

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

ACCELERATION BAY, LLC,
Patent Owner.

Case IPR2015-01951 (Patent 6,714,966 B1)¹
Case IPR2015-01964 (Patent 6,829,634 B1)
Case IPR2015-01970 (Patent 6,701,344 B1)

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

PETTIGREW, *Administrative Patent Judge*.

¹ This order addresses issues in all three cases. We exercise our discretion to issue one order to be filed in each case.

IPR2015-01951 (Patent 6,714,966 B1)
IPR2015-01964 (Patent 6,829,634 B1)
IPR2015-01970 (Patent 6,701,344 B1)

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

A conference call was held on January 28, 2015, among counsel for the parties and Judges Medley, Pettigrew, and Fink. Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Ind., 2K Sports, Inc., and Rockstar Games, Inc. (collectively, “Petitioner”) requested the call to discuss certain issues related to Exhibit 2001 filed by Acceleration Bay, LLC (“Patent Owner”) in each of IPR2015-01951, IPR2015-01964, and IPR2015-01970.

As explained by the parties on the call, Patent Owner filed as Exhibit 2001 in each case two pages of a nineteen-page Invention Disclosure form with, according to Patent Owner’s Preliminary Response, “certain confidential information not necessary to establish . . . actual reduction to practice . . . redacted.” *E.g.*, IPR2015-01970, Paper 6, 17. Among the redactions was a date in the upper right-hand corner of page 2 of Exhibit 2001. On the call, the parties agreed that Patent Owner will file in each case a new version of Exhibit 2001, identical to earlier-filed versions except the date in the upper right-hand corner will not be redacted. After Patent Owner files a new version of Exhibit 2001 in each case, all earlier-filed versions will be expunged.

On the call, the parties also agreed that Patent Owner will produce to Petitioner in these cases a copy of the full nineteen-page Invention Disclosure form with only personally identifiable information and the like (e.g., internal control numbers) redacted.

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Patent Owner also stated on the call that it has complied with 37 C.F.R. § 42.51(b)(iii), which requires service of relevant information that is inconsistent with a position advanced by a party during a proceeding.

Finally, Patent Owner clarified that in IPR2015-01964, it filed a Preliminary Response (Paper 6) in error on January 15, 2016, and, pursuant to instructions from a Board paralegal, filed a Corrected Preliminary Response (Paper 7) on January 19, 2016, the deadline for filing a Preliminary Response in that case. The parties indicated that Patent Owner shared with Petitioner the differences between the original Preliminary Response and the Corrected Preliminary Response, and Petitioner does not oppose Patent Owner's filing of a Corrected Preliminary Response. Accordingly, we will consider the Corrected Preliminary Response (Paper 7) filed on January 19, 2016, rather than the Preliminary Response (Paper 6) filed on January 15, 2016, in determining whether to institute an *inter partes* review in IPR2015-01964.

ORDER

It is:

ORDERED that Patent Owner shall file in each of these cases a revised Exhibit 2001, identical to earlier-filed versions except the date in the upper right-hand corner of page 2 of the exhibit will not be redacted;

FURTHER ORDERED that after Patent Owner files a revised Exhibit 2001 in each case, the Board shall expunge from the record all previously-filed versions of Exhibit 2001;

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FURTHER ORDERED that, as agreed to by the parties on the call, Patent Owner shall provide Petitioner a copy of the full nineteen-page Invention Disclosure form with only personally identifiable information and the like (e.g., internal control numbers) redacted; and

FURTHER ORDERED that in IPR2015-01964, the Corrected Preliminary Response (Paper 6), rather than the Preliminary Response (Paper 7), will be considered by the Board in determining whether to institute an *inter partes* review.

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