

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 COUNSEL (MICHAEL A. TOMASULO) IN SUPPORT OF  
ACTIVISION|BLIZZARD, INC.'S MOTION TO DISMISS WITH PREJUDICE AND  
FOR MONETARY SANCTIONS FOR VIOLATION OF RULE 11**

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February 15, 2017 - Original Filing Date  
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**DECLARATION OF MICHAEL A. TOMASULO**

I, Michael A. Tomasulo, make the following Declaration pursuant to 28 U.S.C. § 1746:

1. I am counsel for Activision|Blizzard Inc. (“Activision”) in the above-captioned actions. I make this declaration of my own personal knowledge.

2. Because the charts attached to the complaint relate to claim 1 of each Asserted Patent, the following table summarizes the subject matter to which each claim 1 is directed.

D.I.	Asserted Patent	Topology Patents		
		Broadcast	Add/Drop	Portal
1-1	U.S. 6,701,344	X		
1-2	U.S. 6,714,966	X		
1-4	U.S. 6,829,634	X		
1-3	U.S. 6,732,147		X	
1-5	U.S. 6,910,069		X	
1-6	U.S. 6,920,497			X

3. Exhibits 1A-B are true and correct copies of interrogatory responses Activision provided to Acceleration Bay LLC (“Acceleration”).

Ex.	Description
1A	[REDACTED]
1B	[REDACTED]

4. Exhibits 2A-B [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

Ex.	Description
2A	[REDACTED]
2B	[REDACTED]
2C	[REDACTED]
2D	[REDACTED]

5. Exhibits 3A-C [REDACTED]  
 [REDACTED]

Ex.	Description
3A	[REDACTED]
3B	[REDACTED]
3C	[REDACTED]

6. Exhibits 4A-B are excerpts of the file histories of the Asserted Patents. The exhibits contain highlighting but otherwise are true and correct.

Ex.	Asserted Patent	Description
4A	'344 patent	Amendment Under 37 C.F.R. § 1.111 dated September 10, 2003
4B	'966 patent	Amendment Under 37 C.F.R. § 1.111 dated September 10, 2003

7. Exhibits 5A-E are excerpts of the Patent Owner Preliminary Responses that Acceleration filed in the concurrent *inter partes* review proceedings. The exhibits contain highlighting but otherwise are true and correct.

Ex.	Asserted Patent	Description
5A	'966 patent	IPR2015-01951 - Patent Owner Preliminary Response
5B	'634 patent	IPR2015-01964 - Patent Owner Preliminary Response
5C	'344 patent	IPR2015-01970 - Patent Owner Preliminary Response
5D	'069 patent	IPR2016-00726 - Patent Owner Preliminary Response
5E	'147 patent	IPR2016-00747 - Patent Owner Preliminary Response

8. Exhibits 6A-C are excerpts of the Patent Owner Preliminary Responses that Acceleration filed in the concurrent *inter partes* review proceedings. The exhibits contain highlighting but otherwise are true and correct.

Ex.	Asserted Patent	Description
6A	'966 patent	IPR2015-01951 - Patent Owner Preliminary Response
6B	'634 patent	IPR2015-01964 - Patent Owner Preliminary Response
6C	'344 patent	IPR2015-01970 - Patent Owner Preliminary Response

9. Exhibit 7 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. Exhibit 8A [REDACTED]

[REDACTED]

11. Exhibit 9 contains excerpts of Acceleration Bay LLC's Answering Brief in Opposition to Defendants' Motion to Dismiss Regarding U.S. Patent Nos. 6,701,344, 6,714,966 and 6,829,634, dated October 21, 2016. The exhibit contains highlighting but otherwise is true and correct.

12. Exhibits 10A-D are excerpts of Acceleration's infringement charts relating to Call of Duty ("CoD") alleging: "the Accused Products create m-regular topologies of players when setting up logical, overlay, and physical network topologies for the Accused Products using different networking libraries, SDKs and APIs." The exhibits contain highlighting but otherwise are true and correct.

Ex.	Asserted Patent	Description
10A	'344	Excerpts of CoD charts attached to the June 17, 2016 Complaint in this action
10B	'966	Excerpts of CoD charts attached to the June 17, 2016 Complaint in this action
10C	'634	Excerpts of CoD charts attached to the June 17, 2016 Complaint in this action
10D	'147	Excerpts of CoD charts attached to the June 17, 2016 Complaint in this action

13. Exhibits 11A-D are excerpts of Acceleration's infringement charts relating to World of Warcraft ("WoW") alleging: "the m-regular network is present because World of Warcraft operates many servers on many different networking levels, on both the logical, physical, and overlay layers." The exhibits contain highlighting but otherwise are true and correct.

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