

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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NINTENDO CO., LTD., and NINTENDO OF AMERICA INC.,  
Petitioners,

v.

ANCORA TECHNOLOGIES, INC.,  
Patent Owner.

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Case IPR2021-01338  
U.S. Patent No. 6,411,941 B1

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**JOINT MOTION  
FOR ENTRY OF PROTECTIVE ORDER**

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

## **I. INTRODUCTION**

Pursuant to 37 C.F.R. § 42.54, the Scheduling Order (Paper 19), and Board communication authorization (Ex. 2028), the parties respectfully request that the Board enter the proposed protective order filed herewith as exhibit 2038. The Scheduling Order entered in this proceeding states that “[i]f the parties choose to propose a protective order deviating from the default protective order, they must submit the proposed protective order jointly along with a marked-up comparison of the proposed and default protective orders showing the differences between the two and explain why good cause exists to deviate from the default protective order.”

The proposed protective order is based on the Board’s default protective order (see Trial Practice Guide, App. B, 77 Fed. Reg. 48,756, 48,771 (Aug. 14, 2012)), with certain revisions made pursuant to requests from third parties whose information is being submitted under the protective order. A redline copy of the proposed protective order showing the changes relative to the default protective order is also submitted herewith as exhibit 2039.

## **II. THERE IS GOOD CAUSE FOR THE AMENDMENTS TO THE DEFAULT ORDER**

Ancora is concurrently submitting with its Patent Owner Response certain exhibits evidencing licensing history for the patent at issue in this IPR as part of

the objective evidence of non-obviousness. These exhibits include third party confidential information that the third parties wish to remain confidential. Moreover, these third parties are requiring changes to the default protective order as a condition of submission of this information to the Board.

Change	Reason for Change
1	Deletion of “standing” removes any implication that the protective order is identical to the Board’s default protective order
2	This change requires the parties to separately mark third party confidential information.
3	This change is required by the third parties to limit disclosure only to outside counsel of petitioners because of the sensitive nature of the information.
4	“Party Representatives” is changed to “Outside Representatives” pursuant to request of the third parties.
5	This change is pursuant to request of the third parties to control access to those other than Outside Representatives.
6	This change requires a process facilitate obtaining consent from third parties for expert access to third party confidential information.

7	This change is pursuant to the request of Petitioner Nintendo to allow for a process should there be a dispute over sharing third party confidential information with an expert.
8	This change is required by the third parties to limit disclosure only to outside counsel of petitioners because of the sensitive nature of the information.
9	This change is required by the third parties to limit disclosure only to outside counsel of petitioners because of the sensitive nature of the information.
10	This change is to clarify that documents having confidential information must be filed under seal.
11	This change is to improve clarity.

### III. CONCLUSION

The parties respectfully request that the Board enter the proposed protective order and are available to discuss the proposed changes at the Board's convenience.

Respectfully submitted,

Dated: May 3, 2022

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Counsel for Petitioners

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