IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, INC.,
Petitioner,

v.

CONVERGENT MEDIA SOLUTIONS, LLC,
Patent Owner

CASE NO. **IPR2016-00047**
PATENT 8,640,183

PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION FOR *INTER PARTES* REVIEW

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I. INTRODUCTION

Pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.107, the Patent Owner hereby provides a Preliminary Response to the Petition for *Inter Partes* Review filed on October 14, 2015 (herein "the Petition"). A Notice issued by the Board dated October 30, 2015 (Paper 3) set January 14, 2016 as the deadline for this Preliminary Response. This Preliminary Response is timely filed, and no fee is due with this Preliminary Response.

The Petition asserts two (2) grounds by which the Petitioner alleges that various claims of U.S. Patent 8,640,183 (the '183 Patent) are unpatentable. None of the grounds meet the requirement of describing that there is a reasonable likelihood at least one of the claims in the '183 Patent is unpatentable as required by 35 U.S.C. § 314(a). As such, the Patent Owner respectfully requests that the Board deny the Petition and not institute trial.

If a single element of a claim is absent from the prior art, the claim cannot be considered obvious. *See CFMT, Inc. v. YieldUp Int'l Corp.,* 349 F.3d 1333, 1342 (Fed. Cir. 2003) ("Obviousness requires a suggestion of all limitations in a claim", citing *In re Royka,* 409 F.2d 981, 985 (C.C.P.A. 1974); *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed Cir. 1993) (reversing obviousness rejection where prior art did not teach or suggest all claim limitations); *Garmin Int'l Inc. v. Patent of Cuozzo Speed Techs, LLC,* Case No. IPR 2012-0001, Paper 15 at 15 (P.T.A.B. Jan. 9, 2013) (refusing to

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