

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RUBICON COMMUNICATIONS, LP

Petitioner,

v.

LEGO A/S

Patent Owner.

Case IPR2016-01187

Patent 8,894,066

**DECLARATION OF CHRIS D. THOMPSON
IN SUPPORT OF PETITIONER'S
MOTION TO CORRECT CLERICAL MISTAKE**

Declaration of Chris D. Thompson

I, Chris D. Thompson, declare the following:

1. This declaration is given in support of the Petitioner Rubicon Communications LP's Motion to Correct Clerical Mistake under 37 CFR §42.104(c).
2. I am a patent attorney at the law firm of Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
3. I drafted the petition that was filed on June 10, 2016 in the above-captioned proceeding.
4. When drafting the petition, I reviewed the original complaint in a lawsuit filed by Patent Owner in U.S. District Court, District of Connecticut, Civil Action No. 3:15-cv-00823 (the "Lawsuit"), which identified Rubicon Communications LP as the defendant. *See* true and correct copy of the face page of this pleading (Ex. 1024). In the Lawsuit, Patent Owner alleged that Rubicon Communications LP infringed claims of the patent on which review is being sought in the petition, namely U.S. Patent No. 8,894,066 to Sternberg et al. I have not had much substantive involvement in the Lawsuit, and only worked on the invalidity contentions with respect to third party art, as Eric Meyertons, Ryan Beard and Dwayne Goetzel were the primary attorneys handling the Lawsuit. My current understanding,

however, is that Patent Owner subsequently sought leave to amend the complaint in its Lawsuit to add Smallworks LLC as a named defendant. I have also subsequently seen that Petitioner's discovery responses sent to Patent Owner in the Lawsuit refer to Smallworks LLC.

5. When drafting the petition, and preparing the list of real-parties-in-interest in Section I.A of the petition, I reviewed the original complaint filed by the Patent Owner in the Lawsuit, which identified only Rubicon Communications LP as defendant. Section I.B of the petition did refer to the newer caption of the Lawsuit, which included reference to Smallworks LLC. The omission of Smallworks LLC from Section I.A of the petition was an unintentional and inadvertent clerical or typographical error, as shown by the omission of Smallworks LLC in Section I.A but the inclusion of the reference to Smallworks LLC in Section I.B. This unintentional and inadvertent error was in no way intended to conceal or obscure the identity of Smallworks LLC from the Board, Patent Owner, or any other party, and was simply the result of my looking at the original complaint at the time.
6. After the petition was filed, I became aware that Smallworks LLC had been omitted from the list of real parties in interest in the petition. On June 27, 2016, my colleague, Ryan T. Beard, sent a letter to Patent Owner's counsel notifying Patent Owner's counsel of the clerical error in omitting

Smallworks LLC, and asking whether Patent Owner would oppose a motion to correct the clerical error. Patent Owner's counsel responded that it would oppose such a motion.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Date: November 28, 2016

/Chris D. Thompson/
Chris D. Thompson
cthompson@intprop.com
MEYERTONS, HOOD,
KIVLIN, KOWERT &
GOETZEL
1120 S. Capital of Texas Hwy.
Building 2, Suite 300
Austin, Texas 78746
(512) 853-8877