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Transcript of Kevin Jakel

Date: September 10, 2018

Case: Unified Patents Inc. -v- Braidium Technologies LLC (PTAB)

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UNIFIED PATENTS EXHIBIT 1033
Braidium Exhibit 2004

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<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE</p> <p>2</p> <p>3 BEFORE THE PATENT TRIAL AND APPEAL BOARD</p> <p>4</p> <p>5 UNIFIED PATENTS INC.</p> <p>6 Petitioner</p> <p>7 v.</p> <p>8 BRADIUM TECHNOLOGIES LLC</p> <p>9 Patent Owner</p> <p>10 IPR2018 00952</p> <p>11 Patent 9,253,239</p> <p>12</p> <p>13 CONFIDENTIAL</p> <p>14 Deposition of KEVIN JAKEL</p> <p>15 Washington, DC</p> <p>16 Monday, September 10, 2018</p> <p>17 9:41 a.m.</p> <p>18</p> <p>19</p> <p>20 Job No.: 206126</p> <p>21 Pages: 1 188</p> <p>22 Reported By: Dawn M. Hart, RPR/RMR/CRR</p>	<p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF THE PETITIONER:</p> <p>3 DAVID L. CAVANAUGH, ESQUIRE</p> <p>4 JONATHAN E. ROBE, ESQUIRE</p> <p>5 WILMER CUTLER PICKERING HALE AND DORR LLP</p> <p>6 1875 Pennsylvania Avenue, Northwest</p> <p>7 Washington, DC 20006</p> <p>8 202) 663 6000</p> <p>9</p> <p>10 ON BEHALF OF THE PATENT OWNER:</p> <p>11 CHRIS J. COULSON, ESQUIRE</p> <p>12 MICHAEL N. ZACHARY, ESQUIRE</p> <p>13 via teleconference)</p> <p>14 BUNSOW De MORY LLP</p> <p>15 701 El Camino Real</p> <p>16 Redwood City, California 94063</p> <p>17 650) 351 7248</p> <p>18</p> <p>19 ALSO PRESENT: Jonathan Stroud, Unified Patents</p> <p>20</p> <p>21</p> <p>22</p>
<p>1 Deposition of Kevin Jakel, held at the law</p> <p>2 offices of:</p> <p>3</p> <p>4 WILMER CUTLER PICKERING HALE AND DORR LLP</p> <p>5 1875 Pennsylvania Avenue, Northwest</p> <p>6 Washington, DC 20006</p> <p>7 202) 663 6000</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Pursuant to Notice, before Dawn M. Hart,</p> <p>21 RPR/RMR/CRR and Notary Public in and for the District</p> <p>22 of Columbia.</p>	<p>1 C O N T E N T S</p> <p>2 EXAMINATION OF KEVIN JAKEL PAGE</p> <p>3 By Mr. Coulson 6</p> <p>4 E X H I B I T S</p> <p>5 Exhibits are attached to the transcript.)</p> <p>6 K. JAKEL DEPOSITION EXHIBITS PAGE</p> <p>7 Exhibit 2005 Unified website excerpt 11</p> <p>8 Exhibit 2006 Unified website excerpt 45</p> <p>9 Exhibit 2007 Article 2018 51</p> <p>10 Exhibit 2008 Sample Membership Agreement 58</p> <p>11 Exhibit 2009 Subscription Form re Internet 73</p> <p>12 of Thing Zone</p> <p>13 Exhibit 2010 Article Hacking the Patent 88</p> <p>14 System 5/2014</p> <p>15 Exhibit 2011 Unified website excerpt re 104</p> <p>16 Zones</p> <p>17 Exhibit 2012 U.S. Patent 9,253,239 106</p> <p>18 Exhibit 2013 Unified's Interrogatory 118</p> <p>19 Responses</p> <p>20 Exhibit 2014 Unified website excerpt re 134</p> <p>21 General Patent Corp.</p> <p>22</p>

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<p>1 E X H I B I T S Continued)</p> <p>2 Exhibits are attached to the transcript.)</p> <p>3 K. JAKEL DEPOSITION EXHIBITS PAGE</p> <p>4 Exhibit 2015 Docket Navigator printout 134</p> <p>5 Exhibit 2016 Complaint re Bradium v. 140</p> <p>6 Microsoft</p> <p>7 Exhibit 2017 Bradium website excerpt 141</p> <p>8 Exhibit 2018 CNET Article Unified Patents, 162</p> <p>9 backed by Google ...</p> <p>10 Exhibit 2019 Wall Street Journal Article 162</p> <p>11 New Venture Enters Patent</p> <p>12 Fray 2013</p> <p>13 Exhibit 2020 Unified blog posting re NPE 171</p> <p>14 deterrent strategy</p> <p>15 Exhibit 2021 Unified blog posting re 172</p> <p>16 Clouding IP</p> <p>17 Exhibit 2022 Unified blog posting 173</p> <p>18 Exhibit 2023 Unified mass email 174</p> <p>19 Exhibit 2024 Unified website excerpt 175</p> <p>20 2014</p> <p>21 Exhibit 2025 Ambwani quote 178</p> <p>22</p>	<p>1 Q So just remember we have a Court Reporter</p> <p>2 here and no video, so please just answer orally; I'll</p> <p>3 try to remind you.</p> <p>4 A Understood.</p> <p>5 Q And any reason you can't provide complete</p> <p>6 and truthful testimony today?</p> <p>7 A No.</p> <p>8 Q About how many IPR strike that.</p> <p>9 About how many depositions have you given?</p> <p>10 A I believe I've given four in the context of</p> <p>11 Unified Patents.</p> <p>12 Q Do you recall the cases or the time frame of</p> <p>13 those four depositions?</p> <p>14 A The first one was is Clouding IP, back in</p> <p>15 late 2013, I believe.</p> <p>16 The second one was Parallel Iron, which was</p> <p>17 also at the same time.</p> <p>18 Those were both in District Court</p> <p>19 litigation, they were not in -- under the jurisdiction</p> <p>20 of the PTAB.</p> <p>21 The next one was Dragon IP, which was a</p> <p>22 deposition given under the jurisdiction of the PTAB,</p>
6	8
<p>1 P R O C E E D I N G S</p> <p>2 KEVIN JAKEL</p> <p>3 be ng frst du y sworn or aff rmed to</p> <p>4 test fy to the truth, the who e t uth, and noth ng but</p> <p>5 the t uth, was exam ned and test fed as fo ows:</p> <p>6 EXAMINATION BY COUNSEL FOR THE PATENT OWNER</p> <p>7 BY MR COULSON:</p> <p>8 Q Cou d you p ease state your name for the</p> <p>9 record and your ro e at Un fed Patents?</p> <p>10 A Kevin Jakel; I'm CEO of Unified Patents.</p> <p>11 Q And my name s Chr s Cou son We were</p> <p>12 ta k ng a tt e bt ear er, but just for the record,</p> <p>13 I'm here on beha f of Brad um Techno oges n th s</p> <p>14 IPR, 20 8-952, the Un fed Patents v Brad um IPR So</p> <p>15 I represent Brad um Understand?</p> <p>16 A I understand.</p> <p>17 Q And you ook ke you've been deposed a</p> <p>18 number of t mes Shou d we cover -- do we need to</p> <p>19 cover the u es of depos ton or have you been deposed</p> <p>20 a number of t mes and are fam ar w th them?</p> <p>21 A It's up to you, but I've been deposed a</p> <p>22 number of times.</p>	<p>1 and then I've been deposed in Universal Secure</p> <p>2 Registry, which was recent, a couple of weeks ago.</p> <p>3 Q Any of the four depositions related to the</p> <p>4 real party in interest?</p> <p>5 A In all of them real party in interest was</p> <p>6 discussed.</p> <p>7 Q You mentioned the first two. Is it</p> <p>8 Clouding IP?</p> <p>9 A It was.</p> <p>10 Q And Parallel Iron.</p> <p>11 You said that those were in the context of</p> <p>12 District Court?</p> <p>13 A In those we -- those were third party</p> <p>14 subpoenas in District Court litigation, and very early</p> <p>15 on we granted the first two third party subpoenas and</p> <p>16 gave testimony there.</p> <p>17 Q Okay. I take it that the District Court</p> <p>18 litigation was between one of your members and the</p> <p>19 patent owner?</p> <p>20 A Clouding IP had sued -- I don't want to say</p> <p>21 hundreds -- but they had sued dozens and dozens of</p> <p>22 people, nonmembers and nonmembers -- or sorry,</p>

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<p style="text-align: right;">9</p> <p>1 nonmembers and members. 2 And same thing with Parallel Iron, it was 3 cases against lots of companies, both members and 4 nonmembers. 5 Q Okay. I'd like to ask a little background 6 about Unified Patents. 7 I understand -- so you founded 8 Unified Patents with Mr. Ambwani; is that right? 9 A Not -- no. So I founded Unified Patents 10 back in 2012. Shawn did not join Unified Patents 11 until 2013. 12 Q That's why I asked; I couldn't quite tell 13 from the website. 14 Can you tell me -- regarding the founding -- 15 founded -- you said founded in 2012, Unified Patents, 16 right? 17 A Yes. 18 Q And do I understand that there were -- that 19 Google and NetApps were founding members or early 20 members? 21 A So the very first company to sign was 22 NetApp.</p>	<p style="text-align: right;">11</p> <p>1 Q Let me give you there's a blurb about his 2 and other roles on your website. I want you to have 3 the benefit of that for a couple of questions. I'll 4 mark it. 5 MR. COULSON: Mark it 2005. 6 (Exhibit 2005 was marked for identification 7 and is attached to the transcript.) 8 Q Had a chance to look at 2005? 9 A I have flipped through it. 10 Q And so I'll just ask, what this is 11 what is 2005? 12 A 2005 would appear to be a printout from our 13 web page at Unified Patents entitled "Team," with bios 14 from our -- from some of the people that work with us 15 on our team. 16 Q All right. And at any time with these 17 documents, just a reminder, you can take time to look 18 through them and I can reask the question. 19 So I gave this to you because I noted 20 Mr. Ambwani's bio it's on, I think, page 2 of 2005, 21 just for your reference and some other folks, on 22 subsequent pages you can look or not look, it's up</p>
<p style="text-align: right;">10</p> <p>1 Q NetApp. 2 A Yeah. 3 Q And about when was that? 4 [REDACTED] 5 [REDACTED] 6 Q And Google? 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 Q And is Unified Patents a for profit company? 16 A It is. 17 Q And it's owned by who? 18 A It is owned by myself and Shawn Ambwani. 19 Q What's Mr. Ambwani's role in the company? 20 A He -- we have very flexible business 21 responsibilities for sure. And legal responsibilities 22 as well. But technically his title is COO.</p>	<p style="text-align: right;">12</p> <p>1 to you. 2 And Mr. Ambwani and yourself are kind of the 3 face of the company and deal with the media; is that 4 right? 5 A I think that's probably fair. 6 Q And is Mr. Ambwani involved in IPRs that 7 Unified Patents files? 8 MR. CAVANAUGH: Objection. 9 A What exactly -- I mean, how do you mean by 10 "involved," I guess? 11 Q Okay. Well, let me come let me start 12 with yourself 13 A Okay. 14 Q then I'll kind of just go through 15 linearly. 16 Do you participate are you involved in 17 the IPRs that Unified Patents files? 18 MR. CAVANAUGH: Objection. 19 A I think it's safe to say I'm involved 20 (nodding head.) 21 Q And how are you involved? 22 A So -- well, first of all, I'm the CEO of the</p>

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<p style="text-align: right;">13</p> <p>1 company, so I'm involved in overseeing just about</p> <p>2 everything that goes on in the company from that</p> <p>3 perspective.</p> <p>4 I'm also a patent lawyer, so I'm also</p> <p>5 involved in IPRs from a -- from a legal perspective as</p> <p>6 well.</p> <p>7 Q What portion of your not in terms of</p> <p>8 hours or something, but kind of what share of your</p> <p>9 time as CEO do you spend on the IPR versus your other</p> <p>10 responsibilities?</p> <p>11 [REDACTED]</p> <p>12 Q And let me move on to Mr. Ambwani. I have</p> <p>13 the same question for Mr. Ambwani.</p> <p>14 Is he involved in the IPRs of</p> <p>15 Unified Patents?</p> <p>16 MR. CAVANAUGH: Same objection.</p> <p>17 A Shawn is also an attorney as well. Most of</p> <p>18 the people in the company are attorneys. And so he is</p> <p>19 also involved in IPRs.</p> <p>20 Q And what's his involvement? Is it similar</p> <p>21 to what your involvement is?</p> <p>22 MR. CAVANAUGH: I'm going to object to the</p>	<p style="text-align: right;">15</p> <p>1 [REDACTED]</p> <p>2 Q Do you have a sense of roughly what share of</p> <p>3 Mr. Ambwani's time he spends in IPRs?</p> <p>4 MR. CAVANAUGH: I'm just going to object to</p> <p>5 the question.</p> <p>6 A Not off the top of my head.</p> <p>7 Q Like more than 10 percent?</p> <p>8 MR. CAVANAUGH: Same objection.</p> <p>9 A I don't know.</p> <p>10 Q I want to kind of go down a list here in</p> <p>11 terms of Exhibit 2005, so you can follow along. I</p> <p>12 want to ask about some of the other folks and their</p> <p>13 roles.</p> <p>14 I assume Mr. Potts is not -- looks like a</p> <p>15 marketing guy, roughly?</p> <p>16 A David Potts is the business development.</p> <p>17 Q So no IPR involvement?</p> <p>18 A No.</p> <p>19 Q Okay. And Mr. Stroud.</p> <p>20 A Jonathan is the chief intellectual property</p> <p>21 counsel.</p> <p>22 Q And could I ask about his role with respect</p>
<p style="text-align: right;">14</p> <p>1 question just in terms of like the structure of it,</p> <p>2 but you can answer if you can.</p> <p>3 A I wouldn't say it's identical to mine, but I</p> <p>4 mean he -- he is also participation -- he also</p> <p>5 participants in the IPRs as a part of what the company</p> <p>6 does.</p> <p>7 Q Let me ask try to ask a cleaner question.</p> <p>8 Can you describe his involvement in the</p> <p>9 percent and roughly the share of his time that he</p> <p>10 spends on the IPRs of Unified Patents?</p> <p>11 A I guess I don't know what you mean by like</p> <p>12 "participates." What activities are you asking about?</p> <p>13 Q I'm just trying to get a little more</p> <p>14 information. I think you said he's Mr. Ambwani is</p> <p>15 involved in some manner in the Unified IPRs, right?</p> <p>16 A In some manner, yes.</p> <p>17 Q And can you describe in what ways he's</p> <p>18 involved?</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p>	<p style="text-align: right;">16</p> <p>1 to IPRs?</p> <p>2 A Jonathan oversees the legal team within</p> <p>3 Unified which prepares and manages all of our IPRs.</p> <p>4 Q Roughly or how many do you have a</p> <p>5 sense of how many IPRs Unified has filed since its</p> <p>6 2012 inception?</p> <p>7 A I thought the last number was 116.</p> <p>8 Q Is that published somewhere in your do</p> <p>9 you guys send that information out in terms of how</p> <p>10 many IPRs you've filed in your you put on your</p> <p>11 website or send it out in your email to your members?</p> <p>12 A I don't know if we sent out the number 116;</p> <p>13 I know we publicized the fact that we hit 100.</p> <p>14 Q Why did you do that?</p> <p>15 A We think it's a good accomplishment.</p> <p>16 Q Did you who did you publicize it to?</p> <p>17 A I think we publicized it to the world.</p> <p>18 Q Do you have a do you send updates to your</p> <p>19 members of Unified's activities?</p> <p>20 A We do.</p> <p>21 Q In what manner do you do that?</p> <p>22 A We send updates in newsletters identifying</p>

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