

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.	)	REDACTED - PUBLIC VERSION
	)	
Defendant.	)	

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**DECLARATION OF KATHLEEN B. BARRY  
IN SUPPORT OF ACTIVISION’S BRIEF IN OPPOSITION TO  
PLAINTIFF’S SUMMARY JUDGMENT AND DAUBERT MOTIONS**

**VOLUME 1**

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Original Filing Date: February 23, 2018  
Redacted Filing Date: March 8, 2018

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ACCELERATION BAY LLC,

Plaintiff,

v.

ACTIVISION BLIZZARD, INC.,

Defendant.

C.A. No. 16-453 (RGA)

**CONFIDENTIAL –  
OUTSIDE COUNSEL ONLY  
FILED UNDER SEAL**

**DECLARATION OF KATHLEEN B. BARRY  
IN SUPPORT OF ACTIVISION’S BRIEF IN OPPOSITION TO  
PLAINTIFF’S SUMMARY JUDGMENT AND DAUBERT MOTIONS**

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 Brief in Opposition to Plaintiff’s Summary Judgment and Daubert Motions.<sup>1</sup>

2. Attached as Exhibit A-11 is a true and correct copy of Additional Source Code Printouts for World of Warcraft (“WoW”).<sup>2</sup>

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<sup>1</sup> Activision’s Brief in Opposition cites to a number of exhibits already provided with Defendant Activision Blizzard, Inc.’s Brief In Support of Its Motions for Summary Judgment and Exclude Expert Opinions Under FRE 702. D.I. 442. Therefore, this Declaration will continue the numbering from my previous Declaration in Support of Activision’s Motions for Summary Judgment and Exclusion of Plaintiff’s Expert Witnesses. D.I. 467, 468.

<sup>2</sup> Citations to Exhibits A-1 to A-10 will refer to the exhibits filed at D.I. 443. *Cf. supra*, Note 1.

3. Attached as Exhibit A-12 is a true and correct copy of the Expert Report of Dr. John P. Kelly, dated November 13, 2017.

4. Attached as Exhibit A-13 is a true and correct copy of Plaintiff Acceleration Bay LLC's Letter Brief in Opposition to Activision's Motion to Compel, in the above captioned matter, dated July 12, 2017.

5. Attached as Exhibit B-5 is a true and correct copy of excerpts from the Expert Report of Scott Bennett, Ph.D., dated September 20, 2017.<sup>3</sup>

6. Attached as Exhibit B-6 is a true and correct copy of excerpts from the Dissertation Presented to the Faculty of the Graduate School at the University of Southern California, by Katia Obraczka, dated December 1994.

7. Attached as Exhibit B-7 is a true and correct copy of copy of excerpts from the Expert Report of Nenad Medvidović, Ph.D., dated October 5, 2017.

8. Attached as Exhibit C-6 is a true and correct copy of the Rebuttal Expert Report of Catharine M. Lawton, dated November 13, 2017.<sup>4</sup>

9. Attached as Exhibit C-7 is a true and correct copy of the Declaration of Dr. Harry Bims in Support of Patent Owner's Response, in *Activision Blizzard Inc., et al. v. Acceleration Bay, LLC*, Case No. IPR2015-01972 (USPTO), for Patent 6,701,344, dated July 17, 2016.

10. Attached as Exhibit E-16 is a true and correct copy of excerpts from the transcript of the Videotaped Deposition Upon Oral Examination of Mark A. Terrano, dated October 27, 2017.<sup>5</sup>

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<sup>3</sup> Citations to Exhibits B-1 to B-4 will refer to the exhibits filed at D.I. 443. *Cf. supra*, Note 1.

<sup>4</sup> Citations to Exhibits C-1 to C-5 will refer to the exhibits filed at D.I. 444. *Cf. supra*, Note 1.

<sup>5</sup> Citations to Exhibits E-1 to E-15 will refer to the exhibits filed at D.I. 444. *Cf. supra*, Note 1.

11. Attached as Exhibit E-17 is a true and correct copy of excerpts from the transcript of the Videotaped Deposition of David Karger, Ph.D, dated January 25, 2018.

12. Attached as Exhibit E-18 is a true and correct copy of excerpts from the transcript of the Video Deposition of Daniel Kegel, dated October 23, 2017.

13. Attached as Exhibit E-19 is a true and correct copy of additional excerpts from the transcript of the Deposition of Pat Griffith, dated May 17, 2016.

14. Attached as Exhibit E-20 is a true and correct copy of excerpts from the transcript of the Videotaped Deposition of Kurtis Andrew McCathern, dated September 8, 2017.

15. Attached as Exhibit E-21 is a true and correct copy of additional excerpts from the transcript of the Videotaped Deposition of Patrick Dawson, dated June 2, 2016.

16. Attached as Exhibit E-22 is a true and correct copy of excerpts from the transcript of the Videotaped Deposition of Catharine Mary Lawton, dated January 25, 2018.

17. Attached as Exhibit E-23 is a true and correct copy of excerpts from the transcript of the Videotaped Deposition of Patrick Conlin, dated December 21, 2017.

18. Attached as Exhibit E-24 is a true and correct copy of excerpts from the transcript of the Videotaped Deposition of Nenad Medvidović, Ph.D., dated January 12, 2018.

19. Attached as Exhibit F-7 is a true and correct copy of the Microsoft Age of Empires Readme File, dated September 1997.<sup>6</sup>

20. Attached as Exhibit F-8 is a true and correct copy of excerpts from a Final Written Decision of the United States Patent and Trademark Office Trial and Appeal Board, in *Activision Blizzard Inc., et al. v. Acceleration Bay, LLC*, Case No. IPR2015-01972, for Patent 6,701,344 B1, entered March 23, 2017.

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<sup>6</sup> Citations to Exhibits F-1 to F-6 will refer to the exhibits filed at D.I. 444. *Cf. supra*, Note 1.

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