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Filed on behalf of Unified Patents Inc.

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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

PETITIONER'S NOTICE OF OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Unified Patents (“Petitioner”) hereby submits its notice of objections to certain evidence that Patent Owner BRADIUM TECHNOLOGIES LLC (“Patent Owner”) included with the Patent Owner’s Preliminary Response filed September 24, 2018 in connection with Trial No. IPR2018-00952. The following objections are timely filed within five business days of September 24, 2018, which is the date of service of evidence to which the objections are directed. 37 C.F.R. 42.64(b)(1).

Petitioner objects to the following Exhibits 2007, 2010-2011, 2014, 2018-2020, 2024-2025, and 2028-2030 under Fed. R. Evid. 901 (Authenticating or Identifying Evidence) because they have not been authenticated. Patent Owner has failed to produce evidence sufficient to support a finding that Exhibits 2007, 2010-2011, 2014, 2018-2020, 2024-2025, and 2028-2030 are what Patent Owner claims they are.

- Exhibit 2007 (described by Patent Owner as “Join, Unified Patents (May 17, 2018), <https://web.archive.org/web/20180517015601/https://www.unifiedpatents.com/join/>”);
- Exhibit 2010 (described by Patent Owner as “Belcher, Marta, et al., “Hacking the Patent System: A guide to Alternative Patent Licensing for Innovators,” Juelsgaard Intellectual Property & Innovation Clinic Stanford Law School, dated May 2014”).

- Exhibit 2011 (described by Patent Owner as “Protected Zones, Excerpt of United Patents (Oct. 27, 2016), <https://web.archive.org/web/20161027135832/http://www.unifiedpatents.com:80/zones/>”);
- Exhibit 2014 (described by Patent Owner as “Bradium Technologies LLC, Unified Patents (August 3, 2015), <https://web.archive.org/web/20150803044103/http://bradiumtechnologies.com/>”);
- Exhibit 2018 (described by Patent Owner as “Unified Patents, backed by Google, takes fight to patent trolls, Don Reisinger, CNET (Apr. 8, 2013)”);
- Exhibit 2019 (described by Patent Owner as “Don Clark, New Venture Enters Patent Fray, Wall Street Journal, published Apr. 7, 2013”);
- Exhibit 2020 (described by Patent Owner as “The Gloves are Off: Unified Patents Inc. Unveils Its 'NPE Deterrent' Strategy, Unified Patents (September 23, 2013), <http://justdemo.in/unified/2013/09/23/the-gloves-are-off-unifiedpatents-inc-unveils-its-npe-deterrent-strategy/>”);
- Exhibit 2024 (described by Patent Owner as “Unified Patents (January 1, 2014), <https://web.archive.org/web/20140101033720/http://unifiedpatents.com/>”);
- Exhibit 2025 (described by Patent Owner as “Eric Coe, Unified Patents Adds AJA Reviews to Anti-'Troll' Arsenal, Law360 (Jun. 23, 2015),

<https://www.law360.com/articles/668619/print?section=ip>");

- Exhibit 2028 (described by Patent Owner as “Orthogonality, Wikipedia, <https://en.wikipedia.org/wiki/Orthogonality>”);
- Exhibit 2029 (described by Patent Owner as “IPRs, Balancing Effectiveness vs. Cost, RPX (June 17, 2016) <https://www.rpxcorp.com/2016/06/17/iprs-balancing-effectivenessvs-cost/>”);
- Exhibit 2030 (described by Patent Owner as “How Much does IPR Cost?, Patent Trademark Blog, <http://www.patenttrademarkblog.com/how-much-does-ipr-cost/>”).

Patent Owner has provided declaration testimony from its counsel, Chris Coulson, stating that Exhibits 2007, 2010-2011, 2024, and 2028-2030 are true and correct copies. *See* Declaration of Chris Coulson at pp. 1-4 (EX2026). However, this testimony is not sufficient to support a finding that Exhibits 2007, 2010-2011, 2024, and 2028-2030 are what Patent Owner claims they are, and is therefore not sufficient to authenticate these exhibits. *See e.g.*, Comcast Cable Communications, LLC v. Rovi Guides, Inc., IPR2017-00941, Paper 70 at pp. 54-56 (noting that to authenticate printouts from a website, Board panels have required some statement or affidavit from someone with knowledge of the website, such as a web master or someone else with personal knowledge). Additionally, Patent Owner has not

provided any declaration testimony with respect to Exhibits 2014, 2018-2022 and 2025.

Mr. Coulson has not testified that he has personal knowledge of the Internet Archive to describe how webpages from the years 2014 and 2016, reflected in the screen shots of Exhibits 2007, 2011 and 2024, (obtained via the Internet Archive), have been accurately preserved and subsequently made available to internet searches.

Moreover, Mr. Coulson has not testified with sufficient basis to demonstrate that he has personal knowledge to describe Exhibit 2010 as a true and accurate copy of the article contained therein.

Moreover, Mr. Coulson has not testified that he has personal knowledge of the websites reflected in Exhibits 2018-2020, 2025, and 2028-2030 as being accurately preserved and subsequently made available. *See e.g.*, Comcast Cable Communications, LLC, IPR2017-00941, Paper 70 at pp. 56 (rejecting the notion that a printout from a news website “is a newspaper or periodical that is self-authenticating under FRE 902(6)”).

Petitioner further objects to Exhibit 2010 on the basis of hearsay as it is an article written by a declarant made not while testifying at the current trial, and which

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