

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. :

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

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

**ORDER**

The parties dispute whether Plaintiff can assert different claims than the claims it previously asserted. (*E.g.*, No. 16-453 (D.I. 113 & 115)). The use of “preliminary” in my orders refers to the larger group from which the “final” and smaller group is to be drawn. (*E.g.*, No. 15-

228, D.I. 34, ¶10; No. 16-453, D.I. 62, ¶ 9). “Preliminary” refers to time. It does not mean “subject to change at whim.” As Defendants point out, the goal is to narrow the case into something that could be triable. When one side or the other seeks to replace newly-identified weaklings with more robust claims, that side is going in the wrong direction. Absent good cause, Plaintiff cannot substitute different claims for the ones currently asserted, and Defendants cannot substitute different art for the ones currently asserted.

Neither side’s letter really addresses good cause. I do not see good cause in what Plaintiff states in its letter. I have not, however, given Plaintiff a fair shot at making its argument under what I believe is the appropriate standard. Thus, while Plaintiff is not permitted to substitute on this record, I make this ruling without prejudice to Plaintiff seeking, now or at a later time, to demonstrate good cause.

IT IS SO ORDERED this 13 day of April 2017.

  
United States District Judge