

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 IPR2015-01996<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  
Conduct of the Proceeding  
Granting Motions to Seal  
*37 C.F.R. §§ 42.5, 42.14, 42.54*

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<sup>1</sup> Bungie, Inc., who filed a Petition in IPR2016-00964, 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 92, 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 95 (“PO Mot.”). Patent Owner also filed redacted, non-confidential versions of the paper 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 exhibits that are the subject of its Motion. Paper 97 (“Pet. Mot.”).

#### *Motions to Seal*

In its unopposed Motion, Patent Owner seeks to seal portions of its Patent Owner Response (Paper 33). PO Mot. 1–2. Patent Owner represents that this paper contains “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 a redacted version of this paper. *See Paper 94.*

Patent Owner also moves to seal portions of Exhibits 2023–26, 2028, 2029, 2085, 2098, and 2106, as well as Exhibits 2048 and 2049 in their entirety. PO Mot. 2–6. Patent Owner represents that these Exhibits contain either “highly 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 2023–26, 2027, 2028, 2085, 2098, and 2106.

In its unopposed Motion, Petitioner seeks to seal portions of Exhibits 1124 and 1125 because they cite to papers and exhibits that PO alleges contain “highly confidential information.” Pet. Mot. 2. Petitioner has filed redacted versions of Exhibits 1124 and 1125.

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. 6–8; Pet. Mot. 3. Specifically, the parties demonstrate that the information sought to be sealed contains confidential information regarding research and development efforts and licensing practices of a third party.

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.

*Redacted Version of Final Written Decision*

This Order is being entered concurrently with a Final Written Decision entered in this proceeding pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. The Decision is entered as a non-public version covering protective order material because it references and cites to several documents subject to the Motions to Seal. No later than ten (10) business days after entry of the Final Written Decision, the parties shall jointly submit, as an Exhibit, a proposed redacted version of the Final Written Decision that will be publicly available.

ORDER

Accordingly, it is:

ORDERED that Patent Owner's Motion for Entry of the Proposed Stipulated Protective Order and to Seal Certain Exhibits (Paper 95) is *granted*;

FURTHER ORDERED that Petitioner's Motion to File Documents Under Seal (Paper 97) is *granted*; and

FURTHER ORDERED that no later than ten (10) business days after entry of the Final Written Decision, the parties shall jointly submit, as an

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Exhibit, a proposed redacted version of the Final Written Decision that will be publicly available.

FOR PETITIONER:

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