

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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.)	

**REPLY BRIEF IN SUPPORT OF DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT OF NON-INFRINGEMENT**

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I. Acceleration concedes its make, sell, or offer to sell arguments for the '344, '966, and '497 patents are the same as those the Court rejected in *Activision* and *EA*..... 1

II. Take-Two does not “use” the “computer network,” “broadcast channel,” or “component” of the '344, '966, and '497 patent claims through testing. 1

 A. Exhibits 12, 13, and 17 are inadmissible hearsay. 3

 B. Acceleration has no evidence any of the accused game modes were tested in the damages period at all, let alone on an accused platform..... 4

 C. Acceleration has no evidence that any testing infringed the asserted patents..... 6

III. GTA0 does not infringe the '344, '966, '147 and '069 patents because it does not meet the topology limitations. 8

IV. NBA 2K does not infringe the '344, '966, '147 and '069 patents because Acceleration admits that not all participants have the same number of connections. 14

 A. Single-player and single-court modes do not infringe. 14

 B. Multi-court modes do not infringe. 14

V. GTA0 & NBA 2K: No infringement by equivalents of '344, '966, '147, and '069..... 16

 A. '344, '966, and '147: The DOE allegations are barred. 16

 B. Acceleration’s expert presents no doctrine of equivalents argument for the m-regular limitations of the '069 patent. 17

VI. GTA0 & NBA 2K: The method claims are not infringed ('147/1 and '069/1). 19

 A. GTA0: No evidence the claimed methods have ever been performed..... 19

 B. Acceleration has failed to show infringement of the '069 patent (all games)..... 20

 C. Acceleration has failed to show infringement of the '147 patent, either literally or by equivalents (all games). 22

VII. Acceleration failed to proffer evidence to show infringement of the '497 patent. 23

 A. Acceleration has no relevant or admissible evidence regarding NBA 2K..... 23

 B. GTA0 does not infringe for the same reasons. 25

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