

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., ROCKSTAR GAMES, INC., and
BUNGIE, INC.,
Petitioners,

v.

ACCELERATION BAY, LLC,
Patent Owner.

Case IPR2015-01972¹
Patent No. 6,701,344 B1

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

**PETITIONERS' CONSOLIDATED MOTION TO FILE DOCUMENTS
UNDER SEAL PURSUANT TO 37 C.F.R. §§ 42.14 & 42.54**

¹ Bungie, Inc., who filed a Petition in IPR2016-00934, has been joined as a
petitioner in this proceeding.

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioners Activision Blizzard, Inc., Electronic Arts Inc., Take-Two Interactive Software, Inc., 2K Sports, Inc., Rockstar Games, Inc., and Bungie, Inc. (the “Petitioners”) respectfully submit this Motion to Seal (“Motion”) portions of Petitioners’ Consolidated Opposition to Patent Owner’s Motion to Exclude (“Petitioners’ MTE Opposition”) and Petitioners’ Consolidated Response to Patent Owner’s Motion for Observation on Examination of Petitioners’ Reply Witness (“Petitioners’ Observation Response”), which are being filed concurrently herewith. Consistent with the procedure followed with respect to Petitioners’ previously filed Motion to Seal (Paper 58, “Petitioners’ First Motion to Seal”), Petitioners will file redacted versions of these documents after meeting and conferring with Patent Owner Acceleration Bay, LLC (“PO”).

I. BACKGROUND

In this proceeding, PO served on Petitioners its Patent Owner Response (Paper 31) and Exhibits 2022-2026, 2028-2029, 2032-2034, 2047-2049, and 2083, which PO filed under seal contemporaneously with its Motion for Entry of the Default Protective Order and to Seal Patent Owner Response and Certain Exhibits

Under 37 C.F.R. §§ 42.14 and 42.54 (Paper 35, “PO’s First Motion to Seal”).² As detailed in Petitioners’ Consolidated Opposition to PO’s First Motion to Seal (Paper 40), Petitioners do not oppose entry of the Board’s Default Protective Order, but oppose PO’s Motion to Seal to the extent PO seeks to seal the entirety of the documents that are the subject of its Motion, rather than only those portions that are actually shown to be confidential. Subsequently, PO filed an additional Motion to Seal (Paper 82, “PO’s Second Motion to Seal”) Exhibit 2109, which PO filed contemporaneously with its Second Motion to Seal. The Board has not yet ruled on any of PO’s Motions to Seal, and the documents are provisionally sealed pending the Board’s decision. 35 U.S.C. § 316(a)(1); 37 C.F.R. § 42.14.

Petitioners’ MTE Opposition and Observations Response—which are being filed concurrently with this Motion—cite to Patent Owner’s Response and/or Exhibits that PO alleges contain “highly confidential information.” Accordingly, Petitioners move to file under seal the portions of Petitioners’ MTE Opposition and Observations Response that cite to the purportedly “highly confidential information,” at least until the Board rules on PO’s Motions to Seal. If the Board

² PO also filed (under seal) a second Motion for Entry of Default Protective Order and to Seal Certain Exhibits Under 37 C.F.R. §§ 42.14 and 42.54 (Paper 33) for certain Exhibits to PO’s Contingent Motion to Amend.

denies PO's Motions to Seal in whole or in part, Petitioners would adjust their request to seal portions of Petitioners' MTE Opposition and Observations Response accordingly. Petitioners agree to be bound by the terms of the Board's Default Protective Order, which was previously filed as Exhibit 1135³.

II. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION

Good cause for sealing portions of Petitioners' MTE Opposition and Observations Response exists to the extent that the Board determines that good cause exists for sealing the Patent Owner's Response and Exhibits that are the subject of PO's Motions to Seal.

III. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTY PURSUANT TO 37 C.F.R. § 42.54

Petitioners and PO previously conferred regarding PO's Motion to Seal, and Petitioners did not oppose PO's request for entry of the Default Protective Order. *See* Paper 35 at 5. In addition, pursuant to 37 C.F.R. §42.54(a), Petitioners conferred with PO in good faith before filing Petitioners' First Motion to Seal. Consistent with the procedure followed with respect to Petitioners' First Motion to

³ Exhibit 1135 is a copy of the Board's Default Protective Order that was attached to PO's First Motion to Seal as Exhibit A.

Seal, Petitioners will file redacted versions of these documents after meeting and conferring with PO.

Dated: November 18, 2016

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