UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

REALTIME ADAPTIVE STREAMING LLC,
Patent Owner.

Case IPR2018-00883
Patent No. 8,934,535

[REDACTED] PATENT OWNER'S SUPPLEMENTAL BRIEF RE: REAL PARTIES IN INTEREST

EXHIBIT LIST

Exhibit No.	Description
2001	Declaration of Kayvan B. Noroozi in Support of Motion for Admission *Pro Hac Vice*.
2002	Declaration of Thomas Chen in Support of Motion for Admission *Pro Hac Vice*.
2003	Petitioner's Voluntary Interrogatory responses.
2004	Deposition transcript of Keven Jakel in IPR2014-01252.
2005	Documents from Petitioner's Voluntary Production bearing Bates numbers IPR2018-00883-003148 through -003185.
2006	Documents from Petitioner's Voluntary Production bearing Bates numbers IPR2018-00883-00781 through -00861.
2007	Documents from Petitioner's Voluntary Production bearing Bates numbers IPR2018-00883-03310 through -03313.
2008	Documents from Petitioner's Voluntary Production bearing Bates numbers IPR2018-00883-03314 through -03333.
2009	Documents from Petitioner's Voluntary Production bearing Bates numbers IPR2018-00883-00614 through -00638.
2010	Documents from Petitioner's Voluntary Production bearing Bates numbers IPR2018-00883-03747 through -03763.
2011	Intentionally left blank
2012	Documents from Petitioner's Voluntary Production bearing Bates numbers IPR2018-00883-000547 through -000548.
2013	Declaration of Joel P.N. Stonedale

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Pursuant to the Board's order of August 16, 2018 (Paper 15) and e-mail of August 24, 2018, Patent Owner hereby submits this supplemental brief.

35 U.S.C. §312(a)(2) states that a petition "may be considered only if . . . the petition identifies all real parties in interest." In *AIT v. RPX*, the Federal Circuit held that a real party in interest is one "who will benefit" from an IPR. 897 F.3d 1336, 1348 (Fed. Cir. 2018) ("*AIT*"). In reaching its holding, the Court rejected the Board's "unduly narrow" approach to evaluating the real party in interest inquiry. *Id.* at 1345.

When Unified Patents ("Unified") filed this Petition, it stated to the Board that "Unified is the real party-in-interest." Paper 2 at 1. But Unified's discovery production on the issue now proves its representation to have been false.[1] While numerous facts revealed through discovery belie Unified's claim that it is the sole RPI, Unified's relationship with [redacted] is especially notable.

[1]Patent Owner notes that it has received only limited, voluntary discovery and that it intends to seek additional discovery should the Board institute trial. *See* Paper 18 at 5 (denying request for additional discovery but stating that "Patent Owner may have the opportunity to renew its request for such a motion post-institution if the Board decides to institute trial").

[redacted] pays Unified [redacted] per year for membership to all of Unified's "Technology Zones," including the [redacted] Zone. Ex. 2012 at 1. [redacted] Under *AIT v. RPX* there can be no doubt that [redacted] is an RPI. And Unified did not name [redacted] as an RPI. The Petition thus cannot be instituted.

Moreover, numerous other Unified members are RPIs as well. Unified is structured so that its members can be confident that their fees are used primarily to invalidate patents *the members* are at risk of infringing. The Petition here was filed to benefit members of the [redacted] Zone, and members of that Zone are the RPIs.

I. The RPI inquiry focuses on whether a non-party is a clear beneficiary of the IPR and its relationship with the Petitioner

In *AIT v. RPX*, the Federal Circuit considered a case where RPX— a Unified competitor that is similarly "a for-profit company whose clients pay for its portfolio of 'patent risk solutions'"—petitioned for *inter partes* review but did not identify any customers as RPIs. 897 F.3d. at 1351; [redacted]

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