```
 1                IN THE UNITED STATES DISTRICT COURT

 2                IN AND FOR THE DISTRICT OF DELAWARE

 3                             -  -  -

 4

     ACCELERATION BAY, LLC,          :    CIVIL ACTION
 5                                    :
                    Plaintiff,        :
 6                                    :
          vs.                         :
 7                                    :
     ACTIVISION BLIZZARD,             :
 8                                    :
                    Defendant        :    NO. 16-0453-RGA
 9

10                             -  -  -

11                        Wilmington, Delaware
                          Thursday, May 17, 2018
12                        1:13 o'clock, p.m.

13                             -  -  -

14    BEFORE:   HONORABLE RICHARD G. ANDREWS, U.S.D.C.J.

15                             -  -  -

16

17

18

19

20

21

22

23
                                Valerie J. Gunning
24                              Official Court Reporter

25
```

```
 1     APPEARANCES:

 2
                   POTTER, ANDERSON & CORROON LLP
 3                 BY:  PHILIP A. ROVNER, ESQ. and
                        ALAN SILVERSTEIN, ESQ.
 4

 5                          -and-

 6
                   KRAMER LEVIN NAFTALIS & FRANKEL LLP
 7                 BY:  PAUL J. ANDRE, ESQ. and
                        LISA KOBIALKA, ESQ.
 8                      (Menlo Park, California)

 9
                            -and-
10

11                 KRAMER LEVIN NAFTALIS & FRANKEL LLP
                   BY:  AARON M. FRANKEL, ESQ.
12                      (New York, New York)

13
                        Counsel for Plaintiff
14                      Acceleration Bay LLC

15

16
                   MORRIS, NICHOLS, ARSHT & TUNNELL LLP
17                 BY:  JACK B. BLUMENFELD, ESQ.
                        STEPHEN J. KRAFTSCHIK, ESQ.
18

19                          -and-

20
                   WINSTON & STRAWN LLP
21                 BY:  DAVID P. ENZMINGER, ESQ.
                        MICHAEL A. TOMASULO, ESQ.
22                      (Los Angeles, California)

23
                            -and-
24

25
```

```
 1      APPEARANCES (Continued):

 2

 3              WINSTON & STRAWN LLP
                BY:  MICHAEL M. MURRAY, ESQ.
 4                   (New York, New York)

 5                      -and-

 6

 7              WINSTON & STRAWN LLP
                BY:  ANDREW R. SOMMER, ESQ.
 8                   (Washington, D.C.)

 9                      -and-

10

11              WINSTON & STRAWN LLP
                BY:  KATHLEEN R. BARRY, ESQ.
12              (Chicago, Illinois)

13                      -and-

14

15              SHOOK HARDY & BACON LLP
                BY:  JORDAN T. BERGSTEN, ESQ.
16                   (Kansas City, Missouri)

17                   Counsel for Defendant
                     Activision Blizzard, Inc.
18

19                      -  -  -

20

21

22

23

24

25
```

```
 1                    P R O C E E D I N G S

 2

11:49:41   3           (Proceedings commenced in the courtroom,

11:49:43   4   beginning at 1:12 p.m.)

12:13:58   5

12:13:58   6           THE COURT:  All right.  Good afternoon,

12:14:00   7   everyone.  Please be seated.

12:14:01   8           So this is the time that I've scheduled for

12:14:06   9   argument on the summary judgment motions in Acceleration Bay

12:14:12  10   versus Activision, Blizzard, Civil Action No. 16-453.

12:14:18  11           Why don't we have counsel introduce themselves.

12:14:21  12   Mr. Rovner?

12:14:22  13           MR. ROVNER:  Good afternoon, Your Honor.  Phil

12:14:27  14   Rovner from Potter Anderson on behalf of Acceleration Bay,

12:14:30  15   and with me is my co-counsel, Paul Andre, Lisa Kobialka and

12:14:34  16   Aaron Frankel, all from Kramer Levin, and my colleague,

12:14:38  17   Alan Silverstein.

12:14:39  18           THE COURT:  All right.  Thank you very much.

12:14:41  19   Welcome to you all.

12:14:42  20           Mr. Blumenfeld?

12:14:49  21           MR. BLUMENFELD:  Thank you, you.  Jack

12:14:50  22   Blumenfeld from Morris Nichols for Activision.  At counsel

12:14:53  23   table, David, Michael Tomasulo, Michael Murray, all from

12:14:58  24   Winston & Strawn.

12:14:59  25           Behind them, Jordan Bergsten, who is from Shook
```

12:15:03   1   Hardy & Bacon, Andrew Sommer and Kathleen Berry, who are

12:15:08   2   also from Winston & Strawn.

12:15:10   3   On the first row, Omer Solik from the company,

12:15:13   4   from Activision, and then the third row, Steve Kraftschik

12:15:17   5   from Morris Nichols.

12:15:19   6   THE COURT: All right. So thank you. Good

12:15:21   7   afternoon to you all, too.

12:15:22   8   So what I thought was we'd have, I'd hear from

12:15:29   9   plaintiff on the motion for summary judgment aspect of their

12:15:33   10 motion that I was interested in and a response then from the

12:15:36   11 defendant, and then we would do the other issues that I was

12:15:40   12 interested in, sort of one at a time, starting with the

12:15:43   13 defendant.

12:15:44   14   Is that what you all had in mind?

12:15:47   15   MR. ANDRE: That sounds fine, Your Honor.

12:15:48   16   MR. ENZMINGER: That's okay, Your Honor.

12:15:50   17   THE COURT: Okay. So Mr. Andre?

12:15:52   18   MR. ANDRE: Thank you, Your Honor. May it

12:15:56   19 please the Court, the issue you asked for summary judgment

12:16:01   20 to address is whether or not the two references were

12:16:10   21 essentially publicly available, the Kegel and the ActiveNet

12:16:14   22 references.

12:16:15   23   What we've shown without really any dispute from

12:16:20   24 Activision is that Kegel was a piece of prior art that they

12:16:26   25 allege was on a website back in, before the priority date of

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase
Smarter legal research.