

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,  
Petitioner

v.

CONVERGENT MEDIA SOLUTIONS, LLC,  
Patent Owner

IPR2015-\_\_\_\_\_  
Patent No. 8,640,183

**DECLARATION OF JON WEISSMAN**

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I, Jon Weissman, declare as follows:

**I. Introduction**

1. I have been retained by Unified Patents Inc. (“Unified” or “Petitioner”) as an independent expert consultant in this proceeding before the United States Patent and Trademark Office. Although I am being compensated at my hourly rate for the time I spend on this matter, no part of my compensation depends on the outcome of this proceeding, and I have no other interest in this proceeding.

2. I understand that this proceeding involves U.S. Patent No. 8,640,183 (“the ’183 patent”) (attached as Ex. 1001 to Unified’s petition). I understand the application for the ’183 patent was filed on October 26, 2012, as U.S. Patent Application No. 13/662,213 having a priority date of May 10, 2002, and the patent issued on January 28, 2014.

3. I have been asked to consider whether one of ordinary skill in the art of the ’183 patent would understand that certain references disclose or suggest the features recited in the claims of the ’183 patent, or that the features would have been obvious based on the combination of the references. My opinions are set forth below. While I discuss certain prior art challenges specifically, I note that I reviewed a number of prior art references that also seemed to anticipate, disclose, and render obvious the claims of the ’183 patent.

4. I have been advised that a patent claim may be obvious if the differences between the subject matter of the claim and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. I have also been advised that several factual inquiries underlie a determination of obviousness. These inquiries include the scope and content of the prior art, the level of ordinary skill in the field of the invention, the differences between the claimed invention and the prior art, and any objective evidence of non-obviousness.

5. I have been advised that objective evidence of non-obviousness, known as “secondary considerations of non-obviousness,” may include commercial success, satisfaction of a long-felt but unsolved need, failure of others, copying, skepticism or disbelief before the invention, and unexpected results. I am not aware of any such objective evidence of non-obviousness of the subject matter claimed in the ’183 patent at this time.

6. In addition, I have been advised that the law requires a “common sense” approach of examining whether the claimed invention is obvious to a person skilled in the art. For example, I have been advised that combining familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.

## II. Qualifications

7. I am a Full Professor of Computer Science at the University of Minnesota, the highest academic rank at a top-tier research University. Prior to this, I worked in industry for five years in the area of distributed systems. I received a B.S. from Carnegie-Mellon, and an M.S. and Ph.D. from the University of Virginia, all in Computer Science. My *curriculum vitae*, which includes a more detailed explanation of my background, experience, and publications, is attached as Appendix A.

8. I am a researcher and educator in the areas of networked distributed systems, file systems, and cloud computing. My research has been funded by NASA, National Science Foundation, Department of Energy, and the Air Force. I have received over 20 grants for my research, for topics related to distributed systems, communications networks, and cloud computing. I have been published over 100 times by well-regarded organizations such as the Association for Computing Machinery (ACM), the Institute of Electrical and Electronics Engineers (IEEE), and Usenix. I have been giving invited talks on a variety of topics related to my areas of expertise since 1993.

9. I have served on a number of boards both as a member and as part of leadership. For example, I have served on the editorial board of journals including IEEE Transactions on Computers, IEEE Transactions on Parallel and Distributed

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