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## **I. Introduction**

Plaintiff Worlds, Inc. (“Worlds” or “Plaintiff”) asserts that Defendants Activision Blizzard, Inc.; Blizzard Entertainment, Inc.; and Activision Publishing, Inc. (collectively, “Defendants”) infringe certain claims of U.S. Patent Nos. 7,181,690 (the “’690 Patent”); 7,493,558 (the “’558 Patent”); 7,945,856 (the “’856 Patent”); 8,082,501 (the “’501 Patent”); and 8,145,998 (the “’998 Patent”) (collectively, the “Worlds Patents”).<sup>1</sup>

Defendants make, use, sell, and offer for sale several infringing video games in the highly successful *Call of Duty* and *World of Warcraft* franchises. In making their proposed claim constructions, Defendants attempt to avoid liability for their infringement by proposing constructions unsupported by the intrinsic evidence. Defendants have also proposed to improperly import limitations from the specification of the Worlds Patents into the asserted claims. As explained below, the Court should adopt Worlds’ proposed claim constructions and reject Defendants’.

## **II. Legal Principles of Claim Construction**

A determination of patent infringement involves two steps. First, the patent claims are construed. Second, the claims are compared to the allegedly infringing device. *Cybor Corp. v. FAS Techs., Inc.*, 138 F.3d 1448, 1455 (Fed. Cir. 1998) (en banc). Claim construction is a legal question for the courts. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (en banc), *aff’d*, 517 U.S. 370 (1996). The Federal Circuit reexamined the legal principles of claim construction in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc), where it expressly reaffirmed the principles of claim construction set forth in *Markman*, *Vitronics Corp.*

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<sup>1</sup> For the Court’s reference, the Worlds Patents are attached as Exhibits B through F. However, for the sake of clarity, in the body of this document the patents are cited according to their patent number rather than to their exhibit number.

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