

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 JORDAN BERGSTEN IN SUPPORT OF
ACTIVISION BLIZZARD, INC.'S RESPONSE TO ACCELERATION BAY'S
DAMAGES PROFFER AND ACTIVISION'S OPENING BRIEF IN SUPPORT OF ITS
MOTION TO STRIKE PLAINTIFF'S SUPPLEMENTAL EXPERT DAMAGES
REPORT BY RUSSELL L. PARR**

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I, Jordan Bergsten, hereby declare as follows:

1. I am an attorney with the law firm of Shook, Hardy & Bacon LLP, 2555 Grand Boulevard, Kansas City, Missouri 64108. Shook, Hardy & Bacon LLP is counsel for Defendant Activision Blizzard, Inc. (“Activision”) in the instant action. I am admitted to the bar of the State of Missouri and have been admitted in this case *pro hac vice*.

2. I make this Declaration in support of Activision’s Response to Acceleration Bay’s Damages Proffer and Activision’s Opening Brief in Support of its Motion to Strike Plaintiff’s Supplemental Expert Damages Report by Russell L. Parr. I am familiar with the facts contained and documents described in the same.

3. Attached as **Exhibit 1** is a true and correct excerpted copy of the December 7, 2018 Expert Report of Russell L. Parr.

4. Attached as **Exhibit 2** is a true and correct excerpted copy of the January 25, 2019 First Supplemental Expert Report of Catharine M. Lawton, designated “CONFIDENTIAL”.

5. Attached as **Exhibit 3** is a true and correct excerpted copy of the February 7, 2019 deposition transcript of Russell L. Parr.

6. Attached as **Exhibit 5** is a true and correct excerpted copy of a document marked as Exhibit 5 at the June 26, 2017 deposition of Robert Kostich, designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY MATERIAL”.

7. Attached as **Exhibit 6** is a true and correct excerpted copy of the September 23, 2017 Expert Report of Dr. Ricarco Valerdi Regarding Cost Estimates, designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY – SOURCE CODE”.

8. Attached as **Exhibit 7** is a true and correct excerpted copy of of the December 21, 2017 deposition transcript of Ricardo Valerdi, Ph.D., designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

9. Attached as **Exhibit 8** is a true and correct excerpted copy of the April 17, 2018 deposition transcript of Nenad Medvidović, PH.D, designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”.

10. Attached as **Exhibit 9** is a true and correct excerpted copy of the September 25, 2017 Expert Report of Christine S. Meyer, Ph.D., designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”.

11. Attached as **Exhibit 10** is a true and correct copy of “Infographic: A Massive History of Multiplayer Online Gaming”.

12. Attached as **Exhibit 11** is a true and correct excerpted copy of the May 31, 2017 deposition transcript of Fred B. Holt, Ph.D, designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

13. Attached as **Exhibit 12** is a true and correct excerpted copy Defendant Activision Blizzard, Inc.’s Objections and Responses to Plaintiff Acceleration Bay LLC’s First Set of Party-Specific Interrogatories (Nos. 1-7).

14. Attached as **Exhibit 13** is a true and correct excerpted copy of the November 13, 2017 Rebuttal Expert Report of Catharine M. Lawton, designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”.

15. Attached as **Exhibit 14** is a true and correct excerpted copy of the file history of U.S. Pat. No. 6,701,344.

16. Attached as **Exhibit 15** is a true and correct excerpted copy of the file history of U.S. Pat. No. 6,714,966.

17. Attached as **Exhibit 16** is a true and correct excerpted copy of the file history of U.S. Pat. No. 6,732,147.

18. Attached as **Exhibit 17** is a true and correct copy of a draft agreement titled, *Exclusive SWAN Technology License Agreement with Panthesis, Inc.* produced in this matter at HOLT 003797, designated “CONFIDENTIAL”.

19. Attached as **Exhibit 18** is a true and correct excerpted copy of the May 4, 2017 deposition transcript of Natasha Radovsky, designated “HIGHLY CONFIDENTIAL ATTORNEYS’ EYES ONLY”.

20. Attached as **Exhibit 19** is a true and correct copy a document marked as Exhibit 70 at the May 4, 2017 deposition of Natasha Radovsky, designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”.

21. Attached as **Exhibit 20** is a true and correct excerpted copy of an email from Linda Magnotti to Fred Holt, dated May 23, 2003, produced in this matter at HOLT 002455, designated “CONFIDENTIAL”.

22. Attached as **Exhibit 21** is a true and correct copy of the Errata to Expert Report of Dr. Ricardo Valerdi Regarding Cost Estimates, dated October 23, 2017, designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY –SOURCE CODE”.

23. Attached as **Exhibit 22** is a true and correct copy of the Transcript of Motion for Attorney’s Fees, dated January 17, 2017 in CA No. 15-228-RGA.

24. Attached as **Exhibit 23** is a true and correct copy of a document marked as Exhibit 83 at the May 4, 2017 deposition of Natasha Radovsky, designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”.

25. Attached as **Exhibit 24** is a true and correct copy of Plaintiff Acceleration Bay LLC’s First Supplemental Objections & Responses to Defendant Activision Blizzard, Inc.’s First Set of Party Specific Interrogatories Nos. 1, 2, 4), date June 2, 2017.

26. Attached as **Exhibit 25** is a true and correct copy of Activision’s Brief in Support of Motion (“D”) to Preclude Regarding Party Specific Interrogatory No. 1, dated July 5, 2017.

27. Attached as **Exhibit 26** is a true and accurate copy of Plaintiff Acceleration Bay LLC’s Second Supplemental Objections and Responses to Defendant Activision Blizzard, Inc.’s First Set of Party Specific Interrogatories (No. 1), date August 18, 2017.

28. Attached as **Exhibit 27** is a true and accurate copy of Activision Blizzard, Inc.’s Brief in Support of its Renewed Motion for Sanctions and Motion to Strike the Damages Opinion of Christine S. Meyer, PH.D., dated October 20, 2017.

29. Attached as **Exhibit 28** is a true and accurate copy of *Apple Inc. v. Wi-LAN, Inc.*, 14cv2235, p. 9 (S.D. Cal. Jan. 3, 2019).

30. Attached as **Exhibit 29** is a true and accurate excerpted copy of the July 26, 2017 deposition transcript of Fred B. Holt, Ph.D., designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”.

I declare under penalty of perjury that the foregoing is true and correct

Dated: March 15, 2019

By: /s/ 
Jordan Bergsten

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