

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

**DEFENDANT’S SUPPLEMENTAL OPENING BRIEF
IN SUPPORT OF ITS MOTIONS FOR SUMMARY JUDGMENT**

MORRIS, NICHOLS, ARSHT & TUNNELL LLP
Jack B. Blumenfeld (#1014)
Stephen J. Kraftschik (#5623)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@mnat.com
skraftschik@mnat.com

OF COUNSEL:

David P. Enzlinger
Michael A. Tomasulo
David K. Lin
Joe S. Netikosol
WINSTON & STRAWN LLP
333 South Grand Avenue, 38th Floor
Los Angeles, CA 90071
(213) 615-1700

Attorneys for Defendant

Louis L. Campbell
WINSTON & STRAWN LLP
275 Middlefield Road, Suite 205
Menlo Park, CA 94025
(650) 858-6500

Daniel K. Webb
Kathleen B. Barry
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, IL 60601
(312) 558-5600

Michael M. Murray
WINSTON & STRAWN LLP
200 Park Avenue,
New York, NY 10166
(212) 294-6700

Andrew R. Sommer
Paul N. Harold
Joseph C. Masullo
WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, DC 20006
(202) 282-5000

Original Filing Date: March 8, 2019
Redacted Filing Date: March 28, 2019

TABLE OF CONTENTS

	Page
TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	iii
TABLE OF EXHIBITS AND ABBREVIATIONS	iv
INTRODUCTION	1
ARGUMENT.....	1
I. EA Does Not Make, Use, or Sell the Inventions of the Asserted ’344, ’966, and ’497 Patent Claims.....	1
A. EA Does Not “Use” the Inventions of the Asserted ’344, ’966, or ’497 Patents.....	1
B. EA Does Not “Make” the Inventions of the Asserted ’344, ’966, and ’497 Patent Claims.....	5
1. EA does not “make” the system accused of infringing the ’344, ’966, ’497 claims because it supplies software to its customers.....	5
2. Acceleration’s New Argument on the ’497 Patent Fails Because It Does Not Allege that EA Makes A Component that Practices All Limitations.....	6
II. EA Does Not Infringe the Asserted Method Claims of the ’069 and ’147 Patents.....	10
A. EA Is Only Accused Of Performing Steps Occurring Outside of the United States.....	10
B. The ’069 Patent – Acceleration Alleges That The Blaze Server Performs a Step of the Recited Method.....	10
C. The ’147 Patent – EA Does Not Infringe.	13
1. No “First Computer” Sends A “Disconnect Message” “Including A List Of Neighbors Of The First Computer”.....	13
2. Acceleration Alleges the Foreign Blaze Server Performs a Step of the Recited Method.....	14
III. The Accused Networks Do Not Infringe the “Topology Limitations” (All Patents Except the ’497 Patent).	15
A. The Topology Limitations.....	16
B. The Accused Networks – As Defined By Acceleration.	17
C. The Accused Networks Do Not Meet the Topology Limitations.....	19
D. There Is No Higher Level Network Overlaid on these Client-Server Networks.....	21

1.	The noninfringing client-server network <u>is</u> the network defined by Acceleration regardless of what level it is characterized to be.....	21
2.	The EA client server network is an application layer network that overlays the internet.....	22
3.	Even in Acceleration’s unknown network, the Console Participants do not have connections to at least three neighbor participants.	23
4.	The “not always a participant” argument is unsupported and irrelevant.	24
E.	The Rest of Acceleration’s Arguments Fail.	26
1.	Acceleration’s “Active Connections” theory does not show infringement.....	26
2.	Voice Squelching does not cause infringement.	27
3.	“Mini-games” and “team channels” are not infringing.	27
4.	“Game logics” do not cause infringement.	28
F.	Testing confirms non-infringement.	29
	CONCLUSION.....	29

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Adaptix, Inc. v. Apple, Inc.</i> , 78 F. Supp. 3d 952 (N.D. Cal. 2015).....	10, 14
<i>Centillion Data Sys., LLC v. Qwest Commc'ns Int'l, Inc.</i> , 631 F.3d 1279 (Fed. Cir. 2011).....	2, 5, 6
<i>Ericsson, Inc. v. D-Link Systems, Inc. et al.</i> , 773 F.3d 1201 (Fed. Cir. 2014).....	10, 14
<i>NTP, Inc. v. Research In Motion, Ltd.</i> , 418 F.3d 1282 (Fed. Cir. 2005).....	10, 11, 12, 14
<i>Ricoh Co. v. Quanta Computer Inc.</i> , 550 F.3d 1325 (Fed. Cir. 2008).....	2, 5

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.