

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ACCELERATION BAY LLC, a Delaware)
Limited Liability Corporation,)

Plaintiff,)

v.)

ACTIVISION BLIZZARD, INC.,)
a Delaware Corporation,)

Defendant.)

C.A. No. 15-228-RGA

DEMAND FOR JURY TRIAL

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Acceleration Bay LLC (“Acceleration Bay”) files this Amended Complaint for Patent Infringement and Jury Demand against Defendant Activision Blizzard, Inc. (“Defendant” or “Activision Blizzard”) and alleges as follows:

THE PARTIES

1. Acceleration Bay is a Delaware limited liability corporation, with its principal place of business at 370 Bridge Parkway, Redwood City, California 94065.

2. Acceleration Bay is an incubator for next generation businesses, in particular companies that focus on delivering information and content in real-time. Acceleration Bay invests in and supports companies that further the dissemination of technological advancements.

3. Acceleration Bay also collaborates with inventors and research institutions to analyze and identify important technological problems, generate new solutions to these problems, and bring those solutions to market through its partnerships with existing companies and startups.

4. On information and belief, Activision Blizzard is a Delaware corporation with its principal place of business at 3100 Ocean Park Boulevard, Santa Monica, California 90405.

5. Acceleration Bay is informed and believes that Activision Blizzard makes, uses, sells, offers for sale, and/or imports into the United States and this District products and services that utilize multiplayer or multisystem network technology as claimed in the Acceleration Bay Patents (defined below), including but not limited to, World of Warcraft (“WoW”) (including, but not limited to WoW Chat, Chat Channels, WoW Client Downloader, Raid Finder/Looking For A Raid, Cross Realm Zones, Cross Realm Raids, Battle Grounds, Looking for Adventure, and Recruiting for Danger functionalities within WoW), Destiny (including, but not limited to

multiplayer modes Crucible and Strike), and Call of Duty: Advanced Warfare (including, but not limited to multiplayer modes Team Deathmatch, Domination, Search and Destroy, Search and Rescue, Hardpoint, Capture the Flag, Kill Confirmed, Free for All, Infected, Uplink, and Momentum).

JURISDICTION AND VENUE

6. This action arises under the Patent Act, 35 U.S.C. § 101 *et seq.* This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331 and 1338.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b).

8. This Court has personal jurisdiction over Defendant. Upon information and belief, Defendant does business in this District and has, and continues to, infringe and/or induce the infringement in this District. On information and belief, Defendant is incorporated in the State of Delaware. In addition, the Court has personal jurisdiction over Defendant because it has established minimum contacts with the forum and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

THE PATENTS-IN-SUIT

9. This case involves six patents owned by Acceleration Bay: U.S. Patent No. 6,701,344; U.S. Patent No. 6,714,966; U.S. Patent No. 6,732,147; U.S. Patent No. 6,829,634; U.S. Patent No. 6,910,069; and U.S. Patent No. 6,920,497 (collectively referred to as the “Acceleration Bay Patents”).

10. On March 2, 2004, U.S. Patent No. 6,701,344 (“the ‘344 Patent”), entitled DISTRIBUTED GAME ENVIRONMENT, was issued to Fred B. Holt and Virgil E. Bourassa. A true and correct copy of the ‘344 Patent is attached to this Complaint as Exhibit 1 and is

incorporated by reference herein.

11. All rights, title, and interest in the '344 Patent have been assigned to Acceleration Bay, which is the sole owner of the '344 Patent.

12. The '344 Patent is generally directed towards systems for an effective broadcast technique in a game environment using a regular network. By implementing such a broadcast technique, the system is able to provide a broadcast channel using an underlying network system that sends messages on a point to point basis, providing efficiency and reliability to a gaming environment.

13. On March 30, 2004, U.S. Patent No. 6,714,966 ("the '966 Patent"), entitled INFORMATION DELIVERY SERVICE, was issued to Fred B. Holt and Virgil E. Bourassa. A true and correct copy of the '966 Patent is attached to this Complaint as Exhibit 2 and is incorporated by reference herein.

14. All rights, title, and interest in the '966 Patent have been assigned to Acceleration Bay, who is the sole owner of the '966 Patent.

15. The '966 Patent is generally directed towards systems for providing an information delivery service using a regular network. One of the ways this is accomplished is by sending data through neighbor participants.

16. On May 4, 2004, U.S. Patent No. 6,732,147 ("the '147 Patent"), entitled LEAVING A BROADCAST CHANNEL, was issued to Fred B. Holt and Virgil E. Bourassa. A true and correct copy of the '147 Patent is attached to this Complaint as Exhibit 3 and is incorporated by reference herein.

17. All rights, title, and interest in the '147 Patent have been assigned to Acceleration Bay, who is the sole owner of the '147 Patent.

18. The '147 Patent is generally directed towards methods and systems for leaving a broadcast channel. One of the ways this is accomplished is by sending messages to a second computer, so that the second computer can connect to a third computer to maintain a regular network.

19. On December 7, 2004, U.S. Patent No. 6,829,634 ("the '634 Patent"), entitled BROADCASTING NETWORK, was issued to Fred B. Holt and Virgil E. Bourassa. A true and correct copy of the '634 Patent is attached to this Complaint as Exhibit 4 and is incorporated by reference herein.

20. All rights, title, and interest in the '634 Patent have been assigned to Acceleration Bay, who is the sole owner of the '634 Patent.

21. The '634 Patent is generally directed towards systems for broadcasting data across a regular network. One of the ways this is accomplished is by sending data received from neighbor participants to other neighbor participants. This creates reliability in the regular network.

22. On June 21, 2005, U.S. Patent No. 6,910,069 ("the '069 Patent"), entitled JOINING A BROADCAST CHANNEL, was issued to Fred B. Holt and Virgil E. Bourassa. A true and correct copy of the '069 Patent is attached to this Complaint as Exhibit 5 and is incorporated by reference herein.

23. All rights, title, and interest in the '069 Patent have been assigned to Acceleration Bay, who is the sole owner of the '069 Patent.

24. The '069 Patent is generally directed towards methods for adding a participant to a network without placing a high overhead on the underlying network. One of the ways this is accomplished is by identifying a pair of participants that are connected to the network,

disconnecting the identified pair from each other, and then connecting a seeking participant to the identified pair.

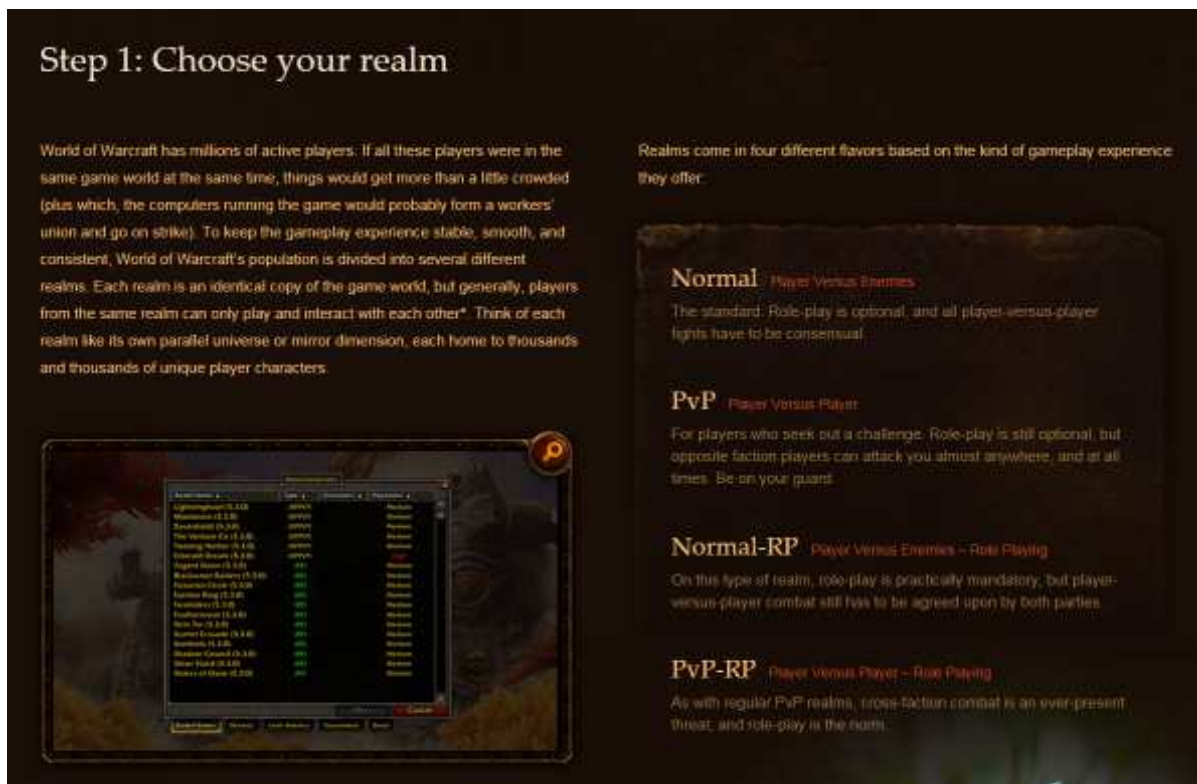
25. On July 19, 2005, U.S. Patent No. 6,920,497 (“the ‘497 Patent”), entitled CONTACTING A BROADCAST CHANNEL, was issued to Fred B. Holt and Virgil E. Bourassa. A true and correct copy of the ‘497 Patent is attached to this Complaint as Exhibit 6 and is incorporated by reference herein.

26. All rights, title, and interest in the ‘497 Patent have been assigned to Acceleration Bay, who is the sole owner of the ‘497 Patent.

27. The ‘497 Patent is generally directed towards methods and systems for contacting a broadcast channel. One of the ways this is accomplished is by the seeking computer using a selected call-in port to request that the portal computer coordinate the connection of the seeking computer.

THE ACCUSED PRODUCTS

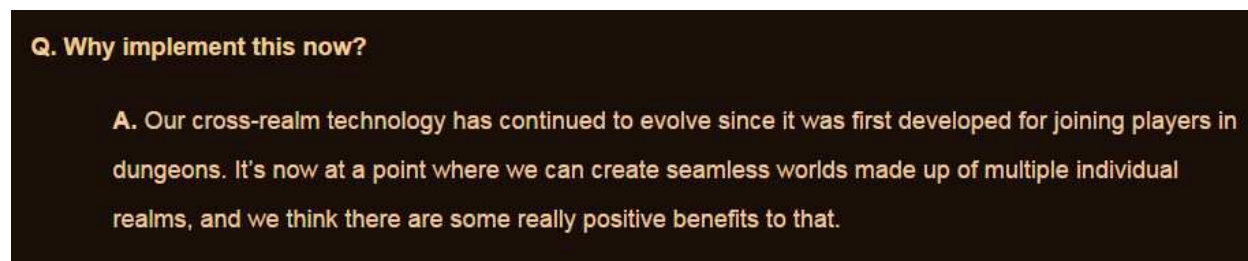
28. **WoW**: Acceleration Bay is informed and believes that WoW products and services utilize the network technology claimed in the Acceleration Bay Patents to offer a multiplayer or multisystem gaming environment to its players. Acceleration Bay is informed and believes that these players operate within WoW’s gaming environment as individual members of one of over 240 different realm servers. Acceleration Bay is informed and believes that these 240+ realms, and virtual instances of the realms, operate on multiple computing servers that communicate with each other. *See, e.g.:*



<http://us.battle.net/wow/en/game/guide/getting-started>.

29. Acceleration Bay is informed and believes that WoW products and services utilize the network technology claimed in the Acceleration Bay Patents to perform many functionalities within its gaming environment.

30. These products and services include, but are not limited to, WoW's Cross-Realm technology, which allows individual players from multiple different realms to interact and communicate with each other inside WoW's gaming environment:



<http://us.battle.net/wow/en/blog/10551009>.

31. Cross-Realm technology is used in and includes, but is not limited to, the following WoW functionalities:

WoW's Cross-Realm Raids functionality:



<http://us.battle.net/wow/en/blog/4270420>;

WoW's Raid Finder / Looking for Raid functionality:



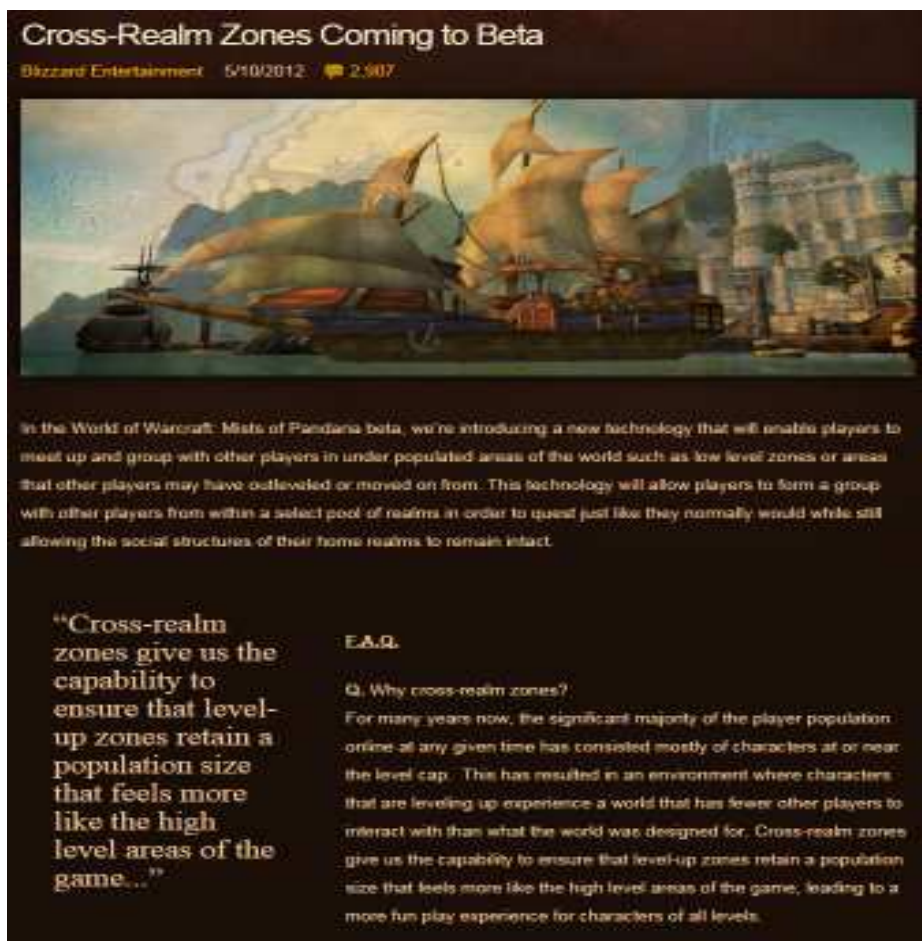
<http://us.battle.net/wow/en/blog/3608426>;

WoW's Cross-Realm Battle Grounds functionality:



<http://us.battle.net/wow/en/game/guide/late-game;>

WoW's Cross-Realm Zones functionality:




[http://us.battle.net/wow/en/blog/5393667/;](http://us.battle.net/wow/en/blog/5393667/)

and WoW's Looking for Adventure / Recruiting for Danger functionality:

Premade Groups: Looking for Adventure

Rygarus 8/13/2014 311



Group Finder is getting a new addition in Warlords of Draenor to make it easier for you to group up. In a raid and need more adventurers to round out the group for a Normal or Heroic raid or need help finding like-minded players for a group quest? The Premade Group option within the Group Finder can help.

Looking For Adventure

To start browsing for groups that are looking for more you'll want to open Group Finder (Bound to the I key by default) then click on the Premade Groups option for PvE content such as questing, dungeons, and raids.

Within the Player vs. Player tab, you can create premade groups for Arenas (2v2, 3v3, 5v5), Arena Skirmishes (2v2, 3v3), Battlegrounds, and Rated Battlegrounds. You can also access the Player vs. Player pane directly (Bound to the H by default). Additionally, there's a custom option to allow you to create groups for things not on the list, such as forming a raiding party to do a little world PvP in a capital city with a few new friends.

Once you've identified a group that looks promising you can sign up to join it; the group leader will be notified that your pending join request needs their approval.

Recruiting For Danger

Those who want to take matters into their own hands can form groups by selecting 'Start a Group'. Here's a breakdown for what the different fields are for.

Name: Give the group a name. It helps if the group name is something descriptive like "UBRS run".

Type: What is the purpose of the group? Questing? Running a Dungeon? Running a Normal raid, etc.?

Requirements (optional): You can elect to use it to specify additional requirements, such as a minimum item level or use of voice chat to facilitate communications.

- **Minimum Item Level (optional):** It's important to note that the minimum item level requirement must be less than or equal to your own item level.
- **Voice Chat:** Some groups may prefer the use of voice chat for greater coordination.
- **Description (optional):** A place available for those that want to provide more information, such as loot rules, or other information pertinent to the group.

When your settings are ready, simply click 'List Group' to be listed.

<http://us.battle.net/wow/en/blog/15200760/>.

32. Acceleration Bay is informed and believes that WoW's Voice Chat functionality allows individual players to communicate with each other, by voice, though the use of the network technology claimed in the Acceleration Bay Patents:



<http://us.battle.net/wow/en/game/guide/playing-together>.

33. Acceleration Bay is informed and believes WoW Downloader utilizes a peer-to-peer network to improve download speed for updates, installation and other downloadable information. See e.g.:



<https://us.battle.net/support/en/article/how-to-toggle-peer-to-peer-protocol>.

34. Acceleration Bay is informed and believes WoW's Game Client and WoW Launcher utilize a method of connecting a computer to a network through a portal computer.

See, e.g.:

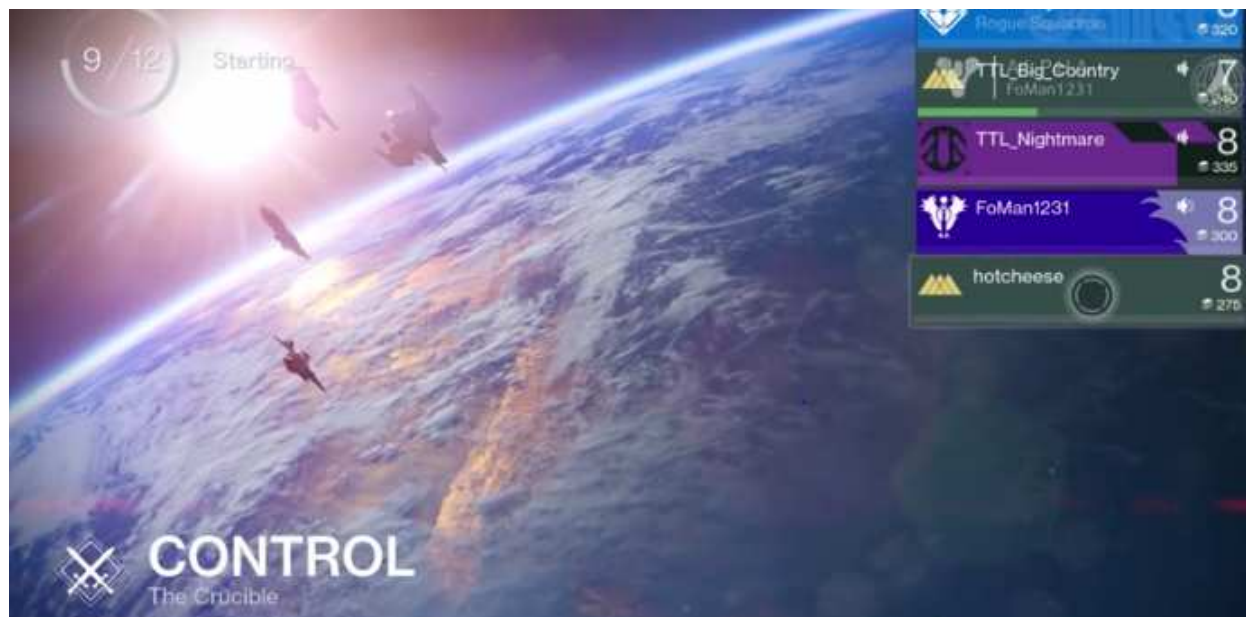
The screenshot displays the Battle.net website with several key sections:

- All Your Blizzard Games in One Place:** A section with a dark blue background and glowing light effects. It features a screenshot of the Battle.net desktop app interface with a 'PLAY' button. Below it is a 'DOWNLOAD THE BATTLE.NET APP' button. Text describes how users can access all their Blizzard games through a single desktop app.
- Always Up-to-Date:** A section with a dark blue background and glowing light effects. It features a screenshot of a game scene. Text explains that Battle.net automatically queues up patches and updates for all Blizzard games, even while the user is away from their computer.
- The Blizzard Social Community:** A section with a dark blue background and glowing light effects. It features a grid of six small screenshots showing various game scenes. Text describes how Battle.net offers ways to stay connected with other gamers, including the BattleTag nickname system and the Real ID feature.
- Be Part of The Discussion:** A section with a dark blue background and glowing light effects. It features a central globe icon surrounded by icons for StarCraft II, World of Warcraft, and Diablo III. Text explains how Battle.net makes it easier to be part of the Blizzard community both inside the game and out, serving as a central hub for game information and developer blogs.

<http://us.battle.net/en/what-is/>.

35. **Destiny**: Acceleration Bay is informed and believes that Destiny utilizes the network technology claimed in the Acceleration Bay Patents to perform multiple functionalities including multiplayer modes Crucible and Strike. *See e.g.*, <http://www.destinythegame.com/game/modes/>. Acceleration Bay is informed and believes that Destiny provides a hybrid system where each area within the game called “destination” has its own dedicated servers while all the players that are in that “destination” are connected to a peer-to-peer network and capable of communicating and interacting with each other. *See* <http://www.gameinformer.com/b/features/archive/2013/12/06/the-matchmaking-technology-of-destiny.aspx>; *see also* http://destiny.wikia.com/wiki/Demonware_Blog. Acceleration Bay is informed and believes that Destiny utilizes “on-the-fly matchmaking technology” that allows numerous individual players in a “destination” to be matched “invisibly” and thereby able to encounter, communicate and interact with each other. *See* <http://www.polygon.com/2013/2/17/3993058/destiny-bungie-first-look-preview>. Acceleration Bay is further informed and believes that Destiny is capable of allowing “millions” of players to be “in one connected online world.” *See* <http://www.gameinformer.com/b/features/archive/2013/12/06/the-matchmaking-technology-of-destiny.aspx>.

36. Acceleration Bay is informed and believes Destiny allows players to communicate using the network technology claimed in the Acceleration Bay Patents. As a way of example and not a limitation, Destiny provides a multiplayer mode, such as “The Crucible,” where multiple participants can simultaneously interact and communicate with each other utilizing the network technology claimed in the Acceleration Bay Patents.



[http://destiny.wikia.com/wiki/Special:Videos?page=3&sort=trend&file=Destiny_Alpha -
_PvP_Control - Rusted Lands%2C Earth.](http://destiny.wikia.com/wiki/Special:Videos?page=3&sort=trend&file=Destiny_Alpha_-_PvP_Control_-_Rusted_Lands%2C_Earth)



[http://destiny.wikia.com/wiki/Special:Videos?page=3&sort=trend&file=Destiny_Alpha -
_PvP_Control - Rusted Lands%2C Earth.](http://destiny.wikia.com/wiki/Special:Videos?page=3&sort=trend&file=Destiny_Alpha_-_PvP_Control_-_Rusted_Lands%2C_Earth)



http://destiny.wikia.com/wiki/Special:Videos?page=3&sort=trend&file=Destiny_Alpha_-_PvP_Control_-_Rusted_Lands%2C_Earth.

37. **Call of Duty: Advanced Warfare:** Acceleration Bay is informed and believes that Call of Duty: Advanced Warfare utilizes the network technology claimed in the Acceleration Bay Patents to perform multiple functionalities including multiplayer modes Team Deathmatch, Domination, Search and Destroy, Search and Rescue, Hardpoint, Capture the Flag, Kill Confirmed, Free for All, Infected, Uplink, and Momentum. *See e.g.*, <https://www.callofduty.com/advancedwarfare/mp>. As a way of example and not a limitation, Call of Duty: Advanced Warfare provides multiplayer modes such as Search and Destroy, which is an objective multiplayer mode where two teams of four to six players face off against each other, using the network technology claimed in the Acceleration Bay Patents. *See* http://www.ign.com/wikis/call-of-duty-advanced-warfare/Search_and_Destroy; *see also* <https://community.sledgehammergames.com/community/sledgehammer/blog/2014/11/07/excitement-from-call-of-duty-advanced-warfare-launch-week-and-updates-coming-soon>.

38. Acceleration Bay is informed and believes that Call of Duty: Advanced Warfare allows players to communicate using the network technology as claimed in the Acceleration Bay Patents. Acceleration Bay is also informed and believes that Call of Duty: Advanced Warfare uses the network technology claimed in the Acceleration Bay Patents to allow players to leave a game in the middle of a match without affecting other players. As a way of example and not a limitation, Call of Duty: Advanced Warfare provides a multiplayer mode, such as “Domination,” where multiple participants can concurrently interact and communicate with each other while also having an option to leave the game without affecting other players in the match by utilizing the network technology as claimed in the Acceleration Bay Patents.



[http://www.ign.com/articles/2015/01/28/optic-midnite-plays-call-of-duty-with-ign?watch.](http://www.ign.com/articles/2015/01/28/optic-midnite-plays-call-of-duty-with-ign?watch)

ACTIVISION BLIZZARD'S INFRINGEMENT OF ACCELERATION BAY'S PATENTS

39. Defendant has been and is now infringing the Acceleration Bay Patents (i.e., the '344 Patent, '966 Patent, '147 Patent, '634 Patent, '069 Patent, and '497 Patent) in this judicial District, and elsewhere in the United States by, among other things, making, using, importing, selling, and/or offering for sale the claimed system and methods on WoW, Destiny, and Call of Duty: Advanced Warfare.

40. In addition to directly infringing the Acceleration Bay Patents pursuant to 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, or both, Defendant indirectly infringes the '147 Patent, '069 Patent, and '497 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including its users and developers, to perform all or some of the steps of the method claims, either literally or under the doctrine of equivalents, or both, of the '147 Patent, '069 Patent, and '497 Patent.

COUNT I

(Direct Infringement of the '344 Patent pursuant to 35 U.S.C. § 271(a))

41. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

42. Defendant has infringed and continues to infringe one or more claims of the '344 Patent in violation of 35 U.S.C. § 271(a).

43. Defendant's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

44. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization, or license of Acceleration Bay.

45. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including, but not limited to, WoW, Destiny, and Call of Duty: Advanced Warfare, which embody the patented invention of the '344 Patent.

46. Defendant's WoW products infringe the '344 Patent through, at minimum, its Cross Realm technologies, which allow individual players from multiple different realms to communicate and interact with each other using a broadcast technique in which a broadcast channel uses an underlying network system to send messages on a point-to-point basis.

47. Defendant's Destiny products infringe the '344 Patent through, at minimum, its multiplayer technology, which allows numerous individual players that are in a destination or an area to interact and communicate with each other using a broadcast technique in which a broadcast channel uses an underlying network system to send messages on a point-to-point basis.

48. Defendant's Call of Duty: Advanced Warfare products infringe the '344 Patent through, at minimum, its multiplayer technology, which allows individual players to interact and communicate with each other using a broadcast technique in which a broadcast channel uses an underlying network system to send messages on a point-to-point basis.

49. As a result of Defendant's unlawful activities, Acceleration Bay has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Acceleration Bay is entitled to preliminary and/or permanent injunctive relief.

50. Defendant's infringement of the '344 Patent has injured and continues to injure Acceleration Bay in an amount to be proven at trial.

COUNT II

(Direct Infringement of the '966 Patent pursuant to 35 U.S.C. § 271(a))

51. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

52. Defendant has infringed and continues to infringe one or more claims of the '966 Patent in violation of 35 U.S.C. § 271(a).

53. Defendant's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

54. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization, or license of Acceleration Bay.

55. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including but not limited to, WoW, Destiny, and Call of Duty: Advanced Warfare, which embody the patented invention of the '966 Patent.

56. Defendant's WoW products infringe the '966 Patent through, at minimum, its Cross Realm technologies, which allow individual players from multiple different realms to interact and communicate with each other over a computer network for providing an information delivery service for a plurality of participants, whereby information is sent on a point-to-point basis.

57. Defendant's Destiny products infringe the '966 Patent through, at minimum, its multiplayer technology, which allows individual players to interact and communicate with each other over a computer network for providing an information delivery service for a plurality of participants, whereby information is sent on a point-to-point basis.

58. Defendant's Call of Duty: Advanced Warfare products infringe the '966 Patent through, at minimum, its multiplayer technology, which allows individual players to interact and communicate with each other by sending data through neighbor participants.

59. As a result of Defendant's unlawful activities, Acceleration Bay has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Acceleration Bay is entitled to preliminary and/or permanent injunctive relief.

60. Defendant's infringement of the '966 Patent has injured and continues to injure Acceleration Bay in an amount to be proven at trial.

COUNT III

(Direct Infringement of the '147 Patent pursuant to 35 U.S.C. § 271(a))

61. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

62. Defendant has infringed and continues to infringe one or more claims of the '147 Patent in violation of 35 U.S.C. § 271(a).

63. Defendant's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

64. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization or license of Acceleration Bay.

65. Defendant's infringement of one or more method claims of the '147 Patent is a result of Defendant's own actions and/or its actions in combination with the actions of users, developers, and/or customers to perform the steps of the claimed methods.

66. Defendant has direction or control over users' performance of the steps of claimed methods as evident from and through the Terms of Use for its products and service that users

must agree to prior to use of Defendant's products or services (examples attached hereto as Exhibits 17 and 18). Defendant maintains control at all times over the operation and dissemination of content by users of Defendant's products and services, and the users are contractually required to use only Defendant's software to access Defendant's online services and features. The Terms of Use (examples attached hereto as Exhibits 17 and 18) state that Defendant owns all content appearing or generated from its products or services, and has the unrestricted right to use, adapt, reproduce, and distribute such content into any form or medium (*See e.g.*, Sections 3, 6, and 18 of the Terms of Use and Sections 2, 4, and 5 of the Terms of Use for WoW).

67. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including but not limited to, WoW, Destiny, and Call of Duty: Advanced Warfare, which embody the patented invention of the '147 Patent.

68. Defendant's WoW products infringe the '147 Patent through, at minimum, its Cross-Realm technology and its Voice Chat functionality, which allow individual players from multiple different realms to interact and communicate with each other over a multi-cast computer network, and where individual players can leave the computer network by sending messages to a second computer so that the second computer can connect to a third computer to maintain a regular network.

69. Defendant's Destiny products infringe the '147 Patent through, at minimum, its multiplayer technology, which allows each individual player to leave the network by sending messages to a second computer so that the second computer can connect to a third computer to maintain a regular network.

70. Defendant's Call of Duty: Advanced Warfare products infringe the '147 Patent through, at minimum, its multiplayer technology, which allows each individual player to leave the network by sending messages to a second computer so that the second computer can connect to a third computer to maintain a regular network.

71. As a result of Defendant's unlawful activities, Acceleration Bay has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law.

Accordingly, Acceleration Bay is entitled to preliminary and/or permanent injunctive relief.

72. Defendant's infringement of the '147 Patent has injured and continues to injure Acceleration Bay in an amount to be proven at trial.

COUNT IV
(Indirect Infringement of the '147 Patent pursuant to 35 U.S.C. § 271(b))

73. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

74. Defendant has induced and continues to induce infringement of at least claims 1-10 of the '147 Patent under 35 U.S.C. § 271(b).

75. In addition to directly infringing the '147 Patent, Defendant indirectly infringes the '147 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including but not limited to, its customers, users and developers, to perform one or more of the steps of the method claims, either literally or under the doctrine of equivalents, of the '147 Patent, where all the steps of the method claims are performed by either Defendant, its customers, users or developers, or some combination thereof. Defendant knew or was willfully blind to the fact that it was inducing others, including customers, users and developers, to infringe by practicing, either themselves or in conjunction with Defendant, one or more method claims of the '147 Patent.

76. Defendant knowingly and actively aided and abetted the direct infringement of the '147 Patent by instructing, encouraging, and providing a mechanism for its customers, users, and developers to use WoW, Destiny, and Call of Duty: Advanced Warfare in an infringing manner and distributing guidelines and instructions to third parties on how to use Cross Realm Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds, Cross Realm Zones, World of Warcraft Voice Chat, the WoW game client downloader functionalities of WoW, and the multiplayer functionalities of Destiny and Call of Duty: Advanced Warfare in an infringing manner.

77. Defendant actively and intentionally maintains websites, including activision.com and its ancillary components to encourage potential customers, users and developers to use Cross Realm Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds, Cross Realm Zones, World of Warcraft Voice Chat, the WoW game client downloader functionalities of WoW, and the multiplayer functionalities of Destiny and Call of Duty: Advanced Warfare in an infringing manner.

78. Defendant provides detailed instruction to its customers and users regarding all aspects of the Cross Realm Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds, Cross Realm Zones, World of Warcraft Voice Chat, and the WoW game client downloader. Examples of these instructions can be found at <http://us.battle.net/wow/en/game/guide/> (attached hereto as Exhibit 7); <http://us.blizzard.com/en-us/games/wow/> (attached hereto as Exhibit 8); <http://us.battle.net/wow/en/game/guide/getting-started>; <http://us.battle.net/wow/en/blog/4270420>; <http://us.battle.net/wow/en/game/guide/playing-together> (attached hereto as Exhibit 9); <http://us.battle.net/wow/en/blog/3608426>; <http://us.battle.net/wow/en/game/guide/late-game>; <http://us.battle.net/wow/en/blog/5393667/>; <http://us.battle.net/wow/en/blog/14833872/ashran->

[preview-prepare-to-engage-7-17-2014](#) (attached hereto as Exhibit 10);

<http://us.battle.net/wow/en/game/guide/playing-together>; <http://us.battle.net/en/what-is/>;

<https://us.battle.net/support/en/article/how-to-toggle-peer-to-peer-protocol>.

79. Defendant provides detailed instruction to its customers and users regarding all aspects of the multiplayer functionalities of Destiny, including Crucible and Strike. Examples of these instructions can be found at <http://www.destinythegame.com/game/modes/> (attached hereto as Exhibit 11); http://support.activision.com/articles/en_US/FAQ/Destiny-Support (attached hereto as Exhibit 12); <http://www.activision.com/games/destiny/destiny> (attached hereto as Exhibit 13).

80. Defendant provides detailed instruction to its customers and users regarding all aspects of the multiplayer functionalities of Call of Duty: Advanced Warfare, including Team Deathmatch, Domination, Search and Destroy, Search and Rescue, Hardpoint, Capture the Flag, Kill Confirmed, Free for All, Infected, Uplink, and Momentum. Examples of these instructions can be found at <https://www.callofduty.com/advancedwarfare/mp> (attached hereto as Exhibit 14);

http://support.activision.com/apex/pkb_Home?clickedOn=Call_of_Duty_Advanced_Warfare&sortByParam=title (attached hereto as Exhibit 15); <http://www.activision.com/games/call-of-duty/call-of-duty-advanced-warfare> (attached hereto as Exhibit 16).

81. Defendant has had knowledge of the '147 Patent at least as of the time it learned of this action for infringement, and by continuing its actions described above, Defendant has had the specific intent to, or was willfully blind to the fact that its actions would, induce infringement of the '147 Patent.

COUNT V

(Direct Infringement of the '634 Patent pursuant to 35 U.S.C. § 271(a))

82. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

83. Defendant has infringed and continues to infringe one or more claims of the '634 Patent in violation of 35 U.S.C. § 271(a).

84. Defendant's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

85. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization, or license of Acceleration Bay.

86. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including but not limited to, WoW, Destiny, and Call of Duty: Advanced Warfare, which embody the patented invention of the '634 Patent.

87. Defendant's WoW products infringe the '634 Patent through, at minimum, its WoW Client Downloader technology and Voice Chat functionality, which allow individual players from multiple different realms to communicate and interact with each other by sending data received from other neighboring players to other neighboring players, thereby creating reliability in the network.

88. Defendant's Destiny products infringe the '634 Patent through, at minimum, its multiplayer technology, which allows individual players in an area to communicate and interact with each other by sending data received from other neighboring players to other neighboring players, thereby creating reliability in the network.

89. Defendant's Call of Duty: Advanced Warfare products infringe the '634 Patent through, at minimum, its multiplayer technology, which allows individual players to communicate and interact with each other by sending data received from other neighboring players to other neighboring players, thereby creating reliability in the network.

90. As a result of Defendant's unlawful activities, Acceleration Bay has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law.

Accordingly, Acceleration Bay is entitled to preliminary and/or permanent injunctive relief.

91. Defendant's infringement of the '634 Patent has injured and continues to injure Acceleration Bay in an amount to be proven at trial.

COUNT VI

(Direct Infringement of the '069 Patent pursuant to 35 U.S.C. § 271(a))

92. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

93. Defendant has infringed and continues to infringe one or more claims of the '069 Patent in violation of 35 U.S.C. § 271(a).

94. Defendant's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

95. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization or license of Acceleration Bay.

96. Defendant's infringement of one or more method claims of the '069 Patent is a result of Defendant's own actions and/or its actions in combination with the actions of users, developers, and/or customers to perform the steps of the claimed methods.

97. Defendant has direction or control over users' performance of the steps of claimed methods as evident from and through the Terms of Use for its products and service that users must agree to prior to use of Defendant's products or services (examples attached hereto as Exhibits 17 and 18). Defendant maintains control at all times over the operation and dissemination of content by users of Defendant's products and services, and the users are contractually required to use only Defendant's software to access Defendant's online services and features. The Terms of Use (examples attached hereto as Exhibits 17 and 18) state that Defendant owns all content appearing or generated from its products or services, and has the unrestricted right to use, adapt, reproduce, and distribute such content into any form or medium (*See e.g.*, Sections 3, 6, and 18 of the Terms of Use and Sections 2, 4, and 5 of the Terms of Use for WoW).

98. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including but not limited to, WoW, Destiny, and Call of Duty: Advanced Warfare, which embody the patented invention of the '069 Patent.

99. Defendant's WoW products infringe the '069 Patent through, at minimum, its Cross-Realm technology, which allows individual players from multiple different realms to interact and communicate with each other over a multi-cast computer network, and where individual participants can be added to the network by, for example and not by way of limitation, identifying a pair of participants that are connected to the network, disconnecting the identified pair from each other, and then connecting a seeking participant to the identified pair.

100. Defendant's Destiny products infringe the '069 Patent through, at minimum, its multiplayer technology, which allows numerous individual players in an area or destination to

communicate and interact with each other without placing a high overhead on the underlying network, where individual participants can be added to the network by, for example and not by way of limitation, identifying a pair of participants that are connected to the network, disconnecting the identified pair from each other, and then connecting a seeking participant to the identified pair.

101. Defendant's Call of Duty: Advanced Warfare products infringe the '069 Patent through, at minimum, its multiplayer technology, which allows multiple individual players to communicate and interact with each other over a multi-cast computer network, and where individual participants can be added to the network by, for example and not by way of limitation, identifying a pair of participants that are connected to the network, disconnecting the identified pair from each other, and then connecting a seeking participant to the identified pair.

102. As a result of Defendant's unlawful activities, Acceleration Bay has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Acceleration Bay is entitled to preliminary and/or permanent injunctive relief.

103. Defendant's infringement of the '069 Patent has injured and continues to injure Acceleration Bay in an amount to be proven at trial.

COUNT VII
(Indirect Infringement of the '069 Patent pursuant to 35 U.S.C. § 271(b))

104. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

105. Defendant has induced and continues to induce infringement of claims 1-17 of the '069 Patent under 35 U.S.C. § 271(b).

106. In addition to directly infringing the '069 Patent, Defendant indirectly infringes the '069 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others,

including but not limited to, its customers, users and developers, to perform one or more of the steps of the method claims, either literally or under the doctrine of equivalents, or both, of the '069 Patent, where all the steps of the method claims are performed by either Defendant, its customers, users or developers, or some combination thereof. Defendant knew or was willfully blind to the fact that it was inducing others, including customers, users and developers, to infringe by practicing, either themselves or in conjunction with Defendant, one or more method claims of the '069 Patent.

107. Defendant knowingly and actively aided and abetted the direct infringement of the '069 Patent by instructing, encouraging, and providing a mechanism for its customers, users, and developers to use WoW, Destiny, and Call of Duty: Advanced Warfare in an infringing manner and distributing guidelines and instructions to third parties on how to use Cross Realm Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds, Cross Realm Zones, World of Warcraft Voice Chat, the WoW game client downloader functionalities of WoW, and the multiplayer functionalities of Destiny and Call of Duty: Advanced Warfare in an infringing manner.

108. Defendant actively and intentionally maintains websites, including activision.com and its ancillary components to encourage potential customers, users and developers to use Cross Realm Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds, Cross Realm Zones, World of Warcraft Voice Chat, the WoW game client downloader functionalities of WoW, and the multiplayer functionalities of Destiny and Call of Duty: Advanced Warfare in an infringing manner.

109. Defendant provides detailed instruction to its customers and users regarding all aspects of the Cross Realm Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds,

Cross Realm Zones, World of Warcraft Voice Chat, and the WoW game client downloader.

Examples of these instructions can be found at <http://us.battle.net/wow/en/game/guide/> (attached hereto as Exhibit 7); <http://us.blizzard.com/en-us/games/wow/> (attached hereto as Exhibit 8); <http://us.battle.net/wow/en/game/guide/getting-started>; <http://us.battle.net/wow/en/blog/4270420>; <http://us.battle.net/wow/en/game/guide/playing-together> (attached hereto as Exhibit 9); <http://us.battle.net/wow/en/blog/3608426>; <http://us.battle.net/wow/en/game/guide/late-game>; <http://us.battle.net/wow/en/blog/5393667/>; <http://us.battle.net/wow/en/blog/14833872/ashran-preview-prepare-to-engage-7-17-2014> (attached hereto as Exhibit 10); <http://us.battle.net/wow/en/game/guide/playing-together>; <http://us.battle.net/en/what-is/>; <https://us.battle.net/support/en/article/how-to-toggle-peer-to-peer-protocol>.

110. Defendant provides detailed instruction to its customers and users regarding all aspects of the multiplayer functionalities of Destiny, including Crucible and Strike. Examples of these instructions can be found at <http://www.destinythegame.com/game/modes/> (attached hereto as Exhibit 11); http://support.activision.com/articles/en_US/FAQ/Destiny-Support (attached hereto as Exhibit 12); <http://www.activision.com/games/destiny/destiny> (attached hereto as Exhibit 13).

111. Defendant provides detailed instruction to its customers and users regarding all aspects of the multiplayer functionalities of Call of Duty: Advanced Warfare, including Team Deathmatch, Domination, Search and Destroy, Search and Rescue, Hardpoint, Capture the Flag, Kill Confirmed, Free for All, Infected, Uplink, and Momentum. Examples of these instructions can be found at <https://www.callofduty.com/advancedwarfare/mp> (attached hereto as Exhibit

14);

[http://support.activision.com/apex/pkb_Home?clickedOn=Call of Duty Advanced Warfare&so](http://support.activision.com/apex/pkb_Home?clickedOn=Call_of_Duty_Advanced_Warfare&so)

rtByParam=title (attached hereto as Exhibit 15); <http://www.activision.com/games/call-of-duty/call-of-duty-advanced-warfare> (attached hereto as Exhibit 16).

112. Defendant has had knowledge of the '069 Patent at least as of the time it learned of this action for infringement, and by continuing its actions described above, Defendant has had the specific intent to, or was willfully blind to the fact that its actions would, induce infringement of the '069 Patent.

COUNT VIII

(Direct Infringement of the '497 Patent pursuant to 35 U.S.C. § 271(a))

113. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

114. Defendant has infringed and continues to infringe one or more claims of the '497 Patent in violation of 35 U.S.C. § 271(a).

115. Defendant's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

116. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization or license of Acceleration Bay.

117. Defendant's infringement of one or more method claims of the '497 Patent is a result of Defendant's own actions and/or its actions in combination with the actions of users, developers, and/or customers to perform the steps of the claimed methods.

118. Defendant has direction or control over users' performance of the steps of claimed methods as evident from and through the Terms of Use for its products and service that users must agree to prior to use of Defendant's products or services (examples attached hereto as Exhibits 17 and 18). Defendant maintains control at all times over the operation and

dissemination of content by users of Defendant's products and services, and the users are contractually required to use only Defendant's software to access Defendant's online services and features. The Terms of Use (examples attached hereto as Exhibits 17 and 18) state that Defendant owns all content appearing or generated from its products or services, and has the unrestricted right to use, adapt, reproduce, and distribute such content into any form or medium (*See e.g.*, Sections 3, 6, and 18 of the Terms of Use and Sections 2, 4, and 5 of the Terms of Use for WoW).

119. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including, but not limited to, WoW, Destiny, and Call of Duty: Advanced Warfare, which embody the patented invention of the '497 Patent.

120. Defendant's WoW products infringe the '497 Patent through, at minimum, its Client Downloader technology and Voice Chat functionality, which allow individual players from multiple different realms to interact, communicate, and share files, installations, or updates with each other over a computer network through a portal computer.

121. Defendant's Destiny products infringe the '497 Patent through, at minimum, its multiplayer technology, which allows numerous individual players in an area or destination to join an area, encounter, communicate and interact with each other by utilizing a portal computer.

122. Defendant's Call of Duty: Advanced Warfare products infringe the '497 Patent through, at minimum, its multiplayer technology, which allows individual players to join, communicate and interact with each other by utilizing a portal computer.

123. As a result of Defendant's unlawful activities, Acceleration Bay has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law.

Accordingly, Acceleration Bay is entitled to preliminary and/or permanent injunctive relief.

124. Defendant's infringement of the '497 Patent has injured and continues to injure Acceleration Bay in an amount to be proven at trial.

COUNT IX

(Indirect Infringement of the '497 Patent pursuant to 35 U.S.C. § 271(b))

125. Acceleration Bay repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

126. Defendant has induced and continues to induce infringement of at least claims 1-8 of the '497 Patent under 35 U.S.C. § 271(b).

127. In addition to directly infringing the '497 Patent, Defendant indirectly infringes the '497 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including, but not limited to, its customers, users and developers, to perform one or more of the steps of the method claims, either literally or under the doctrine of equivalent, or both, of the '497 Patent, where all the steps of the method claims are performed by either Defendant or its customers, users or developers, or some combination thereof. Defendant knew or was willfully blind to the fact that it was inducing others, including customers, users and developers, to infringe by practicing, either themselves or in conjunction with Defendant, one or more method claims of the '497 Patent.

128. Defendant knowingly and actively aided and abetted the direct infringement of the '497 Patent by instructing, encouraging, and providing a mechanism for its customers, users, and developers to use WoW, Destiny, and Call of Duty: Advanced Warfare in an infringing manner and distributing guidelines and instructions to third parties on how to use Cross Realm

Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds, Cross Realm Zones, World of Warcraft Voice Chat, the WoW game client downloader functionalities of WoW, and the multiplayer functionalities of Destiny and Call of Duty: Advanced Warfare in an infringing manner.

129. Defendant actively and intentionally maintains websites, including activision.com and its ancillary components to encourage potential customers, users and developers to use Cross Realm Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds, Cross Realm Zones, World of Warcraft Voice Chat, the WoW game client downloader functionalities of WoW, and the multiplayer functionalities of Destiny and Call of Duty: Advanced Warfare in an infringing manner.

130. Defendant provides detailed instruction to its customers and users regarding all aspects of the Cross Realm Raids, Raid Finder/Looking For A Raid, Cross Realm Battlegrounds, Cross Realm Zones, World of Warcraft Voice Chat, and the WoW game client downloader. Examples of these instructions can be found at <http://us.battle.net/wow/en/game/guide/> (attached hereto as Exhibit 7); <http://us.blizzard.com/en-us/games/wow/> (attached hereto as Exhibit 8); <http://us.battle.net/wow/en/game/guide/getting-started>; <http://us.battle.net/wow/en/blog/4270420>; <http://us.battle.net/wow/en/game/guide/playing-together> (attached hereto as Exhibit 9); <http://us.battle.net/wow/en/blog/3608426>; <http://us.battle.net/wow/en/game/guide/late-game>; <http://us.battle.net/wow/en/blog/5393667/>; <http://us.battle.net/wow/en/blog/14833872/ashran-preview-prepare-to-engage-7-17-2014> (attached hereto as Exhibit 10); <http://us.battle.net/wow/en/game/guide/playing-together>; <http://us.battle.net/en/what-is/>; <https://us.battle.net/support/en/article/how-to-toggle-peer-to-peer-protocol>.

131. Defendant provides detailed instruction to its customers and users regarding all aspects of the multiplayer functionalities of Destiny, including Crucible and Strike. Examples of these instructions can be found at <http://www.destinythegame.com/game/modes/> (attached hereto as Exhibit 11); http://support.activision.com/articles/en_US/FAQ/Destiny-Support (attached hereto as Exhibit 12); <http://www.activision.com/games/destiny/destiny> (attached hereto as Exhibit 13).

132. Defendant provides detailed instruction to its customers and users regarding all aspects of the multiplayer functionalities of Call of Duty: Advanced Warfare, including Team Deathmatch, Domination, Search and Destroy, Search and Rescue, Hardpoint, Capture the Flag, Kill Confirmed, Free for All, Infected, Uplink, and Momentum. Examples of these instructions can be found at <https://www.callofduty.com/advancedwarfare/mp> (attached hereto as Exhibit 14);

http://support.activision.com/apex/pkb_Home?clickedOn=Call_of_Duty_Advanced_Warfare&sortByParam=title (attached hereto as Exhibit 15); <http://www.activision.com/games/call-of-duty/call-of-duty-advanced-warfare> (attached hereto as Exhibit 16).

133. Defendant has had knowledge of the '497 Patent at least as of the time it learned of this action for infringement, and by continuing its actions described above, Defendant has had the specific intent to, or was willfully blind to the fact that its actions would, induce infringement of the '497 Patent.

PRAYER FOR RELIEF

WHEREFORE, Acceleration Bay prays for judgment and relief as follows:

A. An entry of judgment holding Defendant has infringed and is infringing the ‘344 Patent, ‘966 Patent, ‘147 Patent, ‘634 Patent, ‘069 Patent, and ‘497 Patent;

B. An entry of judgment holding Defendant has induced infringement and is inducing infringement of the ‘147 Patent, ‘069 Patent, and ‘497 Patent;

C. An award to Acceleration Bay of such damages as it shall prove at trial against Defendant that are adequate to fully compensate Acceleration Bay for Defendant’s infringement of the ‘344 Patent, ‘966 Patent, ‘147 Patent, ‘634 Patent, ‘069 Patent, and ‘497 Patent, said damages to be no less than a reasonable royalty;

D. A finding that this case is “exceptional” and an award to Acceleration Bay of its costs and reasonable attorney’s fees, as provided by 35 U.S.C. § 285;

E. An accounting of all infringing sales and revenues, together with post judgment interest and prejudgment interest from the first date of infringement of the ‘344 Patent, ‘966 Patent, ‘147 Patent, ‘634 Patent, ‘069 Patent, and ‘497 Patent; and

F. Such further and other relief as the Court may deem proper and just.

DEMAND FOR JURY TRIAL

Acceleration Bay demands a jury trial on all issues so triable.

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1185426

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