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10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 ACTIVISION BLIZZARD, INC.,

15 Plaintiffs,

16 v.

17 ACCELERATION BAY LLC,

18 Defendant.

Case No.: 3:16-cv-03375-RS

**DEFENDANT ACCELERATION BAY
LLC'S MOTION TO DISMISS OR
TRANSFER ACTIVISION BLIZZARD,
INC.'S COMPLAINT UNDER THE FIRST-
TO-FILE RULE, FED. R. CIV. P. 12(b)(3)
AND 28 U.S.C. § 1404**

Date: September 1, 2016
Time: 1:30 p.m.
Courtroom: 3, 17th Floor
Before: Honorable Richard Seeborg

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1 **NOTICE OF MOTION AND MOTION**

2 TO ALL PARTIES AND THEIR ATTORNES OF RECORD:

3 PLEASE TAKE NOTICE THAT on September 1, 2016, at 1:30 p.m., or as soon thereafter as
4 this matter may be heard by the Honorable Richard Seeborg in Courtroom 3, 17th Floor, of the above-
5 entitled Court, located at 280 South 1st Street in San Jose, California 95113, Defendant Acceleration
6 Bay LLC (“Acceleration Bay”) will, and hereby does, move the Court to dismiss pursuant to Fed. R.
7 Civ. P. 12(b)(3) the Complaint for Declaratory Judgment of Non-Infringement of Activision Blizzard,
8 Inc. (“Activision”). In the alternative, Acceleration Bay moves under 28 U.S.C. §1404 to transfer this
9 action to the District of Delaware, where the claims at issue were first filed by Acceleration Bay over
10 a year ago.

11 This motion is based on this Notice of Motion and Motion, the accompanying memorandum of
12 points and authorities, the concurrently filed Declaration of Lisa Kobialka, and all other papers and
13 arguments submitted in connection with this matter and any matters of which the Court may take
14 judicial notice.

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