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April 17, 2018

BY CM/ECF & HAND DELIVERY

The Honorable Richard G. Andrews
U.S. District Court for the District of Delaware
U.S. Courthouse
844 North King Street
Wilmington, DE 19801

Re: Acceleration Bay LLC v. Activision Blizzard, Inc.,
D. Del., C.A. No. 16-453-RGA

Dear Judge Andrews:

Acceleration Bay seeks leave to serve short supplemental infringement expert reports to address the Court's new construction for Term 4. D.I. 519.

There is good cause to provide such supplements. Acceleration Bay's infringement experts, Drs. Medvidović and Mitzenmacher, provided infringement opinions for the claims, including Term 4, based on the Court's then-controlling August 29, 2017 construction of that Term. D.I. 275. On April 10, 2018, the Court granted Defendants' Motion for Clarification and significantly modified the construction of Term 4, making supplementation appropriate. D.I. 519. Activision acknowledges as much in its own letter seeking leave to serve a supplemental non-infringement motion. D.I. 522 at 1 ("Activision submits that *good cause exists* to allow it to file the requested supplement. This claim construction issue was not resolved when Activision filed its Motion for Summary Judgment on February 2, 2018, so Activision *could not have raised it at that time.*") (emphasis added). So too, Acceleration Bay could not have addressed the Court's clarified claim construction when it served its infringement expert reports.

There will be no prejudice to Activision. The supplemental reports will be brief and consistent with the infringement opinions already offered by Drs. Medvidović and Mitzenmacher, and will demonstrate that the accused products continue to infringe under the Court's modified construction. Acceleration Bay can provide these supplemental reports within six days (i.e., by April 23, 2018).

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Respectfully,

/s/ Philip A. Rovner

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cc: All Counsel of Record (via ECF Filing and E-mail)
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