

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY LLC,

Plaintiff,

v.

ELECTRONIC ARTS INC.,

Defendant.

Civil Action No. 1:16-cv-00454-RGA

ORDER

WHEREAS, the Parties have submitted letters and a joint statement regarding suggested changes to the case schedule (D.I. 506, 507, 508);

WHEREAS, on April 27, 2018, the Parties completed briefing on Plaintiff's Motion for Partial Summary Judgment and Motion to Exclude Testimony of Catharine M. Lawton (D.I. 435, 437, 465, 478), Defendant's Motion for Summary Judgment (D.I. 424, 426, 467, 476), and Defendant's *Daubert* Motion to Exclude Expert Opinions of Dr. Nenad Medvidovic, Dr. Michael Mitzenmacher, Dr. Christine Meyer, Dr. Harry Bims, and Dr. Ricardo Valerdi (D.I. 425, 426, 467, 476);

WHEREAS, on August 29, 2018, I issued a Memorandum Opinion (D.I. 499) and Order (D.I. 500) which resolved the motions then pending in a related action, *Acceleration Bay LLC v. Activision Blizzard Inc.*, No. 16-453;

WHEREAS, my resolution of certain *Daubert* motions significantly impacted Plaintiff's damages case in the Activision Blizzard matter;

WHEREAS, trial in the Activision Blizzard matter has been postponed indefinitely pending resolution of the admissibility of Plaintiff's remaining damages case;

WHEREAS, Acceleration Bay's proposed damages expert's opinion is very similar to the opinion I excluded in the Activision Blizzard matter;

WHEREAS, I do not intend to change my position that Plaintiff's expert's opinion based on the *Uniloc USA, Inc. v. EA*, No. 6:13-cv-00259-RWA (E.D. Tex. Dec. 15, 2014), jury verdict is inadmissible;

WHEREAS, I do not believe that issues with Plaintiff's damages case require delaying trial in this matter, but I agree that the pending damages motions should be addressed, if at all, at a later date;

WHEREAS, my initial review of the briefing in this case has revealed that some of the same general summary judgment issues addressed in the Memorandum Opinion are repeated; and

WHEREAS, the Parties are in a better position than the Court to determine if, and to what extent, issues resolved in the Memorandum Opinion bear on the appropriate resolution of the summary judgment motions;


NOW THEREFORE this 26 day of November 2018, IT IS ORDERED that the oral argument scheduled for December 19, 2018 at 10:00 AM is rescheduled to December 20, 2018 at 2:00 PM;

IT IS ORDERED that the December 20, 2018 argument shall be limited to the summary judgment motions;

IT IS ORDERED that the Parties shall submit a joint letter to the Court, no later than December 3, 2018, identifying issues that I resolved in the Memorandum Opinion (D.I. 499) that may bear on the summary judgment motions;

IT IS ORDERED that the Parties' request that I postpone the trial in this matter is DENIED subject to my reconsideration following discussion with the Parties at the December 20, 2018 argument; and

IT IS FURTHER ORDERED that, if Plaintiff intends to offer any damages theories in this case other than the ones it currently has, it needs to meet-and-confer with Defendant and file any necessary motion no later than December 7, 2018.


United States District Judge