

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.
Petitioner

v.

UNIVERSAL SECURE REGISTRY LLC
Patent Owner

IPR2018-00067
U.S. 8,577,813

DECLARATION OF KEVIN JAKEL

HIGHLY CONFIDENTIAL-

I, Kevin Jakel, make the following Declaration pursuant to 28 U.S.C. § 1746:

1. I am the Chief Executive Officer and Co-Founder of Unified Patents, Inc. (“Unified”).

2. I provide this Declaration in connection with the above-identified *inter partes* review proceeding, IPR2018-00067, regarding U.S. Patent No. 8,577,813 (“the ’813 patent”). Unless otherwise stated, the facts stated in this Declaration are based on my personal knowledge.

3. Prior to the filing of this petition, Unified had no communications with [REDACTED] or any other member of Unified regarding the ’813 patent, the Patent Owner, Universal Secure Registry, LLC (“USR”), any litigation involving the ’813 patent or USR, or the strategy, preparation, or filing of the petition in this proceeding. Unified also had no discussions with [REDACTED] or any other member regarding whether [REDACTED] or any other member desired that Unified challenge the ’813 patent. Unified also had no pre-filing communications with [REDACTED] [REDACTED] regarding the ’813 patent, USR, any litigation involving the ’813 patent or USR, or the strategy, preparation, or filing of the petition in this proceeding. [REDACTED] and has never been a member of Unified.

4. The only communication that [REDACTED] or any Unified member may have received from Unified regarding this challenge would have been after the petition was filed in Unified’s general, periodic electronic newsletters that are sent out via e-

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mail using an e-mail application called “MailChimp” that is used to distribute the newsletter to a distribution list of thousands of e-mail addresses of individuals who have requested to receive this publicly available newsletter on Unified’s website. After the filing of the petition in this matter, Unified announced that it had filed this petition in an e-mail newsletter dated November 15, 2017 (*see* EX1040 at UNIFIED-USR-00047). And Unified announced that this IPR had been instituted in an e-mail newsletter dated June 21, 2018 (*see* EX1041 at UNIFIED-USR-00006). Other than those two e-mail newsletters sent out to thousands of newsletter recipients, Unified has had no other communications with any member regarding this challenge.

5. Neither [REDACTED] nor any other Unified member had any involvement in the preparation of or decision to file the petition, and neither [REDACTED] nor any other member provided funds designated to be used to prepare or file this petition. Unified has solely directed, controlled, and funded this petition and proceeding.

6. Unified independently controls all aspects of its patent challenge activities, without any input or direction from its members. For example, Unified does not discuss the preparation of any patentability challenge, including whether Unified will or will not file a petition, whether any Unified member desires that Unified file a challenge, or any strategy related to an ongoing challenge or litigation.

7. Membership fees paid by members are not designated to be used to file challenges, much less any particular challenge. Rather, Unified works to deter NPE

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activity in technology sectors called “zones,” not on behalf of any specific member(s) to resolve its litigation. For example, Unified has challenged unlitigated patents and has challenged many patents not asserted against any member. Unified has also filed reissue protests. Unified also performs NPE-deterrent and monitoring activities, such as data analytics and crowdsourced prior art searching, that do not involve filing challenges.

8. Unified does not discuss strategy relating to any pending litigation or any ongoing challenge with members and does not know whether a challenge will benefit any particular member, and the same applies here.

9. Unified has over 225 members. The zone relevant to this challenge—the “Transactions” Zone—has 128 member companies. [REDACTED]

10. Unified has no attorney-client relationship with its members, nor is it an extension of any in-house legal team. There is no overlap on Unified’s or any member’s board (or management generally, for that matter)—that is, no member’s director or member of management sits on Unified’s board, and no one on Unified’s board or in Unified’s management sits on any member’s board. Unified is privately and wholly owned by [REDACTED]

11. As I explained in my deposition, Unified does not consider filing challenges in response to any member being sued, but instead assesses whether

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patents—whether asserted in litigation or otherwise—are related to and threaten a Unified zone based on how well the patent’s claimed technology falls within Unified’s definition of the zone and are owned by a non-practicing entity, regardless of whether a member has been sued, as Unified did here. *See, e.g., Jakel Tr.* (EX1037), at 38:2-13, 41:20-42:4, 48:7-50:6, 51:22-54:5, 55:13-22. Unified did not file this challenge based on [REDACTED]

12. As demonstrated by the [REDACTED] agreement that was voluntarily produced to Patent Owner during this proceeding, membership fees paid by Unified members are not designated to file any patent challenges, much less any particular challenge, because Unified is not obligated to file challenges and Unified members provide no input, direction, or control (nor are they contractually permitted to do so). *See* EX2011, at UNIFED-USR-00029-to-00030 ([REDACTED] [REDACTED]) & [REDACTED] [REDACTED] [REDACTED] [REDACTED]).

Membership fees may be used for all NPE deterrence activities in a zone, including many non-challenge activities such as data analytics, crowdsourced prior art and the like, at Unified’s sole discretion.

13. In the Confidential Version of its Patent Owner Response (paper 28 in this proceeding), USR cites to portions of the [REDACTED] agreement between

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