

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.,
Petitioners

v.

ACCELERATION BAY, LLC,
Patent Owner

Case No. IPR2016-00931
Patent 6,701,344 B1

**PATENT OWNER PRELIMINARY RESPONSE TO PETITION
PURSUANT TO 37 C.F.R. §42.107**

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I. INTRODUCTION

On April 21, 2016, Petitioner filed a Petition for *inter partes* review of claim 12 of U.S. Patent No. 6,701,344 B1 (the “344 Patent”), which issued to The Boeing Company on March 2, 2004, based on an application filed in the USPTO on July 31, 2000. Petitioner seeks to join its own instituted *inter partes* review proceeding—IPR2015-01972—despite being otherwise time-barred under 35 U.S.C. § 315(b) while raising two additional grounds not explicitly considered by the Board in the underlying case, though that case dealt with substantially similar grounds based on the same prior art. As demonstrated in Patent Owner's Opposition to Motion for Joinder filed in this case on the same day as this Preliminary Response, Petitioner's Motion for Joinder is improper, and the Board should deny the instant Petition under § 315(b). This Preliminary Response addresses further reasons for the Board to decline institution of trial on claim 12 of the '344 Patent on the two grounds proposed in the Petition—namely that the Petition should be denied under 35 U.S.C. § 325(d) because the same prior art has already been presented to the USPTO and because, in any case, the proposed grounds do not establish a reasonable likelihood that claim 12 is unpatentable.

The '344 Patent is one of several patents obtained by Boeing directed to novel computer network technology, developed by inventors Fred Holt and Virgil Bourassa more than sixteen years ago, that solved critical scalability and

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