

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 B1

Before SALLY C. MEDLEY, LYNNE E. PETTIGREW, and
WILLIAM M. FINK, *Administrative Patent Judges*.

FINK, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. §§ 42.5

A Final Written Decision was entered on September 6, 2017. Pursuant to our Order (Paper 51), entered the same day as the Final Written Decision, the parties have filed a Joint Motion to Seal, indicating that neither Petitioner's Reply nor Exhibit 1207 needs to remain under seal. Paper 52, 1. The parties request that Exhibit 1201 remain under seal. *Id.* at 2–3. The parties also filed a redacted version of Exhibit 1201 “that may be made available to the public.”¹ *Id.* at 1.

In the Joint Motion to Seal, the parties seek to seal portions of Exhibit 1201. *Id.* The parties represent that the redacted portions of Exhibit 1201 contain “information regarding the licensing practices of a third party, including licensing terms which the third party has deemed confidential” and “information regarding the internal research and development efforts of a third party.” *Id.* at 2. The parties further explain that redactions of Exhibit 1201 are limited to what is necessary to protect third party confidential information and do not detract from any material understanding of the public record because neither party quoted the redacted portions and the Board did not rely on the redacted portions in rendering its Final Written Decision. *Id.* at 2–3.

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

¹ The redacted version of Exhibit 1201 was erroneously filed as Paper 53. We have expunged Paper 53 and refiled it as Exhibit 1201.

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 in their Joint Motion to Seal and determine that good cause has been established for sealing Exhibit 1201. Specifically, the parties demonstrate that the information sought to be sealed per its motion contains confidential information regarding research and development efforts and licensing practices of a third party. Accordingly, we grant Patent Owner’s Motion to Seal. The record will be preserved in its entirety, and Exhibit 1201 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, Exhibit 1201 may be made public. *See id.* at 3–4. At that time, either party may file a motion to expunge Exhibit 1201 from the record pursuant to 37 C.F.R. § 42.56.

Order

It is:

ORDERED that the Joint Motion to Seal is *granted*; and

FURTHER ORDERED that Petitioner’s Reply (original Paper 40) and Exhibit 1207 be made publically available.

IPR2016-00747
Patent 6,732,147 B1

FOR PETITIONER:

Michael M. Murray
Michael Tomasulo
Andrew R. Sommer
Gregg Duffey
WINSTON & STRAWN
mmurray@winston.com
mtomasulo@winston.com
asommer@winston.com
gduffy@winston.com

FOR PATENT OWNER:

James Hannah
Paul J. Andre
Shannon Hedvat
Jeffrey H. Price
KRAMER LEVIN NAFTALIS & FRANKEL LLP
jhannah@kramerlevin.com
pandre@kramerlevin.com
shedvat@kramerlevin.com
jprice@kramerlevin.com