

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ACTIVISION BLIZZARD, INC.,  
ELECTRONIC ARTS INC.,  
TAKE-TWO INTERACTIVE SOFTWARE, INC.,  
2K SPORTS, INC., ROCKSTAR GAMES, INC., and  
BUNGIE, INC.,  
Petitioner,

v.

ACCELERATION BAY, LLC,  
Patent Owner.

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Case IPR2015-01964<sup>1</sup>  
Patent 6,829,634 B1

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Before SALLY C. MEDLEY, LYNNE E. PETTIGREW, and  
WILLIAM M. FINK, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

ORDER  
Granting Motions to Seal  
*37 C.F.R. §§ 42.14, 42.54*

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<sup>1</sup> Bungie, Inc., who filed a Petition in IPR2016-00963, has been joined as a petitioner in this proceeding.

During this proceeding, the parties filed various Motions to Seal and Motions for Entry of the Default Protective Order. In an Order dated December 12, 2016, we denied without prejudice the motions that were filed prior to that date. Paper 100, 5–6. Pursuant to that Order, Patent Owner filed a single Motion for Entry of the Proposed Stipulated Protective Order and to Seal Certain Exhibits Under 37 C.F.R. §§ 42.24 and 42.54. Paper 104 (“PO Mot.”). Patent Owner also filed redacted, non-confidential versions of the papers and exhibits that are the subject of its Motion, except those it seeks to seal in their entirety. *See id.* at 1 n.2. In addition, Patent Owner filed a Proposed Stipulated Protective Order. *See Ex. 2118.* Petitioner then filed a Motion to File Documents Under Seal Pursuant to 37 C.F.R. §§ 42.14 & 42.54, along with redacted, non-confidential versions of the paper and exhibits that are the subject of its Motion. Paper 106 (“Pet. Mot.”).

#### *Motions to Seal*

In its unopposed Motion, Patent Owner seeks to seal portions of its Patent Owner Response (Paper 33) and its Opposition to Petitioner’s Motion to Exclude (Paper 84). PO Mot. 1–2, 7. Patent Owner represents that these papers contain “highly confidential information regarding internal research and development efforts of a third party, including internal project codenames which the third party has deemed confidential.” *Id.* Patent Owner has filed redacted versions of these two papers. *See* Paper 102 (Patent Owner’s Response), Paper 103 (Opposition to Petitioner’s Motion to Exclude).

Patent Owner also moves to seal portions of Exhibits 2022–29, 2085, 2098, and 2106, as well as Exhibits 2048 and 2049 in their entirety. PO Mot. 2–7. Patent Owner represents that these Exhibits contain either “highly

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confidential information regarding internal research and development efforts of a third party, including internal project codenames which the third party has deemed confidential,” or “highly confidential information regarding licensing practices of a third party, including names and licensing terms which the third party has deemed confidential information.” *Id.* Patent Owner has filed redacted versions of Exhibits 2022–29, 2085, 2098, and 2106.

In its unopposed Motion, Petitioner seeks to seal portions of its Reply to Patent Owner’s Response (Paper 57) and Exhibits 1024, 1025, and 1043 because they cite to papers and exhibits that PO alleges contain “highly confidential information.” Pet. Mot. 2. Petitioner has filed a redacted version of its Reply. *See* Paper 107. Petitioner also has filed redacted versions of Exhibits 1024, 1025, and 1043.

There is a strong public policy that favors making information filed in an *inter partes* review open to the public. *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, Case IPR2012-00001, slip op. at 1–2 (PTAB Mar. 14, 2013) (Paper 34). The standard for granting a motion to seal is good cause. 37 C.F.R. § 42.54. That standard includes showing that the information addressed in the motion to seal is truly confidential, and that such confidentiality outweighs the strong public interest in having the record open to the public. *See Garmin*, slip op. at 2–3.

We have considered the arguments presented by the parties and determine that good cause has been established for sealing the documents identified in the parties’ Motions. *See* PO Mot. 7–9; Pet. Mot. 3. Specifically, the parties demonstrate that the information sought to be sealed contains confidential information regarding research and development

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efforts and licensing practices of a third party. Furthermore, we do not cite or discuss in any detail any of the confidential information identified by the parties.

Accordingly, we grant the parties' Motions, including Patent Owner's unopposed request for entry of the Proposed Stipulated Protective Order (Ex. 2118), which is the Board's default protective order provided in the Office Patent Trial Practice Guide. *See* 77 Fed. Reg. 48,756, 48,769–71 (Aug. 24, 2012) (Exhibit B). The record will be preserved in its entirety, and the confidential documents will not be expunged or made public, pending the outcome of any appeal taken from the Final Written Decision. At the conclusion of any appeal, or, if no appeal is taken, after the time for filing a notice appeal has expired, the documents may be made public. *See id.* at 48,761. At that time, either party may file a motion to expunge sealed documents from the record pursuant to 37 C.F.R. § 42.56.

#### ORDER

Accordingly, it is:

ORDERED that Patent Owner's Motion for Entry of the Proposed Stipulated Protective Order and to Seal Certain Exhibits (Paper 104) is *granted*; and

FURTHER ORDERED that Petitioner's Motion to File Documents Under Seal (Paper 106) is *granted*.

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