

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., and
ROCKSTAR GAMES, INC.,
Petitioner,

v.

ACCELERATION BAY, LLC,
Patent Owner.

Case IPR2016-00747
Patent 6,732,147

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
IN PETITIONER'S REPLY UNDER 37 C.F.R. § 42.64**

Patent Owner Acceleration Bay, LLC ("Patent Owner") objects under the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following documents submitted by Activision Blizzard, Inc., Electronic Arts, Inc., Take-Two Interactive Software, Inc., 2K Sports, Inc., and Rockstar Games, Inc., ("Petitioner") in its Reply to Patent Owner's Response ("Reply").

Petitioner's Reply was filed on March 7, 2017. Patent Owner's objections are timely under 37 C.F.R. § 42.64(b)(1). Patent Owner serves Petitioner with these objections to provide notice that Patent Owner will move to exclude these exhibits as improper evidence.

I. PETITIONER'S REPLY EVIDENCE

A. Exhibits 1203 and 1206

Patent Owner objects to the admissibility of Exhibits 1203 and 1206 for at least the following reasons:

1. Exhibits 1203 and 1206, which were manufactured by Petitioner's counsel, are hearsay under **FRE 801** and inadmissible under **FRE 802**.

2. Patent Owner further objects to Exhibits 1203 and 1206 under **FRE 403** because of the prejudice arising from Patent Owner's inability to respond to the untimely evidence.

B. Exhibits 1204 and 1205

Patent Owner objects to the admissibility of Exhibits 1204 and 1205 for at least the following reasons:

1. Patent Owner objects to Exhibits 1204 and 1205 because these exhibits lack relevance under **FRE 401** and **402** as they exceed the proper scope of Petitioner's Reply. *See* 37 C.F.R. § 42.23(b). Patent Owner further objects to Exhibits 1204 and 1205 under **FRE 403** because of the prejudice arising from Patent Owner's inability to respond to the untimely evidence and arguments therein.

2. Patent Owner objects to Exhibits 1204 and 1205 as untimely because they should have been introduced in its Petition. *See* 37 C.F.R. § 42.104(b); 37 C.F.R. § 42.23. Patent Owner objects to Exhibit 1204 and 1205 because they are supplemental information that is improper and untimely under 37 C.F.R. § 42.123.

3. Patent Owner further objects to Petitioner's selective inclusion of material from the document in Exhibits 1204 and 1205. Under **FRE 106**, the complete version of these exhibits, in fairness, ought to be considered.

C. Exhibit 1208

Patent Owner objects to the admissibility of Exhibit 1208 because Petitioner does not cite to or rely on this exhibit in its Reply. Accordingly, Exhibit 1208 is not relevant under **FRE 401** and inadmissible under **FRE 402** and **FRE 403**.

Patent Owner's Objections to Evidence
IPR2016-00747 (U.S. Patent No. 6,732,147)

Respectfully submitted,

Dated: March 14, 2017

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Case No. IPR2016-00747

Attorneys for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a true and correct copy of the foregoing Patent Owner's Objections to Evidence in Petitioner's Reply under 37 C.F.R. § 42.64 was served on March 14, 2017, by filing this document through the PTAB E2E System as well as delivering via electronic mail upon the following counsel of record for Petitioner:

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