

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 16-453 (RGA)
	)	
ACTIVISION BLIZZARD, INC.	)	REDACTED -
	)	PUBLIC VERSION
Defendant.	)	

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

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

**DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR  
MOTION TO DISMISS FOR LACK OF STANDING**

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[REDACTED] renders any injury to Acceleration Bay illusory and so deprives it of constitutional standing. Acceleration Bay is incorrect both factually and legally [REDACTED]

[REDACTED] are barred under 35 U.S.C. § 286. All claims related to games [REDACTED], therefore, should be dismissed.

Moreover, Acceleration Bay's procedural arguments regarding the propriety of Defendants' Motion to Dismiss under Rule 12(g) (D.I. 27 at 2 n.3)<sup>1</sup> have been addressed in Defendants' October 13, 2016 letter to the Court. (D.I. 26). As explained in that letter, Defendants' Motion to Dismiss for Lack of Standing is procedurally proper, particularly given "[t]he requirement that jurisdiction be established as a threshold matter." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94–95 (1998). Additionally, Rule 12(h)(3) provides that "[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action."

**I. THERE IS NO RESTRICTION** [REDACTED]

[REDACTED] and Acceleration Bay's assertions to the contrary are both factually and legally wrong. First, Acceleration Bay does not and cannot point to any language [REDACTED]

<sup>1</sup> All citations to docket entries refer to C.A. No. 16-453 unless otherwise stated.

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