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September 2, 2016

BY CM/ECF & HAND DELIVERY

The Honorable Richard G. Andrews
U.S. District Court for the District of Delaware
U.S. Courthouse
844 North King Street
Wilmington, DE 19801

Re: *Acceleration Bay LLC v. Activision Blizzard, Inc. et al.*
D. Del., C.A. No. 16-453-RGA, 16-454-RGA, 16-455-RGA

Dear Judge Andrews:

On July 8, 2016, Defendants moved to dismiss, stay or transfer the above-referenced actions in favor of declaratory judgment actions they had initiated in the Northern District of California (D.I. 6 in C.A. No. 16-453-RGA). We write to notify the Court that, yesterday, Judge Richard Seeborg granted Acceleration Bay's motion to transfer those California declaratory judgment actions to the District of Delaware. (A copy of the Court's Order is attached hereto as Ex. A). The Court concluded that, while the above-referenced Delaware actions were filed one day after Defendants' declaratory judgment actions, "[Acceleration Bay's] re-filed complaints functionally amended its original 2015 Delaware pleadings, and in any event, the [California declaratory judgment actions] were filed in anticipation of imminent litigation. It also is appropriate to defer to the Delaware court's superior familiarity with these proceedings. As such these suits will be transferred back to 'The First State' where they belong." Order, at 2.

In light of Judge Seeborg's Order, we have requested that Defendants withdraw their motion to dismiss, stay or transfer as well as their motion for attorney fees (D.I. 157 in C.A. No. 15-228-RGA). Absent their agreement, Acceleration Bay respectfully requests that their motions be denied and that the Court hold a scheduling conference as soon as practicable so that the above-referenced actions may be put back on track for trial.

Respectfully,

/s/ Philip A. Rovner

Philip A. Rovner (#3215)

The Honorable Richard G. Andrews

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cc: All Counsel of Record (Via ECF Filing, Electronic Mail)

Attachments