

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 16-453-RGA
	:	
ACTIVISION BLIZZARD, INC.,	:	
	:	
Defendant.	:	

ACCELERATION BAY LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 16-454-RGA
	:	
ELECTRONIC ARTS, INC.,	:	
	:	
Defendant.	:	

ACCELERATION BAY LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 16-455-RGA
	:	
TAKE-TWO INTERACTIVE SOFTWARE, INC., et al.,	:	
	:	
Defendants.	:	

ORDER

The Special Master entered Special Master Order No. 3 on May 19, 2017. (D.I. 155).¹

¹ For simplicity, unless otherwise indicated, I only cite to the docket in the first-listed case.

There are objections from both sides. I review them *de novo*.

Plaintiff's objections are strange, as Plaintiff has, it asserts, complied with the order. (D.I. 172, p.1). Defendants question whether Plaintiff has complied with the order. (D.I. 183, p. 1). Thus, I interpret there to be no objections to the order, and I therefore **ADOPT** the order. Any questions about compliance with the order should be brought initially to the Special Master.

One Defendant, Activision Blizzard, has filed objections. (D.I. 174). That was on June 9, 2017. Defendant's objections are that the Special Master declined to consider imposing sanctions, believing that issue should more appropriately be considered by me. Defendant represented that, as required by my order (Civ. Act. No. 15-228, D.I. 94 ("the parties must serve, file and docket with the Court . . . any relevant portion of the record made before [the Special Master] which pertains specifically to the objections.")), it would "work with Plaintiff to compile and submit an Appendix with all necessary materials. (D.I. 174, p.2). There may be a little ambiguity as to the exact requirements of the order, but as of today, Defendant has not filed anything with the Court to satisfy its representation. Plaintiff responded, noting that Defendant had not done this, and identifying where the documents it wanted me to consider could be found. (D.I. 182). I eventually found the letters that made the parties' arguments to the Special Master. (D.I. 173-1 at 223, 352).

First, in order to cure any ambiguity in the order appointing the Special Master, I specifically authorize the Special Master to decide any sanctions issues that are encompassed in or permitted by the Federal Rules of Civil Procedure relating to discovery. *See* Fed. R. Civ. P. 53(c)(2) ("The master may by order impose on a party any noncontempt sanction provided by Rule 37 or 45").

Second, in view of the fact that the parties have a history with the Special Master, his

input on a request for sanctions, even acknowledging that it would be subject to *de novo* review, would be of significant assistance to me. Thus, I will “resubmit to the master with instructions,” *see* Fed. R. Civ. P. 53(f)(1), the request by Activision for sanctions. I request that the Special Master issue a ruling on Activision’s motion for sanctions.

IT IS SO ORDERED this 22 day of June 2017.


United States District Judge