

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC
Petitioner

v.

INTERDIGITAL VC HOLDINGS, INC.
Patent Owner

IPR2021-00102
U.S. Patent 8,363,724

DECLARATION OF KEVIN JAKEL

I, Kevin Jakel, hereby declare as follows:

I. INTRODUCTION

1. I am a founder and the current CEO of Unified Patents, LLC (“Unified”). I am over 21 years and otherwise competent to make this Declaration. I make this Declaration based on facts and matters within my own knowledge and on information provided to me by others, and, if called as a witness, I could and would competently testify to the matters set forth herein.

2. Unified was founded by intellectual property professionals over concerns with the increasing risk of non-practicing entities (“NPEs”) asserting patents of poor quality against strategic technologies and industries. The founders thus created a first-of-its-kind company whose purpose is to protect technology sectors, also referred to as zones, by deterring the assertion of invalid or low-quality patents. Unified has broadened its mission to protect technology sectors covered by standards and seeks to help speed adoption of standards-based technologies by analyzing and providing data related to standard-essential patents (“SEPs”). Some companies in a technology sector, referred to herein as “Members,” subscribe to one or more of Unified’s technology-specific SEP zones. Members pay a yearly subscription fee to a specific SEP technology zone based generally on when each Member subscribes.

3. Unified performs many deterrent activities, including data analytics, analyzing the technology sector and monitoring patent activity (including patent ownership and sales, demand letters and litigation, and industry companies), prior art searching, prior art contests, validity and patentability analyses, reissue protests, amicus briefing, and post-grant review requests. Unified's deterrent activities allow it to identify patents, perform prior art research, analyze invalidity, and to sometimes file reexaminations or post-grant proceedings against some patents, such as *inter partes* reviews ("IPRs"), post grant reviews ("PGRs"), and *ex parte* reexaminations ("EPRs") before the United States Patent and Trademark Office ("USPTO"), or proceedings overseas, such as European Patent Oppositions ("EPOs").

4. Unified exercises sole and absolute discretion over its decision to contest patents through the USPTO's post-grant proceedings. Based on its own analysis, Unified determines which patents are worth pursuing in terms of searching for prior art or taking action, including filing a PGR, IPR, or EPR. Unified's decisions to file a PGR, IPR, or EPR are made independently without the input, assistance, or approval of any of Unified's Members. Should Unified decide to challenge a patent in a post-grant proceeding, Unified controls every aspect of such a challenge, including controlling which patent and claims to challenge, which prior art to apply and the grounds raised in the challenge, when to bring any challenge, and whether to settle or otherwise end any challenge.

5. Unified does not discuss the preparation of any patentability challenge with Members or potential Members, including whether Unified will or will not file a petition or whether a Member desires that Unified file a petition. Unified does not send to, or solicit or consider from, Members or potential Members any communications directing which patent or group of patents are to be considered for a PGR, IPR, or EPR. Further, Unified does not send to, or solicit or consider from, any company's preferences, suggestions, or desires as to the selection of a patent or group of patents for a PGR, IPR, or EPR. Unified identifies potential patents to challenge based on publicly available information obtained solely through Unified's own independent search of publicly available legal databases and information.

6. Unified does not communicate with Members about their litigation strategies in district court, before the USPTO and/or before other forums, including whether Members may pursue or have pursued their own patent challenges. Unified does not communicate with Members about any settlement strategies or settlement negotiations Members may have with patent owners, nor does Unified inform Members about any settlement strategies or settlement negotiations Unified may have with patent owners in pursuit of settling Unified's patent challenge.

7. Members receive no prior notice of Unified's patent challenges. Unified does not give Members an opportunity to participate in or an opportunity to

even know that Unified is contemplating filing a PGR, IPR, or EPR before the petition is filed.

8. After filing a post-grant proceeding, Unified retains sole and absolute discretion and control over all strategy decisions (including any decision to continue or terminate Unified's participation). Unified is also solely responsible for paying for the preparation, filing, and prosecution of any PGR, IPR, or EPR, including any expenses associated with the proceeding.

9. Unified's Members do not pay any fees designated for post-grant proceedings (e.g., IPRs, PGRs, or EPRs), let alone for post-grant proceedings against specific patents. It is Unified and Unified alone that determines how to spend its money. Unified independently selects which patents to target based on the perceived deterrent value to a technology zone and not on behalf of any specific Member(s) to resolve their litigation. Based on its own analysis, Unified determines which patents are worth pursuing in terms of filing a post-grant proceeding, such as a PGR or IPR, or performing some other activity. Unified's decisions to file a post-grant proceeding, such as a PGR, IPR, or EPR, are made independently without the input, assistance, or approval of its Members.

10. Unified has no explicit or implicit agreements with its Members about Unified performing any particular deterrent strategy, including the instant IPR (*see* Sec. II, below).

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.