

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

ACCELERATION BAY LLC, a Delaware)	
Limited Liability Corporation,)	
)	
Plaintiff,)	C.A. No.
)	
v.)	DEMAND FOR JURY TRIAL
)	
TAKE-TWO INTERACTIVE SOFTWARE,)	
INC., ROCKSTAR GAMES, INC., and 2K)	
SPORTS, INC., Delaware Corporations,)	
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT

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Plaintiff Acceleration Bay LLC (“Acceleration Bay”) files this Complaint for Patent Infringement and Jury Demand against Defendants Take-Two Interactive Software, Inc. (“Take-Two”), Rockstar Games, Inc. (“Rockstar”), and 2K Sports, Inc. (“2K”) (collectively, “Defendants”) and alleges as follows:

BACKGROUND

1. This Complaint alleges Defendants infringed and continue to infringe the same Acceleration Bay Patents (defined below) at issue in *Acceleration Bay LLC v. Take-Two Interactive Software Inc.*, 1:15-cv-00311-RGA (D. Del.), filed on April 13, 2015. The Acceleration Bay Patents asserted here and in the previous case were assigned by the Boeing Company to Acceleration Bay. On June 3, 2016, the District Court issued an Order in the previous case finding that Acceleration Bay lacked prudential standing. 1:15-cv-00311-RGA, D.I. 145. Subsequent to that Order, Acceleration Bay and the Boeing Company entered into an Amended and Restated Patent Purchase Agreement resolving all of the issues identified by the District Court in its June 3, 2016 Order.

THE PARTIES

2. Acceleration Bay is a Delaware limited liability corporation, with its principal place of business at 370 Bridge Parkway, Redwood City, California 94065.

3. Acceleration Bay is an incubator for next generation businesses, in particular companies that focus on delivering information and content in real-time. Acceleration Bay focuses on investing in and supporting companies that further the dissemination of technological advancements.

4. Acceleration Bay also collaborates with inventors and research institutions to

analyze and identify important technological problems, generate new solutions to these problems, and bring those solutions to market through its partnerships with existing companies and startups.

5. Acceleration Bay is informed and believes that Take-Two is a Delaware corporation with its principal place of business at 622 Broadway in New York, NY 10012.

6. Acceleration Bay is informed and believes that Rockstar is a Delaware corporation with its principal place of business at 622 Broadway in New York, NY 10012.

7. Acceleration Bay is informed and believes that 2K is a Delaware corporation with its principal place of business at 10 Hamilton Landing in Novato, CA 94949.

8. Acceleration Bay is informed and believes that Take-Two wholly owns the multiplayer or multisystem game publishing labels Rockstar and 2K. Acceleration Bay is informed and believes that Take-Two publishes the Grand Theft Auto online multiplayer game series through its wholly owned subsidiary, Rockstar. Acceleration Bay is informed and believes that Take-Two publishes the NBA 2K online multiplayer game series through its wholly owned subsidiary 2K.

9. Acceleration Bay is informed and believes that Take-Two exercises complete control over its wholly owned subsidiaries, Rockstar and 2K, and directs these subsidiaries, as its publishing labels and agents, to make, use, sell, offer for sale, and/or import the Grand Theft Auto and NBA 2K products and services as alleged herein. Acceleration Bay is further informed and believes that Take-Two's direction and control over Rockstar and 2K is evidenced by statements in its public websites and documents such as Take-Two's SEC filings. *See, e.g.*, Take-Two's Fiscal Third Quarter 2015 Report, pp. 1-2 ("We [Take-Two] successfully launched one of the most diverse holiday lineups in the [Take-Two]'s history, led by Grand Theft Auto

V... [and] NBA 2K15...”; *see also* Take-Two’s 2014 Form 10-K, pp. 1, 3-4 (discussing Rockstar and 2K products and services as “internally developed software titles” and stating: “We develop and publish products through our two wholly-owned labels Rockstar Games and 2K... Our business consists of our wholly-owned labels Rockstar Games and 2K.”); *id.* at p. 10 (“We are dependent on the future success of our Grand Theft Auto products and we must continue to publish ‘hit’ titles or sequels...to compete successfully in our industry.”); *id.* at p. 32, 41 (showing game sales published with Rockstar and 2K reported as revenue for Take-Two); <http://www.rockstargames.com/#/?lb=corpinfo> (“The Rockstar logo is a registered trademark of Take-Two Interactive Software, Inc.”); <https://www.2k.com/nba2k15preorder/entercode.html> (“2K, the 2K logo, and Take-Two Interactive Software are all trademarks and/or registered trademarks of Take-Two Interactive Software, Inc.”); <http://phoenix.corporate-ir.net/phoenix.zhtml?c=86428&p=irol-newsArticle&ID=1974730> (2014 Take-Two press-release showing 2K as a publishing label of Take-Two); <http://phoenix.corporate-ir.net/phoenix.zhtml?c=86428&p=irol-newsArticle&ID=1990614> (2014 Take-Two press release showing Rockstar and 2K as wholly owned labels of 2K); <http://ir.take2games.com/phoenix.zhtml?c=86428&p=irol-irhome> (“The Company [Take-Two] develops and publishes products through its two wholly-owned labels Rockstar Games and 2K.”).

10. Acceleration Bay is informed and believes that Defendants make, use, sell, offer for sale, and/or import into the United States and this District products and services that utilize multiplayer or multisystem network technology as claimed in the Acceleration Bay Patents.

11. Acceleration Bay is informed and believes that Take-Two, through its subsidiary Rockstar, makes, uses, sells, offers for sale, and/or imports the Grand Theft Auto online

multiplayer game series (including but not limited to its Open World, Jobs, Social Club, Crews, Heists, Team Death-match, Come Out to Play, Hasta la Vista, and Siege Mentality modes).

12. Acceleration Bay is informed and believes that Take-Two through its subsidiary 2K, makes, uses, sells, offers for sale, and/or imports NBA 2K online multiplayer game series (including but not limited to its Online Leagues, MyPARK, Rec Hall, Stage, and Crew modes).

JURISDICTION AND VENUE

13. This action arises under the Patent Act, 35 U.S.C. § 101 *et seq.* This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331 and 1338.

14. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b).

15. This Court has personal jurisdiction over Defendants. Upon information and belief, Defendants do business in this District and have, and continue to, infringe in this District. On information and belief, Defendants are incorporated in the State of Delaware. In addition, the Court has personal jurisdiction over Defendants because they have established minimum contacts with this forum and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

THE PATENTS-IN-SUIT

16. Acceleration Bay owns U.S. Patent No. 6,701,344; U.S. Patent No. 6,714,966; U.S. Patent No. 6,732,147; U.S. Patent No. 6,829,634; U.S. Patent No. 6,910,069; and U.S. Patent No. 6,920,497 (collectively referred to as the “Acceleration Bay Patents”).

17. On March 2, 2004, U.S. Patent No. 6,701,344 (“the ‘344 Patent”), entitled DISTRIBUTED GAME ENVIRONMENT, was issued to Fred B. Holt and Virgil E. Bourassa. A true and correct copy of the ‘344 Patent is attached to this Complaint as Exhibit 1 and is

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