

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ACCELERATION BAY LLC,)
)
Plaintiff,)
) C.A. No. 15-228 (RGA)
v.)
) **PUBLIC VERSION**
ACTIVISION BLIZZARD, INC.)
)
Defendant.)

ACCELERATION BAY LLC,)
)
Plaintiff,)
) C.A. No. 15-282 (RGA)
v.)
)
ELECTRONIC ARTS INC.,)
)
Defendant.)

ACCELERATION BAY LLC,)
)
Plaintiff,)
) C.A. No. 15-311 (RGA)
v.)
)
TAKE-TWO INTERACTIVE SOFTWARE,)
INC., ROCKSTAR GAMES, INC. and)
2K SPORTS, INC.,)
)
Defendants.)

**LETTER TO THE HONORABLE RICHARD G. ANDREWS
FROM PHILIP A. ROVNER, ESQ.**

BUNGIE - EXHIBIT 1046



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June 17, 2016

BY CM/ECF & HAND DELIVERY

The Honorable Richard G. Andrews
U.S. District Court for the District of Delaware
U.S. Courthouse
844 North King Street
Wilmington, DE 19801

PUBLIC VERSION
June 24, 2016

Re: *Acceleration Bay LLC v. Activision Blizzard, Inc. et al.*
D. Del., C.A. No. 15-228-RGA, 15-282-RGA, 15-311-RGA

Dear Judge Andrews:

Further to the Court's June 3, 2016 Order in the above-referenced actions (e.g. C.A. No. 15-282-RGA, D.I. 149), I write to inform the Court that Boeing will not be joining these cases. Instead, Boeing and Plaintiff Acceleration Bay entered into the attached Amended and Restated Patent Purchase Agreement and Patent License Agreement, which confirm that Acceleration Bay has standing to pursue its claims against the Defendants without Boeing. *See* Exhibits A and B. In view of the foregoing, Acceleration Bay respectfully requests that the above-referenced actions be dismissed without prejudice. *See Univ. of Pittsburgh v. Varian Med. Sys., Inc.*, 569 F.3d 1328, 1332 (Fed. Cir. 2009) (reversing dismissal with prejudice of patent action for lack of standing: "The district court should have dismissed the action without prejudice, which would allow Pitt to file a second action with the standing defect cured through the joinder of the proper parties or an assignment of the necessary patent rights."). A proposed order is attached hereto. Acceleration Bay will now refile complaints against the Defendants. The new complaints do not add any additional patents and do not change the currently accused products. Acceleration Bay, therefore, respectfully requests that the Court reserve the current trial dates, as only minor adjustments to the schedule will be necessary in view of the resolution of this standing issue within two weeks of the Court's Order.

Yesterday, before the deadline for Acceleration Bay to cure prudential standing or dismissal of the above-referenced actions, Defendants filed declaratory judgment actions against Acceleration Bay in the District Court for the Northern District of California. 5:16-cv-03375, 5:16-cv-03377 and 5:16-cv-03378. Defendants only named Acceleration Bay as a party to those actions, confirming that, in view of the amended agreement with Boeing, Acceleration Bay has standing to proceed against Defendants.

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Respectfully,

/s/ Philip A. Rovner

Philip A. Rovner (#3215)

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cc: All Counsel of Record (Via ECF Filing, Electronic Mail)
Attachments