No. 16-cv-00455 (RGA) (D. Del.).

29. Attached hereto as Exhibit 90 is a true and correct copy of pages 135-138, and 140-142 from the transcript of Michael Mitzenmacher, Ph.D., taken on January 5, 2018.

30. Attached hereto as Exhibit 91 is a true and correct copy of the Verdict Form from *Uniloc USA, Inc., et al. v. Electronic Arts, Inc.*, Case No. 13-cv-00259-RWS (E.D. Tex.), dated December 5, 2014.

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