

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, INC.

Petitioner

v.

UNILOC LUXEMBOURG, S.A.¹

Patent Owner

IPR2018-00199

PATENT 7,092,671

PATENT OWNER RESPONSE TO PETITION

PURSUANT TO 37 C.F.R. §42.120

¹ The owner of this patent is Uniloc 2017 LLC.

Table of Contents

I.	INTRODUCTION	1
II.	PETITIONER FAILED TO NAME AND REFUSES TO NAME ALL REAL PARTIES IN INTEREST	1
	A. Burden of proof lies with Petitioner who has no benefit of a presumption.....	2
	B. Federal Circuit precedential analysis in <i>RPX</i> applies here.....	4
	1. [REDACTED] each has a preexisting, established relationship with Unified.....	4
	2. [REDACTED] are each clear beneficiaries of the Petition	6
	3. Unified acted as a proxy for its clients [REDACTED] [REDACTED]	13
	4. Unified has a history of acting as a proxy	15
	5. Unified has substantial legal relationships with [REDACTED]	17
	6. The [REDACTED] language provides no magical safe harbor	19
III.	THE '671 PATENT	20
IV.	LEVEL OF ORDINARY SKILL IN THE ART	22
V.	PETITIONER DOES NOT PROVE OBVIOUSNESS OF ANY CHALLENGED CLAIM.....	22
	A. Claim construction of the “controlling” limitations	23
	B. No Proof of obviousness of the “controlling” claim language	28
	1. Yun’s “electronic pocketbook” fails to disclose,	

	and teaches away from, the “controlling” limitations	29
2.	Harris’ disclosure of a “PDA” transmitting a phone number does not render obvious the “controlling” claim language	34
3.	Dykes does not cure the deficiencies of either Yun or Harris concerning the “controlling” claim language.....	37
VI.	THE CONSTITUTIONALITY OF <i>INTER PARTES</i> REVIEW IS THE SUBJECT OF A PENDING APPEAL	41
VII.	CONCLUSION	42

TABLE OF EXHIBITS

Exhibit No.	Description
2001	Screenshot of the home page for Unified Patents, Inc. for the date, April 13, 2013, as retrieved from the Internet Archive's Wayback Machine (WBM), <i>available at</i> https://web.archive.org/web/20130413073000/http://www.unifiedpatents.com:80/solution/unified_patents.html .
2002	An article by Marta Belcher and John Casey entitled Hacking the Patent System: A Guide to Alternative Patent Licensing for Innovators. Juelsgaard Intellectual Property & Innovation Clinic, Stanford Law School (2014), as archived by the Internet Archive's Wayback Machine (WBM), <i>available at</i> https://web.archive.org/web/20140905000728/http://unifiedpatents.com:80/wp-content/uploads/2014/06/hacking_the_patent_system.pdf .
2003	Screenshot of Unified Patents' public webpage entitled Benefits for Large Company Members, as archived by the WBM, <i>available at</i> https://web.archive.org/web/20130907064849/http://www.unifiedpatents.com:80/benefits/large_companies.html .
2004	Screenshot of Unified Patents' public webpage entitled Compare Unified Patents to Other Options, as archived by the WBM, <i>available at</i> https://web.archive.org/web/20140606010956/http://unifiedpatents.com:80/ .
2005	A collection of documents produced and Bates Labeled by Petitioner Unified Patents
2006	Declaration of Brett A. Mangrum

I. INTRODUCTION

Uniloc Luxembourg S.A. (the “Uniloc” or “Patent Owner”) submits this Response to Petition IPR2018-00199 for *Inter Partes* Review (“Pet.” or “Petition”) of United States Patent No. 7,092,671 (“the ’671 patent” or “EX1001”) filed by Unified Patents (“Unified” or “Petitioner”). The instant Petition is procedurally and substantively defective for at least the reasons set forth herein.

II. PETITIONER FAILED TO NAME AND REFUSES TO NAME ALL REAL PARTIES IN INTEREST

The Petition should be denied as procedurally deficient because Unified, a non-practicing entity, failed to name (and has refused to name) all privies and real parties in interest. Since its formation in 2012, Unified has received substantial funds from its subscribing clients to mount *inter partes* review (“IPR”) challenges in instances where those clients have been sued for patent infringement. This questionable business model is intended to “allow members to benefit from *inter partes* review of dubious patents without becoming the ‘real parties-in-interest’ in the review.”¹ Hiding behind their proxy Unified, these fee-paying clients can then seek to avoid the estoppel provisions of 35 U.S.C. § 315, in contravention of the express intent of Congress.

¹ EX2005, Marta Belcher and John Casey, *Hacking the Patent System: A Guide to Alternative Patent Licensing for Innovators*, Juelsgaard Intellectual Property & Innovation Clinic, Stanford Law School (2014), as archived by the WBM, available at https://web.archive.org/web/20140905000728/http://unifiedpatents.com:80/wp-content/uploads/2014/06/hacking_the_patent_system.pdf.

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.