IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

ACCELERATION BAY'S OPPOSITION TO
ACTIVISION'S OBJECTIONS TO ACCELERATION BAY'S DAMAGES PROFFER

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INTRODUCTION

The Court should deny Activision's motion to strike Acceleration Bay's damages proffer (the "Motion") because it ignores Russell Parr's detailed analysis in support of his damages opinions and is based on numerous mischaracterizations of the record.

Mr. Parr provides a detailed economic analysis and well-founded opinions regarding the reasonable royalty to which Activision and Boeing would have agreed as a result of their hypothetical negotiation. Mr. Parr employs a variety of methodologies and bases, including Activision's cost savings, revenues from sales of the infringing products and the number of user of the infringing products, all of which Acceleration Bay timely disclosed during discovery, to reach his opinions. Mr. Parr also carefully apportioned the damages bases to the footprint of the invention, relying on the opinions of Acceleration Bay's infringement experts as to which game modes infringe and the importance of the claimed inventions to that functionality (Activision's claims to the contrary are simply incorrect) and on Activision survey data showing the percentage of sales driven by its customers' demand for the infringing game modes. And Mr. Parr's royalty rates are tied to sound economic principles, including an analysis of the most comparable license agreement and consideration of Activision's cost of capital and weighted return.

Activision plays fast and loose with the record as indicated throughout this opposition. For example, Activision fabricates a non-existent [redacted] revenue cap for the Boeing/Panthesis license, misrepresents deposition testimony by citing it for one issue when the witness was answering questions about an entirely different topic, and incorrectly claims that the m-regular network concept was added to the applications for the Asserted Patents years into their prosecution when it was always a part of those patent applications.

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