

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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Unified Patents Inc.  
Petitioner

v.

Bradium Technologies LLC,  
Patent Owner

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IPR2018-00952  
Patent 9,253,239

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**UNOPPOSED MOTION TO SEAL PATENT OWNER'S SUR-REPLY ON  
REAL PARTIES IN INTEREST**

## I. Introduction

On August 31, 2018, Petitioner filed an Unopposed Motion for Protective Order in the present proceeding. *See* Paper 13; *see also* EX1025 (Modified Protective Order). Pursuant to the proposed modified Protective Order, Petitioner has produced voluntary discovery to Patent Owner including (1) a sample membership agreement, (2) voluntary interrogatory responses, and (3) a deposition of Petitioner's chief executive officer, Kevin Jakel. In addition, Petitioner produced to Patent Owner a sealed version of the Board's Institution Decision in *Unified Patents, Inc. v. Realtime Adaptive Streaming, LLC*, IPR2018-00883.<sup>1</sup>

On December 3, 2018, Patent Owner filed its Sur-Reply to Petitioner's Preliminary Response on the real parties in interest issue ("Patent Owner's Sur-Reply on RPI") which cites to information and material disclosed in each of the documents referenced above. *See generally* Paper 30. Patent Owner also filed a public version of its Patent Owner's Sur-Reply on RPI with the confidential information contained therein redacted. *See generally* Paper 29.

For the reasons set forth below, Petitioner asserts that the unredacted Patent

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<sup>1</sup> A redacted public version of the Institution Decision was subsequently made available in that proceeding on November 27, 2018. *See Unified Patents, Inc. v. Realtime Adaptive Streaming, LLC*, IPR2018-00883, Paper 29 (Oct. 11, 2018).

Owner's Sur-Reply on RPI contains confidential information. Accordingly, Petitioner hereby moves to seal the unredacted Patent Owner's Sur-Reply on RPI and to redact the confidential information from the public version of the Patent Owner's Sur-Reply on RPI. Patent Owner takes no position regarding the confidentiality of the materials asserted by Unified to be confidential, but does not oppose the motion.

## **II. Motion to Seal**

Patent Owner's Sur-Reply on RPI references and cites to certain material that Petitioner produced according to voluntary discovery. That material contains confidential, sensitive commercial information, including closely held information related to Unified's core business. Petitioner submits that the unredacted version of Patent Owner's Sur-Reply on RPI should be sealed because it contains confidential information.

Pursuant to 37 C.F.R. §§ 42.14 and 42.55, Petitioner moves to seal the unredacted Patent Owner's Sur-Reply on RPI and to redact the confidential information from Paper 29, the public version of the Patent Owner's Sur-Reply on RPI. Patent Owner takes no position regarding the confidentiality of the materials asserted by Unified to be confidential, but does not oppose the motion.

## **III. Good Cause Exists**

In deciding whether to seal documents, the Board must find "good cause" and must "strike a balance between the public's interest in maintaining a complete and

understandable file history and the parties' interest in protecting truly sensitive information." *Garmin v. Cuozzo*, IPR2012-00001, Paper 36 (April 5, 2013).

Here, the balance overwhelmingly favors protecting Unified's highly confidential information by sealing these limited redactions. The information Unified seeks to protect has nothing to do with patentability, but rather involves Unified's status as the sole real party in interest and relates to its confidential business information. For this reason, the public interest in having access to the unredacted Patent Owner's Sur-Reply on RPI is minimal, while the public interest is well-served in keeping such business information readily available and exchangeable between parties based on voluntary discovery, without the fear of incidental public exposure of confidential business information.

**A. Patent Owner's Sur-Reply on RPI**

Patent Owner's Sur-Reply on RPI includes both confidential and non-confidential information. Specifically, Patent Owner's Sur-Reply on RPI includes confidential information provided in the sample Member Agreement (Exhibit 2008), which contain agreed-upon confidentiality provisions. *See* Patent Owner's Sur-Reply on RPI at iv, 6. Patent Owner's Sur-Reply on RPI also includes confidential information provided in the Transcript of Deposition of Kevin Jakel (Exhibit 2004), and the Voluntary Interrogatory Responses of Kevin Jakel (Exhibit 2013). *See* Patent Owner's Sur-Reply on RPI at 2, 3, 4, 6.

This confidential and sensitive commercial information includes closely held information related to Unified's core business, membership terms, business strategy, and business financial information and constitutes highly confidential business information, as well as trade secrets. Disclosure of Unified's highly confidential business information would provide Unified's competitors and would-be business rivals with a roadmap for replicating Unified's unique, valuable business model and would reveal contractual business information between two parties produced voluntarily under a joint protective order. Accordingly, the public interest would be served by maintaining the confidentiality of this information.

For the reasons set forth above, good cause exists for sealing the confidential information reflected in the Patent Owner's Sur-Reply on RPI. Petitioner hereby requests that the unredacted version of the Patent Owner's Sur-Reply on RPI be sealed in its entirety and the confidential information be redacted in the public version of the Patent Owner's Sur-Reply on RPI.

#### **IV. Certification of Non-Publication**

The undersigned counsel for Petitioner certifies the information sought to be sealed by this Motion to Seal has not been published or otherwise made public.

#### **V. Protective Order**

Petitioner filed an Unopposed Motion for Protective Order on August 31, 2018, on which the Board has not yet issued a decision. The information subject to

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