

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

IPR2017-00199
PATENT 7,092,671

**PATENT OWNER RESPONSE TO
PAPERS 35, 36, 38, AND 39 (PETITIONER'S MOTIONS TO SEAL AND
MOTION TO EXPUNGE)**

¹ The owner of this patent is Uniloc 2017 LLC.

Papers 35, 36, and 38 are motions to seal the confidential versions of the Final Written Decision, the Transcript of Oral Hearing and Patent Owner Response, and Patent Owner Request for Rehearing. Each of Petitioner's most recent motions to seal seek to seal the same information that is the subject of Petitioner's prior motions to seal (Papers 16 and 19). Specifically, Petitioner argues: (1) citations to Exhibit 2005 are confidential; and (2) the identity of a third-party member of Unified Patents is confidential. Petitioner previously moved to seal this same information, and Patent Owner's responses in opposition are filed as Papers 17 and 22. Patent Owner incorporates by reference Papers 17 and 22.

Petitioner's motion to seal the transcript of oral hearing, filed as Paper 36, accuses Patent Owner of failing to take "reasonable care to maintain the confidentiality" of Petitioner's confidential information, alleging that the public version of the Patent Owner Response filed September 19, 2018 failed to adequately redact Petitioner's confidential information. This accusation appears intended to excuse Petitioner's failure to protect its own information. Patent Owner *did* take reasonable care. It redacted the information it understood to be confidential and filed the unredacted response under seal. Petitioner made no complaint, and Patent Owner had no reason to believe Petitioner disagreed with the accuracy of Patent Owner's redactions until Petitioner emailed Patent Owner seven months later on April 26, 2019. Informed of Petitioner's position (or change in position), Patent Owner promptly agreed to have Paper 13 (the original public version of the response) removed and to file a new version of the Patent Owner Response with redactions

provided by Petitioner.

Petitioner's accusation that Patent Owner failed to take reasonable care does not excuse Petitioner's own failure to protect its information.² The specific information Petitioner claims should have been redacted consists primarily of references to two third parties who are allegedly members of Unified Patents. The name of one of those third parties appears approximately 45 times in the 41-page Patent Owner Response. The name of the other, Apple³, appears approximately 82 times. Thus, the 41-page Patent Owner Response disclosed the identities of these two third parties 127 times. This could not possibly have escaped Petitioner's notice for seven months. If Petitioner truly considered their identities confidential at the time the Patent Owner Response was filed, it would have said something. Instead, Petitioner said nothing until seven months later. Either Petitioner did not consider the information confidential until seven months later or it acquiesced to the disclosure of the information, thereby waiving any confidentiality. (Indeed, Apple does not treat its membership in Unified Patents as confidential.) Petitioner's

² This is not the first time Petitioner failed to protect allegedly confidential information. As explained in Paper 17, also in September 2018, Petitioner twice produced allegedly confidential information to individuals who had not signed the acknowledgement of the PTAB's default protective order.

³ Sometime after asking the Board to remove the original public version of the Patent Owner Response (Paper 13), primarily because it did not redact the identity of Apple and one other alleged Unified member, Petitioner became aware that Apple did not treat its own membership in Unified as confidential. Petitioner informed the Board of this and no longer seeks to redact incidents of "Apple" in the patent owner response.

continued efforts to hide the identities of its members to shield them from being considered real parties in interest should be denied.

For the foregoing reasons and for the reasons set forth in Papers 17 and 22, Uniloc respectfully requests that the Board deny Petitioner's motions to seal filed as Papers 35, 36 and 38. Because Petitioner's motions to seal should be denied, Petitioner's motion to expunge (Paper 39) should also be denied.

Date: August 1, 2019

Respectfully submitted,

By: /s/ Brett A. Mangrum
Brett A. Mangrum; Reg. No. 64,783
Attorney for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e), the undersigned certifies that an electronic copy of the foregoing document was served, along with any accompanying exhibits not previously served, via the Patent Review Processing System (PRPS) and/or e-mail to Petitioner's counsel at the following addresses identified in the Petition's consent to electronic service:

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