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ACTIVISION | BLIZZARD, INC.  
18

19 **UNITED STATES DISTRICT COURT**  
20 **NORTHERN DISTRICT OF CALIFORNIA**  
21 **SAN JOSE DIVISION**

22 ACTIVISION | BLIZZARD, INC., a Delaware  
23 Corporation,

24 Plaintiff,

25 v.

26 ACCELERATION BAY LLC, a Delaware  
27 Limited Liability Corporation,

28 Defendant.

**Case No.**

**COMPLAINT FOR DECLARATORY  
JUDGMENT OF NON-INFRINGEMENT OF  
U.S. PATENT NOS. 6,701,344, 6,829,634,  
6,732,147, 6,714,966, 6,920,497, AND 6,910,069**

**JURY TRIAL DEMANDED**

1 Plaintiff Activision | Blizzard, Inc. (“Activision” or “Plaintiff”) by and through its attorneys,  
2 allege against Defendant Acceleration Bay, LLC (“Acceleration” or “Defendant”) as follows:

3 **NATURE OF THE ACTION**

4 1. This is an action brought pursuant to the Declaratory Judgment Act, 28 U.S.C. §  
5 2201, for a declaratory judgment of non-infringement of patents that Acceleration has asserted  
6 against Plaintiff in district court proceedings before the United States District Court for the District  
7 of Delaware.

8 2. Plaintiff seeks a declaratory judgment that the “Accused Products” (as defined below)  
9 do not infringe any of the following patents: United States Patent Nos. 6,701,344 (“the ’344 patent”)  
10 (attached as Exhibit A), 6,829,634 (“the ’634 patent”) (attached as Exhibit B), 6,732,147 (“the ’147  
11 patent”) (attached as Exhibit C), 6,714,966 (“the ’966 patent”) (attached as Exhibit D), 6,920,497  
12 (“the ’497 patent”) (attached as Exhibit E), and 6,910,069 (“the ’069 patent”) (attached as Exhibit F)  
13 (collectively, “the Asserted Patents”) under the Patent Laws of the United States, 35 U.S.C. §§ 101,  
14 *et seq.*

15 **THE PARTIES**

16 3. Plaintiff Activision is a Delaware corporation with a principal place of business at  
17 3100 Ocean Park Boulevard, Santa Monica, California 90405.

18 4. Upon information and belief, Defendant Acceleration is a Delaware limited liability  
19 corporation with its principal place of business at 370 Bridge Parkway, Redwood City, California  
20 94065.

21 **JURISDICTION**

22 5. This is an action under the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201  
23 and 2202, against Defendant for a declaration that pursuant to the patent laws of the United States,  
24 35 U.S.C. §§ 1 *et seq.*, the disputed claims of U.S. Patent Nos. 6,701,344, 6,829,634, 6,732,147,  
25 6,714,966, 6,920,497, and 6,910,069 are not infringed by Plaintiff. Jurisdiction as to these claims is  
26 conferred on this Court by 28 U.S.C. §§ 1331 and 1338(a).

27 6. This Court has personal jurisdiction over Defendant Acceleration. Upon information  
28 and belief, Acceleration’s principal place of business is located within this District. In addition, the

1 Court has personal jurisdiction over Acceleration because it has established minimum contacts with  
 2 the forum and the exercise of jurisdiction would not offend traditional notions of fair play and  
 3 substantial justice.

4 7. Venue is proper in this jurisdiction under 28 U.S.C. §§ 1391 and 1400(b).

5 8. An actual controversy exists between Defendant and Plaintiff as to whether Plaintiff  
 6 infringes the Asserted Patents.

7 9. On March 12, 2015, Acceleration filed a complaint (the “Activision Complaint”) with  
 8 the District Court of the District of Delaware under 35 U.S.C. § 101 *et seq.* alleging that Activision  
 9 infringes the Asserted Patents through the manufacture, use, sale, importation and/or offer for sale of  
 10 its software products and services, including *World of Warcraft*, *Destiny*, and *Call of Duty:*  
 11 *Advanced Warfare* (the “Delaware action”; all products accused in the Delaware action are referred  
 12 to in this Complaint as the “Accused Products”). The Activision Complaint further alleged that  
 13 Activision contributes to and induces infringement of the Asserted Patents by others. A true and  
 14 correct copy of the Activision Complaint is attached hereto as Exhibit G.

15 10. In the Delaware action, Defendant elected the following claims to assert against  
 16 Plaintiff:

Asserted Patent	Asserted Claims
6,701,344	1, 6-8, 10, 13-15, and 18
6,714,966	1, 7, 9, 12, and 13
6,829,634	1, 4, 5, 19, and 22
6,732,147	1, 11, 14, 15, and 16
6,910,069	1, 11, 12, and 13
6,920,497	1, 8, 9, and 16

24 11. Plaintiff Activision denies that any of its activities or products infringe any claim of  
 25 the Asserted Patents purportedly owned by Defendant.

26 12. Defendant Acceleration alleged that it owned the Asserted Patents, purportedly  
 27 having acquired them from the Boeing Company. However, on Plaintiff’s motion, the District Court  
 28 of the District of Delaware found that Defendant Acceleration was a licensee and that the Boeing

1 Company had failed to transfer all substantial rights in the Asserted Patents to Defendant  
2 Acceleration prior to the filing of the Activision Complaint. The District Court ordered that the  
3 Delaware Action be dismissed for lack of subject matter jurisdiction unless Boeing joins that action.  
4 A copy of the District Court's June 3, 2016 order is attached as Exhibit H.

5 13. Boeing has not joined the Delaware Action, and on information and belief, does not  
6 intend to do so. Therefore, the Delaware Action should be dismissed according to the Court's June  
7 3, 2016 Order.

8 14. On June 15, 2016, Defendant Acceleration represented to the Patent Trial and Appeal  
9 Board of the United States Patent and Trademark Office that "Acceleration Bay and the Boeing  
10 Company entered into an Amended and Restated Patent Purchase Agreement resolving all of the  
11 issues identified by the District Court in its June 3, 2016 Order." Based on, *inter alia*, its prior  
12 allegations of infringement and this representation, Plaintiff has a reasonable apprehension that  
13 Defendant may again commence litigation against it on the Asserted Patents.

14 15. There is an immediate, real, and substantial justiciable controversy between Plaintiff  
15 and Defendant as to its purported right to threaten or maintain suit for infringement of the Asserted  
16 Patents, and as to the scope and enforceability thereof, and as to whether Plaintiff infringes any  
17 enforceable claims of the Asserted Patents. This controversy is of such immediacy and reality as to  
18 warrant declaratory relief so that the parties may ascertain their rights and duties with respect to the  
19 Asserted Patents. Therefore, without waiver of any rights, including the right to challenge prudential  
20 standing, Plaintiff brings this declaratory judgment action seeking a declaration that the Accused  
21 Products do not infringe any of the Asserted Patents.

22 **CAUSES OF ACTION**

23 **FIRST CAUSE OF ACTION**

24 (Declaratory Judgment of Non-Infringement of the '344 Patent)

25 16. Plaintiff incorporates herein by reference and realleges all preceding Paragraphs as  
26 though fully set forth herein.

27 17. Defendant Acceleration has alleged and continues to assert that Plaintiff and its  
28 products and services infringe the '344 patent.

1 18. The asserted independent claims of the '344 patent read as follows (claim element  
2 enumeration added for convenience):

3	<b>Claim 1</b>
4	<b>1-a.</b> A computer network for providing a game environment for a plurality of participants,
5	<b>1-b.</b> each participant having connections to at least three neighbor participants,
6	<b>1-c.</b> wherein an originating participant sends data to the other participants by sending the data through each of its connections to its neighbor participants and
7	<b>1-d.</b> wherein each participant sends data that it receives from a neighbor participant to its other neighbor participants,
8	<b>1-e.</b> further wherein the network is m-regular, where m is the exact number of neighbor participants of each participant and
9	<b>1-f.</b> further wherein the number of participants is at least two greater than m thus resulting in a non-complete graph.
10	<b>Claim 13</b>
11	<b>13-a.</b> A distributed game system comprising:
12	<b>13-b.</b> a plurality of broadcast channels, each broadcast channel for playing a game,
13	<b>13-c.</b> each of the broadcast channels for providing game information related to said game to a plurality of participants,
14	<b>13-d.</b> each participant having connections to at least three neighbor participants,
15	<b>13-e.</b> wherein an originating participant sends data to the other participants by sending the data through each of its connections to its neighbor participants and
16	<b>13-f.</b> wherein each participant sends data that it receives from a neighbor participant to its neighbor participants,
17	<b>13-g.</b> further wherein the network is m-regular, where m is the exact number of neighbor participants of each participant and
18	<b>13-h.</b> further wherein the number of participants is at least two greater than m thus resulting in a non-complete graph;
19	<b>13-i.</b> means for identifying a broadcast channel for a game of interest;
20	<b>13-j.</b> and means for connecting to the identified broadcast channel.
21	<b>Claim 18</b>
22	<b>18-a.</b> A computer network for providing a game environment for a plurality of participants,
23	<b>18-b.</b> each participant having connections to at least three neighbor participants,
24	<b>18-c.</b> wherein an originating participant sends data to the other participants by sending the data through each of its connections to its neighbor participants and
25	<b>18-d.</b> wherein each participant sends data that it receives from a neighbor participant to its other neighbor participants,
26	<b>18-e.</b> further wherein the network is m-regular and the network forms an incomplete graph.

22 19. Plaintiff does not infringe any of the asserted claims, at least because, by way of non-  
23 limiting example, the Accused Products do not meet the following claim limitations: claim 1,  
24 elements 1-b, 1-c, 1-d, 1-e, 1-f; claim 13, elements 13-d, 13-e, 13-f, 13-g, 13-h, 13-i, 13-j; and claim  
25 18, elements 18-b, 18-c, 18-d, 18-e.

26 20. Plaintiff's activities, products, and services have not and do not directly infringe, do  
27 not induce infringement, and do not contributorily infringe any enforceable claims of the '344  
28 patent.

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