

From: Wayne M. Helge
To: ["Rosato, Michael"](#); ["Argenti, Matthew"](#); ["Brown, Andrew"](#)
Cc: [Michael R. Casey](#)
Subject: IPR2015-01264, -01268, -01269, -01319, -01321, and -01325 - Request for Availability for Conference with Board
Date: Friday, July 29, 2016 1:10:00 PM

Counsel,

I intend to email the Board requesting a conference to seek permission to file a motion for additional discovery of evidence that established Bungie's "state of mind in initiating" the subject proceedings, including at least the identity and details surrounding Bungie's first receipt of Exhibits 1033 and 1034. Per your Opposition to Patent Owner's Motion to Exclude, filed in each case on July 25, 2016, Bungie has opened the door to this additional discovery by asking the Board to evaluate and rule on Bungie's state of mind in initiating these cases.

I will also request a rescheduling of the oral argument currently set for August 17, 2016 to allow for completion of this discovery and any necessary supplemental briefing.

Please let me know if you will consent to or oppose this motion/discovery, and please let me know when you are available on August 1-3 for a conference with the Board.

Once I receive your availability, I will send the following message to the Board by email, with cc to you:

To the Board:

Patent Owner respectfully requests a call with the Board to request authorization to file a motion for additional discovery into evidence that established Bungie's state of mind in initiating this proceeding. For context, on July 18, 2016, Patent Owner moved to exclude Exhibits 1033 and 1034 from each of the subject cases as not relevant under FRE 402 to any issues in these proceedings. In its opposition, Petitioner denied that these exhibits were irrelevant and newly argued that exhibit 1033 is relevant to "corroborate Bungie's state of mind in initiating this proceeding" and that exhibit 1034 is relevant "as corroborating evidence of a reasonable state of mind in initiating this proceeding"

Patent Owner's Position:

By now asking the Board to rule on Bungie's state of mind in initiating these cases, Petitioner's recent arguments open the door into additional discovery of the evidence that established Bungie's state of mind. This evidence includes at least the details surrounding Bungie's receipt of and reliance on Exhibits 1033 and 1034 prior to initiating these proceedings. This evidence also includes any documents provided by or correspondence from Activision that established Bungie's state of mind in initiating these proceedings. If Bungie's state of mind is relevant to this proceeding and requires Board determination, as Bungie now argues, then Patent Owner contends that Bungie should be required to produce at least this evidence in its possession, custody, and control on this issue.

Further, in light of the scheduled oral argument on August 17, 2016, Patent Owner requests that the oral argument date be held over until this additional discovery and limited supplemental briefing can be completed.

Petitioner opposes Patent Owner's requests for discovery and modification of the scheduling order. Both Petitioner and Patent Owner are available at the following times for a conference with the Board:

August 1: _____.

August 2: _____.

August 3: _____.

Thank you,

Wayne Helge, Esq.
Partner & Registered Patent Attorney
Davidson, Berquist, Jackson & Gowdey, LLP
8300 Greensboro Drive, Suite 500
McLean, VA 22102
Email: whelge@dbjg.com
Office: 571-765-7700
Cellular: 571-271-9673
<http://www.davidsonberquist.com>
<http://www.IPRPetitionDenied.com>