

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.,
Petitioner,

v.

ACCELERATION BAY, LLC,
Patent Owner

Case IPR2015-01996¹
Patent 6,829,634

**PATENT OWNER'S 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**

¹ Bungie, Inc., who filed a Petition in IPR2016-00964, has been joined as a petitioner in this proceeding.

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner, Acceleration Bay, LLC, (“Acceleration Bay”) hereby moves for entry of the Default Protective Order and to seal its Patent Owner Response and certain Exhibits (collectively referred to herein as the “Subject Exhibits”) thereto which are identified below:

Filing/Exhibit	Content	Confidential Information²
Paper 33	Patent Owner Response	Contains highly confidential information regarding licensing practices and internal research and development efforts of a third party.
Exhibit 2022	Declaration of Michael Goodrich, Ph.D. in Support of Patent Owner’s Response with Appendix A (<i>Curriculum Vitae</i> of Michael Goodrich)	Contains highly confidential information regarding licensing practices, internal research and development efforts of a third party.
Exhibit 2023	Declaration of Dr. Harry Bims in Support of Patent Owner’s Response with Appendix A (<i>Curriculum Vitae</i> of Dr. Harry Bims)	Contains highly confidential information regarding licensing practices, internal research and development efforts of a third party.
Exhibit 2024	Declaration of Dr. Fred Holt in Support of Patent Owner’s Response	Contains highly confidential information regarding internal research and development efforts of a third party.

² Further details regarding the confidential information regarding each of the filings and exhibits identified in this chart are explained *infra* at § I.

Motion for Entry of Default Protective Order
IPR2015-01996 (U.S. Patent No. 6,829,634)

Exhibit 2025	Declaration of Virgil Bourassa in Support of Patent Owner's Response	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2026	Declaration of Robert Abarbanel in Support of Patent Owner's Response	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2028	Boeing Invention Disclosure Form (19 pages)	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2029	Patent License Agreement between Boeing Management Company and Sony Computer Entertainment America Inc.	Contains highly confidential information regarding licensing practices of a third party.
Exhibit 2032	Deposition Transcript of Dr. David R. Karger for Case Nos. IPR2015-01964 and IPR2015-01996, taken on July 6, 2016	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2033	Deposition Transcript of Dr. David R. Karger for Case Nos. IPR2015-01970 and IPR2015-01972, taken on July 7, 2016	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2034	Deposition Transcript of Dr. David R. Karger for Case Nos. IPR2015-01951 and IPR2015-01953, taken on July 8, 2016	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2047	Dr. Fred Holt's handwritten notes, dated March 27, 1997	Contains highly confidential information regarding internal research and development efforts of a third party.

Exhibit 2048	Printout of a source code C++ header file, dated April 22, 1997	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2049	Printout of a source code C software module, dated June 8, 1999	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2085	Claim chart created by Dr. Michael Goodrich regarding the '634 Patent and the Boeing Invention Disclosure Form	Contains highly confidential information regarding internal research and development efforts of a third party.

I. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION

The Board's standards for granting motions to seal are discussed in *Garmin International v. Cuozzo Speed Technologies, LLC*, IPR2012-00001 (Paper 34 at 4-5, Mar. 14, 2013). The standard for granting a motion to seal is "good cause." 37 C.F.R. § 42.54(a). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). In particular:

The rules aim to strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information.

* * *

Confidential Information: The rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.

35 U.S.C. § 316(a)(7); 37 C.F.R. § 42.54; Office Trial and Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

Acceleration Bay's Patent Owner Response and the Subject Exhibits contain confidential information requiring that they be designated as "PROTECTIVE ORDER MATERIAL" under Default Protective Order (attached hereto as Exhibit A). The Patent Owner Response and Subject Exhibits each contain highly confidential information of a third party. Specifically, each discuss and reveal confidential information regarding either or both (1) The Boeing Company's ("Boeing") licensing practices including highly sensitive information relating to the terms of certain licenses and (2) highly confidential internal information relating to the conception and development of the subject patent including an Invention Disclosure Form by the inventors and first assignee, Boeing. The confidential information disclosed in each of the Subject Exhibits is outlined in the chart above.

The sealing of the foregoing is of particular importance because the public disclosure of such "truly sensitive information" would impact Boeing's competitive position in the market. In particular, information regarding certain Boeing licenses, and the internal research and development efforts and strategies at Boeing, would allow competitors to access information that would significantly harm Boeing's competitive position in the marketplace.

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