

# **EXHIBIT A-1**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ACCELERATION BAY LLC, ) C.A. No. 16-453 (RGA)  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ACTIVISION BLIZZARD, INC., )  
 )  
Defendant. )  
\_\_\_\_\_ )

**PRELIMINARY JURY INSTRUCTIONS**

## 1. INTRODUCTION<sup>1</sup>

Members of the Jury: Now that you have been sworn, I am now going to give you some preliminary instructions to guide you in your participation in the trial.

These instructions will give you some general guidance that might apply to any civil case. However, because this is a patent trial, which will deal with subject matter that is not within the everyday experience of most of us, I will also give you some additional preliminary instructions regarding patents to assist you in discharging your duties as jurors.

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<sup>1</sup> *AVM Techs. v. Intel Corp.*, Case 1:15-cv-00033-RGA, Dkt. No. 611 (D. Del. Apr. 14, 2017) (joint proposed preliminary jury instructions) (“AVM 2”); *AVM Techs., LLC v. Intel Corp.*, Case No. 10-610-RGA (D. Del. Jan. 22, 2013) (joint proposed preliminary jury instruction) (“AVM 1”); *Innovative Display Technologies LLC v. LG*, No. 13-cv-2109-RGA, D.I. 498 (joint proposed preliminary jury instructions)(“IDT”).

## 2. THE PARTIES AND THEIR CONTENTIONS<sup>2</sup>

Before I begin with those instructions, however, allow me to give you an overview of who the parties are and what each contends.

You may recall that during the process that led to your selection as jurors, I advised you that this is a civil action for patent infringement arising under the patent laws of the United States. The parties in this case are the plaintiff, Acceleration Bay, LLC, which I will refer to as “Acceleration Bay” or the “plaintiff” and the defendant, Activision Blizzard, Inc., which I will refer to as “Activision” or the “defendant.”

The case involves United States Patent Numbers: 6,701,344; 6,714,966; 6,920,497; 6,732,147; 6,910,069, obtained by Fred B. Holt and Virgil E. Bourassa, and assigned to Boeing and then to Acceleration Bay. For convenience, the parties and I will often refer to these patents by the last three numbers of the patent. For example, I may simply say “the ‘344 Patent” instead of “U.S. Patent No. 6,701,344.”

Acceleration Bay filed suit in this court against Activision for allegedly infringing the Asserted Patents by making, importing, using, selling, and offering for sale in the United States products that Acceleration Bay argues are covered by claims 12, 13, and 14 of the ‘344 Patent, claims 12 and 13 of the ‘966 Patent, claims 9 and 16 of the ‘497 Patent, claims 1, 11, 15, and 16 of the ‘147 Patent, and claims 1 and 11 of the ‘069 Patent. These claims may be referred to as the “Asserted Claims” of the Asserted Patents. The products that are alleged to infringe are Call of Duty: Black Ops III and Call of Duty: Advanced Warfare, Destiny, and World of Warcraft.

Activision denies that it has infringed the Asserted Claims of the Asserted Patents. Activision also argues that the Asserted Claims are invalid. You will determine the questions of infringement and invalidity for each Asserted Claim.

During the course of this case, you will hear references to certain terms and phrases from the Asserted Claims of the Asserted Patents. I will give you a glossary of some of those term

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<sup>2</sup> AVM 2; 1993 Model Instructions; Fed. Cir. Bar Association Model Patent Jury Instructions (July 2016)

and phrases for which I have provided a definition that you are to use in deciding the issues presented to you. Any other terms and phrases that are not included in the glossary should be given their plain and ordinary meaning.

Your job will be to decide whether or not the Asserted Claims of the Asserted Patents have been infringed and whether or not those claims are invalid. If you decide that any claim of an Asserted Patent has been infringed and is not invalid, you will then need to decide any money damages to be awarded to Acceleration Bay to compensate it for the infringement. You will also need to make a finding as to whether the infringement was willful. If you decide that any infringement was willful, that decision should not affect any damages award you give. I will take willfulness into account later.

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