

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

**DEFENDANT ACTIVISION BLIZZARD, INC.’S REPLY
IN SUPPORT OF ITS RESPONSE TO ACCELERATION BAY’S DAMAGES PROFFER**

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Original Filing Date: April 19, 2019
Redacted Filing Date: May 1, 2019

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I. INTRODUCTION

Each of the seven new damages calculations proffered by Acceleration Bay falls far short of the requirements of reliability for presentation to a jury.¹ Acceleration makes no attempt to distinguish the multitude of cases cited by Activision establishing that each of Acceleration's new damages calculations is inadmissible. Instead, Acceleration tries to distract the Court from the fundamental flaws in Acceleration's fourth attempt at an admissible damages case by citing to inapposite cases, substituting attorney argument for expert opinions, and accusing Activision of misrepresenting the record. Activision respectfully requests that this Court exclude all seven royalty theories.

II. SUMMARY OF ARGUMENT

As more fully explained below, each of Acceleration's new damages calculations rests on a variety of faulty inputs, insufficient proof, and failed economic reasoning. For any one of the following reasons, Acceleration's latest damages should be excluded.

Opinions. Four of Mr. Parr's new theories rely on a [REDACTED] royalty rate derived exclusively from a purported technology license between Boeing and Panthesis in 2002. The Court should exclude these opinions because they are based on an alleged license that is neither technically nor economically comparable.

"Cost Savings" Opinions. Five of Mr. Parr's damages calculations use as a direct input the supposed "cost savings" calculations of Dr. Valerdi. These royalties should be excluded because they are not tied to the facts of the case, they are not "testable," they fail to estimate the cost of any real alternative, and they violate Acceleration's promise to not seek pre-suit damages.

Unapportioned/"Multiplayer" Opinions. This Court also should exclude all seven of

¹ Attachment A summarizes Acceleration's new theories and Activision's objections thereto.

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