

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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**MOTION TO SEAL**

## **I. Introduction**

On August 31, 2018, Petitioner filed an Unopposed Motion for Protective Order in the present proceeding. Pursuant to the proposed Protective Order, Petitioner has produced voluntary discovery to Patent Owner including (1) voluntary interrogatory responses, and (2) a deposition of Petitioner's chief executive officer, Kevin Jakel. In addition, Petitioner produced to Patent Owner a (for now) sealed version of the Board's Institution Decision in *Unified Patents, Inc. v. Realtime Adaptive Streaming, LLC*, IPR2018-00883. That decision will likely be made mostly public after the Board rules on a pending motion to seal a redacted version. Petitioner here is filing its Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest, which cites to information and material disclosed in each of the documents referenced above.

For the reasons set forth below, Petitioner asserts that the unredacted Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest contains confidential information. Accordingly, Petitioner hereby moves to seal unredacted Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest.

## **II. Motion to Seal**

Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest references and cites to certain material that Petitioner

produced according to voluntary discovery that contain confidential, sensitive commercial information, including closely held information related to Unified's core business. Petitioner submits that the unredacted version of Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest should be sealed because it contains confidential information. The unredacted Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest was filed by Petitioner as Board's and parties' eyes only.

Pursuant to 37 C.F.R. §§ 42.14 and 42.55, Petitioner moves to seal the unredacted Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest.

### **III. Good Cause Exists for Sealing Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest**

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 real party in interest, and relates to business confidential information. For this reason, the public interest in having access to the unredacted Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest 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. Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest**

Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest includes both confidential and non-confidential information. Specifically, Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest includes confidential information provided in the sample Member Agreement and Subscription Form (Exhibits 2008 and 2009), which contain agreed-upon confidentiality provisions, the Transcript of Deposition of Kevin Jakel (Exhibit 2004), and the Voluntary Interrogatory Responses of Kevin Jakel (Exhibit 2013). For the reasons given in the Unopposed Motion to Seal (Paper 18) filed on September 24, 2018, good cause exists for sealing these exhibits.

Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest also cites a recent Board decision in *Unified Patents, Inc. v.*

*Realtime Adaptive Streaming, LLC*, IPR2018-00883 (P.T.A.B. Oct. 11, 2018), Paper 29 (Decision on Institution) that is currently under seal. Because that decision is currently under seal, Petitioner has redacted any material citing to and referencing this decision, in the interest of observing the currently sealed nature of the Board's opinion there. A Motion to Seal has been filed in IPR2018-00883 requesting that the Board approve a Public Version of the Decision on Institution that selectively redacts the limited confidential information contained therein. See Joint Motion to Seal the Decision on Institution, *Unified Patents, Inc. v. Realtime Adaptive Streaming, LLC*, IPR2018-00883 (Oct. 18, 2018), Paper 32. Should the Board there grant that joint motion and make the majority of the opinion public, upon request of the Board, Petitioner is happy to provide revised redactions to Petitioner's Reply to Patent Owner's Preliminary Response here consistent with the Public Version of the Decision on Institution in IPR2018-00883.

Accordingly, Petitioner respectfully requests that the confidential information included in Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest be redacted and that the unredacted version of Petitioner's Reply to Patent Owner's Preliminary Patent Owner Response on Real Parties in Interest be sealed for at least the reasons given in the Unopposed Motion to Seal (Paper 18) with respect to the Membership Agreement and Subscription

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