

**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.,)	PUBLIC VERSION
)	
Defendant.)	
)	

**DECLARATION OF PAUL J. ANDRE IN SUPPORT OF
PLAINTIFF ACCELERATION BAY LLC'S SUPPLEMENTAL BRIEF
REGARDING ACTIVISION BLIZZARD, INC.'S INFRINGEMENT
THROUGH THE SALE, MANUFACTURE AND USE OF SOFTWARE**

OF COUNSEL:

Paul J. Andre
Lisa Kobialka
KRAMER LEVIN NAFTALIS
& FRANKEL LLP
990 Marsh Road
Menlo Park, CA 94025
(650) 752-1700

Aaron M. Frankel
Cristina Martinez
KRAMER LEVIN NAFTALIS
& FRANKEL LLP
1177 Avenue of the Americas
New York, NY 10036
(212) 715-9100

Philip A. Rovner (#3215)
Jonathan A. Choa (#5319)
POTTER ANDERSON & CORROON LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
(302) 984-6000
provner@potteranderson.com
jchoa@potteranderson.com

*Attorneys for Plaintiff
Acceleration Bay LLC*

Dated: June 1, 2018
Public version dated: June 12, 2018

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 Supplemental Brief Regarding Activision Blizzard, Inc.’s (“Activision”) Infringement Through the Sale, Manufacture and Use of Software.

2. Attached hereto as Exhibit 113 is a true and correct copy of excerpts from Acceleration Bay’s Infringement Claim Chart regarding Call of Duty Advanced Warfare and Black Ops III, served on August 25, 2017.

3. Attached hereto as Exhibit 114 is a true and correct copy of excerpts from Acceleration Bay’s Infringement Claim Chart regarding Destiny Activity Broadcast Network, served on August 25, 2017.

4. Attached hereto as Exhibit 115 is a true and correct copy of pages 126-127 from the transcript of the motion for summary judgment hearing, held on May 17, 2018.

5. Attached hereto as Exhibit 116 is a true and correct copy of excerpts from Activision’s Form 10-K for the fiscal year ended December 31, 2016, bearing bates numbers ATVI0030556-57.

6. Attached hereto as Exhibit 117 is a true and correct copy of pages 139-140 and 258-262 from the transcript of the deposition of Patrick Dawson, taken on June 2, 2016.

7. Attached hereto as Exhibit 118 is a true and correct copy of an article entitled, “Blizzard outlines massive effort behind World of Warcraft,” authored by Brendan Sinclair, available at <https://www.gamespot.com/articles/blizzard-outlines-massive-effort-behind-world-of-warcraft/1100-6228615/>, dated September 17, 2009.

8. Attached hereto as Exhibit 119 is a true and correct copy of pages 14-15 from the transcript of the deposition of Kurtis Andrew McCathern, taken on September 8, 2017.

9. Attached hereto as Exhibit 120 is a true and correct copy of pages 30 and 158 from the transcript of the deposition of Robert Kostich, taken on June 26, 2017.

10. Attached hereto as Exhibit 121 is a true and correct copy of the List of Destiny Updates, available at http://destiny.wikia.com/wiki/List_of_Destiny_Updates, last accessed on May 30, 2018.

11. Attached hereto as Exhibit 122 is a true and correct copy of list of updates for Call of Duty Black Ops III, available at <https://www.callofduty.com/blog>, last accessed on June 1, 2018.

12. Attached hereto as Exhibit 123 is a true and correct copy of an Activision document entitled "Call of Duty T7 – Technical Design Document," bearing bates numbers ATVI0024998-5033.

13. Attached hereto as Exhibit 124 is a true and correct copy of pages 44-45 from the transcript of the deposition of Pat Griffith, taken on May 17, 2016.

14. Attached hereto as Exhibit 125 is a true and correct copy of Destiny Demonware Wiki, bearing bates numbers ATVI0029908-46.

15. Attached hereto as Exhibit 126 is a true and correct copy of an Activision webpage showing job postings with highlighting added, available at <https://activision.referrals.selectminds.com/jobs/qa-tester-temporary-2230>, last accessed on May 30, 2018.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 1, 2018, in Menlo Park, California.

/s/ Paul J. Andre
Paul J. Andre

5827514