

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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ACCELERATION BAY LLC, :
 :
Plaintiff, :
 :
v. : C.A. NO.16-453 (RGA)
 :
ACTIVISION BLIZZARD, INC., :
 :
Defendant. :
 :

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

ACCELERATION BAY LLC, :
 :
Plaintiff, :
 :
v. : C.A. No. 16-455 (RGA)
 :
TAKE-TWO INTERACTIVE SOFTWARE, :
INC., ROCKSTAR GAMES, INC. and :
2K SPORTS, INC., :
 :
Defendants. :

Wilmington, Delaware
August 31, 2017 at 2:00 p.m.
TELECONFERENCE
Ellie Corbett Hannum, Registered Merit Reporter

1 BEFORE: SPECIAL MASTER ALLEN M. TERRELL

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APPEARANCES:

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1 SPECIAL MASTER TERRELL: Do the parties
2 know to whom Ellie should send a bill?

3 MS. BARRY: If you send it to Steve
4 Kraftschik's attention, the parties will work it out.

5 SPECIAL MASTER TERRELL: Thank you.

6 MR. FRANKEL: That's fine.

7 SPECIAL MASTER TERRELL: Thank you. Or
8 you can just send mine at this stage just to my email at
9 allenmterrell@gmail.com.

10 MS. BARRY: I think my partner has joined
11 the call.

12 - - -

13 SPECIAL MASTER TERRELL: Let's start.
14 Thank you all for being available. And this is Allen
15 Terrell, Special Master, in Civil Action No. 16-453, 454
16 and 455. And this is the time to hear Plaintiff's
17 motions filed August 16th to compel and one of
18 Defendants' motions to compel which relates to a
19 framework for expert report.

20 I think I would like to start by just
21 having a roll call. And as you go through the roll call
22 indicate who will be speaking for the parties.

23 Plaintiff, go ahead.

24 MR. CHOA: Good afternoon, Special Master,

1 this is Jonathan Choa from Potter Anderson, with me is
2 Aaron Frankel. He will be arguing the motions on behalf
3 of Acceleration Bay today.

4 SPECIAL MASTER TERRELL: Thank you.

5 MR. ENZMINGER: This is David Enzminger of
6 Winston & Strawn, with me is Michael Tomasulo and
7 Kathleen Barry. Kathleen and I will primarily argue the
8 motions, although Mr. Tomasulo may argue one of them.

9 SPECIAL MASTER TERRELL: Okay.

10 MR. KRAFTSCHIK: This is Stephen
11 Kraftschik from Morris Nichols also on the line.

12 SPECIAL MASTER TERRELL: Very good. I
13 have been through all the papers fairly carefully and
14 what I thought might make more sense is why doesn't the
15 Plaintiff go first, cover all the Plaintiff's motions,
16 and if Mr. Frankel wants he can also address the
17 Defendants' motion with regard to the expert report. I
18 will be taking notes and I know you will too so then
19 after that I will let Defendants speak.

20 Mr. Frankel, do you want to proceed?

21 MR. FRANKEL: Yes. Good afternoon,
22 Special Master. I just want to be clear on one point,
23 though, it's my understanding that one of our motions
24 relating to compelling agreements has been deferred until

1 the hearing on the 6th.

2 SPECIAL MASTER TERRELL: That's the one in
3 connection with Sony; that is correct.

4 MR. FRANKEL: Okay. Thank you.

5 So, Special Master, unless there's an
6 order you prefer I address the motions, I will start with
7 the Activision source code issue.

8 SPECIAL MASTER TERRELL: That will be
9 fine.

10 MR. FRANKEL: And I will just pick up
11 where Defendants' brief left off. We submitted a
12 declaration from Andy Jian, who is doing source code
13 review, that's been un rebutted. There has been no
14 declaration committed by Mr. Marks disputing the account,
15 and Defendants certainly have not been shy to submit
16 declarations to you when they thought it was helpful.

17 So it's undisputed that the individual
18 that Activision tasked to supervise the source code
19 review provided a single set of papers for both Call of
20 Duty games. It's undisputed that Mr. Gian, on the last
21 day of the review, spoke to Mr. Marks, confirmed the
22 total number of pages that were remaining and was given a
23 single number for the two games, not two separate counts
24 for the games. And it's undisputed that the source code

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