

**FILED UNDER SEAL – PROTECTIVE ORDER MATERIAL**

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS INC.  
Petitioner

v.

FALL LINE PATENTS, LLC  
Patent Owner

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Case IPR2018-00043  
Patent 9,454,748

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PATENT OWNER'S OBSERVATIONS REGARDING  
RPI CROSS-EXAMINATION

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Pursuant to the Board's Order Regarding the Conduct of the Proceeding (Paper 19), Patent Owner Fall Line Patents, LLC provides the following Observations on Cross-Examination of Petitioner's RPI witness, Kevin Jakel. Mr. Jakel's original declaration (Exhibit 1026) and Petitioner's Voluntary Interrogatory Responses (Exhibit 1027) were attached as exhibits to Petitioner's RPI Response (Paper). The transcript of the cross-examination deposition of Mr. Jakel is attached to this paper as Exhibit 2009. Patent Owner's observations are set forth below.

**Observation #1:** In exhibit 2009, beginning on page 26, line 21 through page 27, line 22, the witness testified that IPRs are Petitioner's biggest expense. This testimony is relevant to Patent Owner's argument that Petitioner's members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because it shows that a majority of Petitioner's revenue, which is almost entirely derived from membership fees, is spent on IPRs.

**Observation #2:** In exhibit 2009, beginning on page 31, line 16 through page 33, line 5, the witness testified that membership fees account for about [REDACTED] of Petitioner's annual revenue. This testimony is relevant to Patent Owner's argument that Petitioner's members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because Petitioner's members must renew

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their subscription for Petitioner to continue to receive its primary source of revenue.

**Observation #3:** In exhibit 2009, beginning on page 35, lines 4-16, the witness testified that Petitioner has a contractual obligation to use the [REDACTED] to generate a deterrence impact on behalf of a zone. This testimony is relevant to Patent Owner’s argument that Petitioner’s members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because it shows that Petitioner is obligated to act on behalf of its zone members’ interests.

**Observation #4:** In exhibit 2009, beginning on page 66, line 23 through page 67, line 20, and page 90, lines 1-13, the witness testified that Petitioner is hired to do deterrence work. This testimony is relevant to Patent Owner’s argument that Petitioner’s members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because it shows that the members hire Petitioner to perform deterrence services, including filing IPRs.

**Observation #5:** In exhibit 2009, beginning on page 64, line 14 through page 65, line 7, the witness testified that Petitioner has a contractual obligation to use “[REDACTED] [REDACTED]” to reduce NPE activity in a zone. This testimony is relevant to

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Patent Owner's argument that Petitioner's members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because it shows that Petitioner has a legal obligation to perform deterrence efforts on behalf of its zone members.

**Observation #6:** In exhibit 2009, beginning on page 109, line 24 through page 111, line 2, the witness testified that Petitioner meets with every member, during which Petitioner describes the work done on behalf of the zone and tries to convince the member to renew. This testimony is relevant to Patent Owner's argument that Petitioner's members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because it shows that Petitioner tells its members what work was done on their behalf, including filing IPRs.

**Observation #7:** In exhibit 2009, beginning on page 35, line 17 through page 36, line 24, the witness testified that IPRs are Petitioner's most cost-effective way to achieve its business goals. This testimony is relevant to Patent Owner's argument that Petitioner's members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because it shows that Petitioner maintains memberships by filing IPRs.

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**Observation #8:** In exhibit 2009, beginning on page 38, line 24 through page 39, line 4, the witness testified that IPRs are Petitioner’s best way to achieve its business goals. This testimony is relevant to Patent Owner’s argument that Petitioner’s members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because it shows that Petitioner believes its best way to generate deterrence—which is Petitioner’s stated purpose and the basis on which it convinces members to join or review—is by filing IPRs.

**Observation #9:** In exhibit 2009, beginning on page 45, line 14 through page 47, line 7 the witness testified that Petitioner provides regular reports to its members, which include which IPRs were filed, the results of those IPRs, and the money spent on each individual IPR. This testimony is relevant to Patent Owner’s argument that Petitioner’s members are the real parties in interest, which is found in Paper 5, pages 28-32. The testimony is relevant because it shows that Petitioner’s members are regularly provided with exact, detailed breakdowns of how their subscription fees are being spent on their behalf.

**Observation #10:** In exhibit 2009, beginning on page 100, line 12 through page 101, line 13, the witness testified that when Petitioner obtains a license, such as part of settling an IPR, Petitioner also obtains a right to sublicense the patent to its

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