UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioners,

v.

ANCORA TECHNOLOGIES, INC.,

Patent Owner.

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

PETITIONERS' MOTION UNDER 37 C.F.R. §§ 42.14 AND 42.54 TO SEAL PETITIONERS' OPENING BRIEF ON REMAND

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I. INTRODUCTION

Nintendo Co., Ltd. and Nintendo of America Inc. (collectively, "Petitioners") request that confidential portions of Petitioners' Opening Brief on Remand ("Brief") quoting or characterizing such documents, be sealed under 37 C.F.R. §§ 42.14 and 42.54.

All of the confidential material submitted in this proceeding belongs to Patent Owner and third parties. Good cause to seal exists because Patent Owner has represented to Petitioners that certain information in the Confidential Brief is sensitive, non- public information. Petitioners therefore submit this Motion to Seal under the jointly proposed Protective Order in this case (EX2038).

Pursuant to 37 C.F.R. § 42.54(a), Petitioners' counsel conferred in good faith with Patent Owner's counsel in an attempt to resolve any dispute about this Motion. Patent Owner does not oppose this motion.

II. GOVERNING RULES AND PTAB GUIDANCE

While under 35 U.S.C. § 316(a)(1), papers filed in an *inter partes* review are generally open and available for access by the public, a party may file a concurrent Motion to Seal to protect public disclosure of certain confidential information, which has the effect of sealing the information at issue pending resolution of the motion. In determining whether to grant a Motion to Seal, the Board must find "good cause," 37 C.F.R. § 42.54(a), and "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," Consolidated Trial Practice Guide, November 2019 ("TPG"), 19. The Board identifies confidential information in a manner "consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for … confidential research, development, or commercial information." TPG, 19.

Based on the procedure set forth in the TPG, Petitioners seek to prevent the disclosure of sensitive information that Patent Owner has represented is contained in the confidential documents.

III. IDENTIFICATION OF CONFIDENTIAL INFORMATION

The Confidential portions of the Brief at issue here comprise certain quotes and characterizes information designated as confidential. Patent Owner has represented to Petitioners that the agreements are confidential and thus have not been published or otherwise made public. In particular, pursuant to the Board's June 17, 2022 Order (Paper 29), Patent Owner designated the agreements as "THIRD-PARTY CONFIDENTIAL – PARTY ACCESS LIMITED" under the Protective Order in this proceeding (EX2038). Under the terms of the Protective Order, documents so designated must be filed under seal. (EX2038, ¶4(A)(i).)

A. Petitioners' Brief

Petitioners have, to the best of their ability, limited material in its Brief to non-confidential information. It has redacted confidential information citing, quoting, or characterizing the Confidential Exhibits. Pursuant to guidance in the

TPG, Petitioners have filed both confidential and non-confidential versions of its Brief.

To the best of Petitioners' knowledge, and based on Patent Owner's representation that the Confidential Exhibits and the information contained therein are indeed confidential, the information sought to be sealed has not been published or otherwise made public.

IV. GOOD CAUSE EXISTS FOR SEALING THE CONFIDENTIAL INFORMATION.

By designating the portions of the Brief as confidential under the Protective Order, Patent Owner has represented that public disclosure of this information contained therein would significantly harm Patent Owner and potentially violate confidentiality provisions associated with those portions. The public interest will not be harmed by granting this Motion to Seal the documents as "**PROTECTIVE ORDER MATERIAL**." To the contrary, at least according to Patent Owner's representations about the confidential portions of the Brief, granting this Motion to Seal would achieve "a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." 77 Fed. Reg. at 48,760.

Therefore, good cause exists for granting this motion to seal.

V. RELIEF REQUESTED

For the reasons stated above, Petitioners request that the Board seal and

protect the portions of Petitioners' Brief citing thereto.

Dated: August 29, 2025

/ *Kyle R. Canavera* /

Jessica Kaiser, Reg. No. 58,937
Kyle R. Canavera, Reg. No. 72,167
PERKINS COIE LLP
1201 3rd Ave., #4900
Seattle, WA 98101
(206) 359-8664

Attorneys for Petitioners

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITIONERS' MOTION UNDER 37 C.F.R. §§ 42.14 AND 42.54 TO SEAL PETITIONERS' OPENING BRIEF ON REMAND** was served electronically via e-mail on August 29, 2025, in its entirety on the following counsel of record for Patent Owner:

Nicholas T. Peters - ntpete@fitcheven.com
Karen J. Wang - kwang@fitcheven.com
ancora-ipr@fitcheven.com

Respectfully submitted,

Date: August 29, 2025

/ *Kate Rose*/
Kate Rose
Senior Paralegal