

**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.)	
)	
Defendant.)	
)	
ACCELERATION BAY LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 16-454 (RGA)
)	
ELECTRONIC ARTS INC.,)	
)	
Defendant.)	
)	
ACCELERATION BAY LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 16-455 (RGA)
)	
TAKE-TWO INTERACTIVE)	
SOFTWARE, INC., ROCKSTAR)	
GAMES, INC. and 2K SPORTS, INC.,)	
)	
)	
Defendant.)	

RULE 16 SCHEDULING ORDER

The Court having conducted an initial Rule 16(b) scheduling conference pursuant to Local Rule 16.1(b) on February 17, 2017 and the parties having further met and conferred and having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation, or binding arbitration;

IT IS ORDERED that:

1. Initial Disclosures & Discovery.

a. Rule 26(a)(1) Initial Disclosures. The initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) served in the 2015 Cases¹ shall be deemed served in these cases. The obligation to supplement those disclosures is unchanged.

b. Disclosures made in the 2015 Cases according to Rules 3 and 4 of the Delaware Default Standard shall be deemed made in these cases.

c. Plaintiff shall not be entitled to seek damages for alleged infringement prior to the dates the Complaints were served in the 2015 Cases, namely: For Activision: March 12, 2015; For Electronic Arts: March 31, 2015, and for Take-Two, *et al.*: April 14, 2015. (*Acceleration Bay, LLC v. Activision/Blizzard, Inc., Electronic Arts Inc., and Take-Two Interactive Software, Inc., et al.*, C.A. Nos. 15-228, 15-282, and 15-311, 1/10/17 Transcript 21:22-23:19).

2. Joinder of Other Parties and Amendment of Pleadings.

All motions to join other parties, and to amend or supplement the pleadings, shall be filed on or before April 21, 2017.

3. Discovery.

The Parties request that the Court appoint Allan Terrell as Special Master in these Actions and deem the Orders appointing Special Master Terrell in the 2015 Cases filed in these actions. All Orders issued by the Special Master are deemed issued in these Actions.

¹ The “2015 Cases” are *Acceleration Bay, LLC v. Activision/Blizzard, Inc., Electronic Arts Inc., and Take-Two Interactive Software, Inc., et al.*, C.A. Nos. 15-228, 15-282, and 15-311.

a. Discovery Cut Off.

- All fact discovery in these cases shall be initiated so that it will be completed on or before July 31, 2017.
- All expert discovery in this case shall be initiated so that it will be completed on or before January 10

b. Document Production.

- All document requests served in the 2015 Cases and all responses and documents including source code produced thereto shall be deemed served in the corresponding current actions designated under the Protective Order in these Cases in the same manner they were previously designated in the 2015 Cases.
- All pleadings, hearing transcripts and deposition transcripts from the 2015 Cases shall be deemed produced in the corresponding current action designated under the Protective Order in these Cases in the same manner they were previously designated in the 2015 Cases.
- All pleadings, hearing transcripts and deposition transcripts from the IPR Proceedings regarding the Patents in Suit filed to date shall be deemed produced in these cases designated under the Protective Order in these Cases in the same manner they were previously designated in the IPR Proceedings.
- Third Party Discovery: All documents produced by the following Third Parties in the 2015 Cases shall be deemed produced in these cases: Virgil Bourassa, Fred Holt and The Boeing Company.
- Document production shall be substantially complete by: May 15, 2017.

c. Requests for Admission.

A maximum of 35 requests for admission are permitted for each side in each of the three cases. Any requests and responses to those requests served in the 2015 Actions shall be deemed served in these Actions and shall count against the total. Requests for admission regarding the authenticity of a document do not count against this total.

d. Interrogatories.

Plaintiff may serve 15 common² interrogatories and 10 additional interrogatories to each Defendant Group. Defendants may serve 15 common interrogatories and 10 additional interrogatories per Defendant Group. Any interrogatory requests and responses to those requests served in the 2015 Actions shall be deemed served in these Actions and shall count against the total.

e. Depositions.

i. Limitation on Hours for Deposition Discovery.

The total number of depositions and time limits will be subject to the Federal Rules of Civil Procedure, and 30(b)(6) depositions will be considered independent of personal depositions for purposes of the time limits. Defendants may depose each named inventor for a maximum of 14 hours per inventor, not to exceed 7 hours of deposition time per day. The 14 hours of deposition for each inventor shall not exceed two days.

Joining in a deposition does not count against the 10 deposition limit set forth in Federal Rule of Civil Procedure 30. Thus, if one Defendant Group notices a deposition, other Defendant Groups may join in the deposition without having the deposition count against the limit in their

² For the purposes of this order "common" discovery requests mean that the Plaintiff propounds the same request to all Defendant Groups, who answer the request individually, and that Defendants propound one request to the Plaintiff who answers the request to all Defendants.

case. Similarly, if Plaintiff takes a deposition in one case that is relevant to other cases (e.g., on alleged prior art), it may use that deposition in the other cases without it counting against the deposition limits in those other cases.

The foregoing limitations do not apply to depositions of experts, which are addressed below in Section 10a.

Upon service of a notice of deposition, within two weeks the receiving party must provide dates that the witness(es) are available for deposition.

The parties may request additional hours from the Court for good cause.

ii. Location of Depositions. Unless otherwise agreed to by the parties, depositions shall take place within fifty (50) miles of the place of employment of the deponent.

f. Discovery Matters and Disputes Relating to Protective Orders.

If a discovery-related motion is filed without leave of the Court, it will be denied without prejudice to the moving party's right to bring the dispute to the Court through the discovery matters procedures set forth in this Order.

g. Application to Court for Protective Order.

The Parties have requested entry of an agreed upon order. The Parties have agreed that all materials, including documents, source code, correspondence, discovery responses and pleadings from the 2015 Cases that are deemed produced or served in these Cases shall be deemed designated under the Protective Order in these Cases in the same manner they were previously designated in the 2015 Cases.

4. Papers Filed Under Seal. When filing papers under seal, counsel shall deliver to the Clerk an original and one copy of the papers. A redacted version of any sealed document shall be filed electronically within seven days of the filing of the sealed document.

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