

DOCKET NO.: 2211726-00161US1

Filed on behalf of Unified Patents Inc.

By: David L. Cavanaugh, Reg. No. 36,476
Daniel V. Williams, Reg. No. 45,221
Jonathan E. Robe, Reg. No. 76,033
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Ave., NW
Washington, DC 20006
Tel: (202) 663-6000
Email: David.Cavanaugh@wilmerhale.com

Jonathan Stroud, Reg. No. 72,518
Roshan S. Mansinghani, Reg. No. 62,429
Unified Patents Inc.
1875 Connecticut Ave. NW, Floor 10
Washington, D.C., 20009
Tel: (202) 805-8931
Email: jonathan@unifiedpatents.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.
Petitioner

v.

BRADIUM TECHNOLOGIES, LLC
Patent Owner

IPR2018-00952
Patent 9,253,239

UNOPPOSED MOTION FOR PROTECTIVE ORDER

I. PROTECTIVE ORDER

In order to facilitate timely voluntary discovery by Petitioner Unified Patents Inc. (“Unified”), Unified proposes the entry of a Protective Order in this proceeding. Patent Owner Bradium Technologies, LLC does not oppose the entry of the proposed Protective Order. The proposed Protective Order is attached hereto as Exhibit 1025. The proposed modifications are described below.

A. Definition of “Confidential Information” in Paragraph 1

To clarify the scope of the proposed Protective Order, the proposed Protective Order provides for a definition of confidential information. As set forth in the proposed Protective Order, “confidential information” “includes information (regardless of how it is generated, stored or maintained) or tangible things that would qualify for protection from disclosure under Federal Rule of Civil Procedure 26(c) or under trade secret law.” Good cause exists for this modification of the protective order to clarify the types of information that the parties could consider subject to the proposed Protective Order.

B. Access to Confidential Information in Paragraph 2

The proposed Protective Order, agreed to by the parties, deviates from the Board’s default Protective Order in that it excludes a party (except its in-house counsel who appear as back-up counsel) and its employees from access to confidential information. Good cause for this change exists because of the risk

of inadvertent use of confidential information in unrelated litigation or proceedings that could cause competitive harm to Petitioner or that it has agreed with third parties would be maintained as confidential, such as its member agreements. None of the member agreements between Unified and its members are publicly available and each of the member agreements are held confidential between the respective parties. Unified accordingly seeks heightened protection for such materials disclosed in discovery in connection with this proceeding. These changes do not affect access to confidential information for employees and representatives of the Patent and Trademark Office who have a need for access to the confidential information.

The proposed Protective Order also specifies that Patent Owner's representatives in this proceeding include "Bunsow De Mory LLP, its attorneys, paralegals, clerical and other regular employees," who accordingly will have access to confidential information under the proposed Protective Order. The proposed Protective Order, at the suggestion of Patent Owner, includes outside copying and exhibit preparation services in the definition of support personnel who are not required to sign an Acknowledgement to access confidential information, provided they have been informed of the terms and requirements of the proposed Protective Order by the person such personnel are supporting. Good cause exists for this change to clarify Patent Owner's representatives.

C. Challenges to Designations of Confidential Information in Paragraph 4

The proposed Protective Order provides that any party may challenge a designation of confidential information at any time. The proposed Protective Order provides that the parties will attempt to resolve such challenge regarding confidentiality designations in voice to voice dialogue prior to contacting the Board. Good cause exists for this change, which was proposed by Patent Owner, to clarify the process by which a party may challenge a designation of confidential information.

D. Effect on Burden of Proof in Paragraph 5

The proposed Protective Order provides that nothing in the proposed Protective Order is intended to relieve a designating party of the burden of showing that material designated as confidential is in fact confidential. The proposed Protective Order further provides that Patent Owner is not restricted from identifying in public filings, based on non-confidential information, the identifies of any persons whom it contends are real parties in interest or in privity with Petitioner. Moreover, the proposed Protective Order provides that nothing in the proposed Protective prevents the Board from identifying the names of any parties it find are real parties in interest or in privity with Petitioner. Good cause exists for these changes, which were made at the suggestion of the Patent Owner,

to clarify the effect on the burden of proof on either party and to clarify that certain information regarding the identity of other parties, based on non-confidential information, will not be deemed confidential.

E. Redaction of Documents in Paragraph 6

The proposed Protective Order provides that redacted copies of documents may be produced when the documents contain privileged matter, provided that the redactions are conspicuous. The proposed Protective Order also provides that any party can request additional information to assess claims of privilege on a reasonable number of redactions or documents withheld. The proposed Protective Order also provides that any party may challenge the propriety of redactions or the withholding of documents. The proposed Protective Order also provides that the parties will attempt to resolve such challenge regarding confidentiality designations in voice to voice dialogue prior to contacting the Board. Good cause exists for these changes to clarify the appropriate procedure for redacting documents. These changes do not affect access to confidential information for employees and representatives of the Patent and Trademark Office who have a need for access to the confidential information.

F. Use in Subsequent Proceedings in Paragraph 7

The proposed Protective Order provides that the parties shall use the confidential information only for this proceeding and not for any other purpose,

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.