

EXHIBIT 1

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17 Attorneys for Plaintiff
ACTIVISION | BLIZZARD, INC.
18

19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **SAN JOSE DIVISION**

22 ACTIVISION | BLIZZARD, INC., a Delaware
23 Corporation,

24 Plaintiff,

25 v.

26 ACCELERATION BAY LLC, a Delaware
27 Limited Liability Corporation,

28 Defendant.

Case No.

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT OF
U.S. PATENT NOS. 6,701,344, 6,829,634,
6,732,147, 6,714,966, 6,920,497, AND 6,910,069**

JURY TRIAL DEMANDED

1 Plaintiff Activision | Blizzard, Inc. (“Activision” or “Plaintiff”) by and through its attorneys,
2 allege against Defendant Acceleration Bay, LLC (“Acceleration” or “Defendant”) as follows:

3 **NATURE OF THE ACTION**

4 1. This is an action brought pursuant to the Declaratory Judgment Act, 28 U.S.C. §
5 2201, for a declaratory judgment of non-infringement of patents that Acceleration has asserted
6 against Plaintiff in district court proceedings before the United States District Court for the District
7 of Delaware.

8 2. Plaintiff seeks a declaratory judgment that the “Accused Products” (as defined below)
9 do not infringe any of the following patents: United States Patent Nos. 6,701,344 (“the ’344 patent”)
10 (attached as Exhibit A), 6,829,634 (“the ’634 patent”) (attached as Exhibit B), 6,732,147 (“the ’147
11 patent”) (attached as Exhibit C), 6,714,966 (“the ’966 patent”) (attached as Exhibit D), 6,920,497
12 (“the ’497 patent”) (attached as Exhibit E), and 6,910,069 (“the ’069 patent”) (attached as Exhibit F)
13 (collectively, “the Asserted Patents”) under the Patent Laws of the United States, 35 U.S.C. §§ 101,
14 *et seq.*

15 **THE PARTIES**

16 3. Plaintiff Activision is a Delaware corporation with a principal place of business at
17 3100 Ocean Park Boulevard, Santa Monica, California 90405.

18 4. Upon information and belief, Defendant Acceleration is a Delaware limited liability
19 corporation with its principal place of business at 370 Bridge Parkway, Redwood City, California
20 94065.

21 **JURISDICTION**

22 5. This is an action under the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201
23 and 2202, against Defendant for a declaration that pursuant to the patent laws of the United States,
24 35 U.S.C. §§ 1 *et seq.*, the disputed claims of U.S. Patent Nos. 6,701,344, 6,829,634, 6,732,147,
25 6,714,966, 6,920,497, and 6,910,069 are not infringed by Plaintiff. Jurisdiction as to these claims is
26 conferred on this Court by 28 U.S.C. §§ 1331 and 1338(a).

27 6. This Court has personal jurisdiction over Defendant Acceleration. Upon information
28 and belief, Acceleration’s principal place of business is located within this District. In addition, the

1 Court has personal jurisdiction over Acceleration because it has established minimum contacts with
 2 the forum and the exercise of jurisdiction would not offend traditional notions of fair play and
 3 substantial justice.

4 7. Venue is proper in this jurisdiction under 28 U.S.C. §§ 1391 and 1400(b).

5 8. An actual controversy exists between Defendant and Plaintiff as to whether Plaintiff
 6 infringes the Asserted Patents.

7 9. On March 12, 2015, Acceleration filed a complaint (the “Activision Complaint”) with
 8 the District Court of the District of Delaware under 35 U.S.C. § 101 *et seq.* alleging that Activision
 9 infringes the Asserted Patents through the manufacture, use, sale, importation and/or offer for sale of
 10 its software products and services, including *World of Warcraft*, *Destiny*, and *Call of Duty: Advanced Warfare*
 11 (the “Delaware action”; all products accused in the Delaware action are referred
 12 to in this Complaint as the “Accused Products”). The Activision Complaint further alleged that
 13 Activision contributes to and induces infringement of the Asserted Patents by others. A true and
 14 correct copy of the Activision Complaint is attached hereto as Exhibit G.

15 10. In the Delaware action, Defendant elected the following claims to assert against
 16 Plaintiff:

Asserted Patent	Asserted Claims
6,701,344	1, 6-8, 10, 13-15, and 18
6,714,966	1, 7, 9, 12, and 13
6,829,634	1, 4, 5, 19, and 22
6,732,147	1, 11, 14, 15, and 16
6,910,069	1, 11, 12, and 13
6,920,497	1, 8, 9, and 16

24 11. Plaintiff Activision denies that any of its activities or products infringe any claim of
 25 the Asserted Patents purportedly owned by Defendant.

26 12. Defendant Acceleration alleged that it owned the Asserted Patents, purportedly
 27 having acquired them from the Boeing Company. However, on Plaintiff’s motion, the District Court
 28 of the District of Delaware found that Defendant Acceleration was a licensee and that the Boeing

1 Company had failed to transfer all substantial rights in the Asserted Patents to Defendant
2 Acceleration prior to the filing of the Activision Complaint. The District Court ordered that the
3 Delaware Action be dismissed for lack of subject matter jurisdiction unless Boeing joins that action.
4 A copy of the District Court's June 3, 2016 order is attached as Exhibit H.

5 13. Boeing has not joined the Delaware Action, and on information and belief, does not
6 intend to do so. Therefore, the Delaware Action should be dismissed according to the Court's June
7 3, 2016 Order.

8 14. On June 15, 2016, Defendant Acceleration represented to the Patent Trial and Appeal
9 Board of the United States Patent and Trademark Office that "Acceleration Bay and the Boeing
10 Company entered into an Amended and Restated Patent Purchase Agreement resolving all of the
11 issues identified by the District Court in its June 3, 2016 Order." Based on, *inter alia*, its prior
12 allegations of infringement and this representation, Plaintiff has a reasonable apprehension that
13 Defendant may again commence litigation against it on the Asserted Patents.

14 15. There is an immediate, real, and substantial justiciable controversy between Plaintiff
15 and Defendant as to its purported right to threaten or maintain suit for infringement of the Asserted
16 Patents, and as to the scope and enforceability thereof, and as to whether Plaintiff infringes any
17 enforceable claims of the Asserted Patents. This controversy is of such immediacy and reality as to
18 warrant declaratory relief so that the parties may ascertain their rights and duties with respect to the
19 Asserted Patents. Therefore, without waiver of any rights, including the right to challenge prudential
20 standing, Plaintiff brings this declaratory judgment action seeking a declaration that the Accused
21 Products do not infringe any of the Asserted Patents.

22 **CAUSES OF ACTION**

23 **FIRST CAUSE OF ACTION**

24 (Declaratory Judgment of Non-Infringement of the '344 Patent)

25 16. Plaintiff incorporates herein by reference and realleges all preceding Paragraphs as
26 though fully set forth herein.

27 17. Defendant Acceleration has alleged and continues to assert that Plaintiff and its
28 products and services infringe the '344 patent.

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