

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ACCELERATION BAY LLC,)
)
Plaintiff,)
) C.A. No. 16-454-RGA
v.)
) **PUBLIC VERSION**
ELECTRONIC ARTS INC.,)
)
Defendant.)

**PLAINTIFF ACCELERATION BAY LLC'S REPLY BRIEF
IN SUPPORT OF ITS SUMMARY JUDGMENT AND DAUBERT MOTIONS**

OF COUNSEL:

Paul J. Andre
Lisa Kobialka
KRAMER LEVIN NAFTALIS
& FRANKEL LLP
990 Marsh Road
Menlo Park, CA 94025
(650) 752-1700

Aaron M. Frankel
Cristina Martinez
KRAMER LEVIN NAFTALIS
& FRANKEL LLP
1177 Avenue of the Americas
New York, NY 10036
(212) 715-9100

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Philip A. Rovner (#3215)
Jonathan A. Choa (#5319)
POTTER ANDERSON & CORROON LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
(302) 984-6000
provner@potteranderson.com
jchoa@potteranderson.com

Attorneys for Plaintiff
ACCELERATION BAY LLC

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ARGUMENT

I. EA Directly Infringes the Asserted Claims

A. EA Directly Infringes the System Claims of the ‘497, ‘344, and ‘966 Patents

Summary judgment is warranted based on the undisputed facts. Electronic Arts (“EA”) acknowledges that the Accused Products are made, used, sold and offered for sale in the U.S. D.I. 437, Acceleration’s Opening Brief (“AB Br.”) at 1-6. EA also acknowledges that it owns and controls the Accused Products that infringe the asserted system claims of the ‘497, ‘344, and ‘966 Patents. Ex. 9 at ¶ 93; Ex. 10 at ¶ 150. Additionally, EA concedes that the inventions in the asserted claims reduce the need for additional servers and provide enhanced online multiplayer game experiences. *See, e.g.*, D.I. 431, Barry Decl., Ex. A-7 at ¶¶ 78-80 (peer-to-peer architecture can reduce need for servers and points of failure). These admissions alone establish that EA is liable as a direct infringer because EA “puts into use” the accused systems by controlling the accused systems and derives benefit from its customers’ use of the accused systems. *Centillion Data Sys., LLC v. Qwest Commc’ns Int’l, Inc.*, 631 F.3d 1279, 1284 (Fed. Cir. 2011) (citing *NTP, Inc. v. Research in Motion, Ltd.*, 418 F.3d 1282, 1317 (Fed. Cir. 2005)).

EA argues it cannot directly infringe because it purportedly does not itself make, use or sell the entire network covered by the system claims. There are multiple flaws with that theory. Based on the undisputed facts listed above and *Centillion*, EA is legally deemed to “put into use” the entire system, even if, as EA contends, the processors running EA’s software are owned by EA’s customers. *Id.* at 1286; *see also Grecia v. McDonald’s Corp.*, No. 2017-1672, 2018 WL 1172580, at *3 (Fed. Cir. Mar. 6, 2018) (“a single party can still use, and thus directly infringe under § 271(a), a claimed system even when that system requires multiple parties to function.”).

Moreover, even if EA’s customers are using parts of the system (which is not the case

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