

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.,  
Petitioners,

v.

ACCELERATION BAY, LLC,  
Patent Owner.

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Case IPR2015-01972<sup>1</sup>  
Patent No. 6,701,344 B1

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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**

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<sup>1</sup> 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 Reply in Support of Motion to Exclude (“Reply”), which is 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 a redacted version of this document 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”).<sup>2</sup> Subsequently, PO filed a Motion to Seal (Paper 87, “PO’s Opposition Motion to

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<sup>2</sup> 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.

Seal”) its Opposition to Petitioners’ Consolidated Motion to Exclude (Paper 85, “Opposition”) and Exhibits 2112-2117. 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 Motions to Seal to the extent PO seeks to seal the entirety of the documents that are the subject of its Motions, rather than only those portions that are actually shown to be confidential. 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’ Reply cites to PO’s Opposition and Exhibits 2112-2117 that PO alleges contain “highly confidential information.” Accordingly, Petitioners move to file under seal the portions of Petitioners’ Reply that cite to the purportedly “highly confidential information,” at least until the Board rules on PO’s Motions to Seal. If the Board denies PO’s Motions to Seal in whole or in part, Petitioners would adjust their request to seal portions of Petitioners’ Reply accordingly. Petitioners agree to be bound by the terms of the Board’s Default Protective Order, which was previously filed as Exhibit 1135<sup>3</sup>.

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<sup>3</sup> 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.

**II. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION**

Good cause for sealing portions of Petitioners' Reply exists to the extent that the Board determines that good cause exists for sealing PO's Opposition and Exhibits 2112-2117 that are the subject of PO's Opposition Motion 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 Seal, Petitioners will file a redacted version of Petitioners' Reply after meeting and conferring with PO.

Dated: November 23, 2016

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