

Case IPR2017-01934
Patent No. 8,799,468

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, INC.
Petitioner

v.

MULTIMEDIA CONTENT MANAGEMENT LLC
Patent Owner

Case IPR2017-1934
U.S. Patent No. 8,799,468

**PATENT OWNER PRELIMINARY RESPONSE TO PETITION
PURSUANT TO 37 C.F.R. §42.107(a)**

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. The '468 Patent.....	2
A. Overview of the '468 Patent.....	2
B. Person of Ordinary Skill in the Art	3
C. Proper Understanding of Claims	3
1. “Service Provider Network”	4
2. “Controller Instructions”	8
3. “Gateway Unit”.....	11
4. “Generate [controller instructions]”.....	12
III. THE CHALLENGED CLAIMS ARE NOT OBVIOUS	15
A. Ground 1 - <i>Freund</i>	15
1. Overview of <i>Freund</i>	15
2. Claim 1 is Not Obvious.....	18
3. Claim 2 is Not Obvious.....	24
4. Claim 9 is Not Obvious.....	28
5. Claim 19 is Not Obvious.....	29
6. Claim 23 is Not Obvious.....	31
7. Claim 24 is Not Obvious.....	32
8. Claims 3-5, 11, 13, 25-27, 33 are Not Obvious	32
B. Ground 2 - <i>Spusta</i>	32
1. Overview of <i>Spusta</i>	33
2. Claim 1 is Not Obvious.....	35
3. Claim 23 is Not Obvious.....	44
4. Claims 2-3, 11, 13, 24-25, 32, 34 are Not Obvious.....	44
IV. THE PETITION SHOULD BE DENIED AS REDUNDANT	45
A. <i>Freund</i> and <i>Spusta</i> are Each Redundant to the Art Cited During Prosecution of the '468 Patent	45
B. The Board Should Exercise its Discretion and Deny the Petition	63
C. Petitioner’s Use of <i>Freund</i> and <i>Spusta</i> Violates the Prohibition Against Horizontal Redundancy	65

Case IPR2017-01934
Patent No. 8,799,468

V. INTER PARTES REVIEW PROCEEDINGS ARE UNCONSTITUTIONAL67

VI. CONCLUSION.....68

TABLE OF AUTHORITIES

Page

CASES

AmkorTech., Inc. v. Tessera, Inc.,
IPR2013-00242, Paper No. 37, (P.T.A.B. Oct. 11, 2013).....67

Baker Hughes Oilfield Operations, Inc. v. Smith International, Inc.,
IPR2016-1450, Paper 10, (P.T.A.B. Dec. 22, 2016).....62

Berk-Tek LLC v. Belden Techs. Inc.,
IPR2013-00057, Paper No. 21, (P.T.A.B. May 14, 2013)66

Blue Coat Systems LLC v. Finjan, Inc.,
IPR2016-01443, Paper 13, (P.T.A.B. Jan. 23, 2017)64

Cultec, Inc. v. Stormtech LLC,
IPR2017-0777, Paper 7, (P.T.A.B. Aug. 22, 2017).....62

Cuozzo Speed Techs., LLC v. Lee,
136 S. Ct. 2131 (2016).....4

In re Translogic Tech., Inc.,
504 F.3d 1249 (Fed. Cir. 2007)4

In re Smith Int'l, Inc.
(Fed. Cir. Sep. 26, 2017)3

Liberty Mutual Insurance Co. v. Progressive Casualty Insurance Co.,
CBM2012-0003, Paper 7, (P.T.A.B. October 25, 2012).....65

Markman v. Westview Instruments, Inc.,
517 U.S. 370, 377 (1996)67

McCormick Harvesting Mach. Co. v. C. Aultman & Co.,
169 U.S. 606 (1898).....68

Case IPR2017-01934
Patent No. 8,799,468

Oil States Energy Servs., LLC v. Greene’s Energy Grp., LLC,
137 S. Ct. 2239 (2017).....68

Oracle Corp. v. Clouding IP, LLC,
IPR2013-00075, Paper No. 8, (P.T.A.B. May 3, 2013)67

Unified Patents, Inc. v. Berman,
IPR2016-1571, Paper 10, (P.T.A.B. Dec. 14, 2016).....62

OTHER AUTHORITIES

35 U.S.C. §314(a)63

35 U.S.C. §316(a)(11).....64

35 U.S.C. §325(d)62

35 U.S.C. §326(b)66

37 C.F.R. §1.104(c)(2)46

37 C.F.R. §42.1(b)66

37 C.F.R. §42.108(c).....15

MPEP §706.0246

MPEP §706.0746

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.