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'S OPENING BRIEF IN SUPPORT OF ITS SUPPLEMENTAL
MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT
<u>BASED ON COLLATERAL ESTOPPEL</u>

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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 supplemental summary judgment brief on collateral estoppel on non-infringement. I am familiar with the facts contained and documents described in the same.

3.   Attached as **Exhibit 1**, filed under seal, is a true and correct excerpted and highlighted copy of the May 17, 2016 deposition transcript of Pat Griffith, designated "CONFIDENTIAL."

4.   Attached as **Exhibit 2**, filed under seal, is a true and correct excerpted and highlighted copy of the *Reply Expert Report of Michael Mitzenmacher, PH.D., Regarding Infringement By Activision Blizzard, Inc.*, dated December 14, 2017, designate "CONFIDENTIAL – OUTSIDE COUNSEL ONLY – RESTRICTED HIGHLY CONFIDENTIAL NON-PARTY SOURCE CODE."

5.   Attached as **Exhibit 3** is a true and correct excerpted and highlighted copy the November 4, 2021 hearing transcript of the Status Conference.

6.   Attached as **Exhibit 4**, filed under seal, is a true and correct excerpted and highlighted copy of the January 5, 2018 deposition transcript of Michael Mitzenmacher, designated "CONFIDENTIAL – OUTSIDE COUNSEL ONLY."

7.   Attached as **Exhibit 5**, filed under seal, is a true and correct excerpted and highlighted copy of the September 8, 2017 deposition transcript of Kurtis McCathern, designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

8. Attached as **Exhibit 6**, filed under seal, is a true and correct excerpted and highlighted copy of the January 12, 2018 deposition transcript of Nenad Medvidovic, designated "CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY."

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

Dated: November 22, 2021   By: /s/ _____

                 Jordan Bergsten

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on November 22, 2021, upon the following in the manner indicated:

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