

In the Matter Of:
Unified Patents vs Velos Media

Confidential Kevin Jakel

August 23, 2019



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IPR2020-01048 - UP000281
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1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3 -----:
4 UNIFIED PATENTS, INC., :
5 Petitioner, :
6 vs. :Case IPR2019-00194
7 VELOS MEDIA; LLC, :Patent 9,338,449
8 Patent Owner. :
9 -----:
10 ***CONFIDENTIAL UNDER PROTECTIVE ORDER***
11 Washington, D.C.
12 Friday, August 23, 2019
13 Videotaped Deposition of:
14 KEVIN JAKEL
15 called for oral examination by counsel for the
16 patent owner, pursuant to notice, at Wilmer, Cutler,
17 Pickering, Hale and Dorr, L.L.P., 1875 Pennsylvania
18 Avenue, N.W., Washington, D.C., before Sheri C.
19 Stewart, RMR, of IST Reporting, a Notary Public in
20 and for the District of Columbia beginning at
21 10:11 a.m., when were present on behalf of the
22 respective parties:



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1 A P P E A R A N C E S:

2 On behalf of Petitioner:

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4 Unified Patents
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9 On behalf of Patent Owner:

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11 Nelson, Bumgardner, Albritton
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15 Chris@nbafirm.com

16 Also present: Ray Moore, Videographer

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18
19
20
21
22



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1	EXHIBITS (CONTINUED)	
2	VELOS DEPOSITION EXHIBITS:	PAGE
3	2022 LinkedIn post from Shawn Ambwani	177
4	2023 Mass e-mail from Fred Teleki (phonetic)	
5	to a number of people about the Velos	
6	licensing program	177
7	2024 Document titled Unified Files IPR Against	
8	US 9,338,449 Owned by Velos Media LLC	189
9	2025 Unified Patents newsletter from November	
10	2018	196
11	PREVIOUSLY MARKED EXHIBITS	
12	VELOS 2003 LinkedIn post by Mr. Ambwani	
13	VELOS 2010 Web page from Unified Patents' Web	
14	site pulled from the wayback machine	
15	UNIFIED 1014 Unified's Voluntary Interrogatory	
16	Responses	
17	(*Exhibits attached to transcript.)	
18		
19		
20		
21		
22		



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1 THE VIDEOGRAPHER: We are now on the
2 record. This begins DVD No. 1 in the
3 deposition of Kevin Jakel in the matter of
4 Unified Patents, Incorporated versus Velos
5 Media, LLC, in the United States Patent and
6 Trademark Office before the Patent Trial and
7 Appeal Board, Case No. IPR2019-00194. Today is
8 August 23rd, 2019. The time is 10:11 a.m.

9 This deposition is being taken at 1875
10 Pennsylvania Avenue, Northwest, Washington,
11 D.C., at the request of Nelson Bumgardner. The
12 videographer is Ray Moore of IST Court
13 Reporting and the court reporter is Sheri
14 Stewart of IST Court Reporting.

15 Will counsel and all parties present state
16 their appearances and whom they represent.

17 MR. GRANAGHAN: Chris Granaghan from the
18 law firm Nelson, Bumgardner, Albritton for the
19 patent owner.

20 MR. FAWZY: Ashraf Fawzy, in-house counsel
21 at Unified Patents on behalf of Unified
22 Patents.



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1 THE VIDEOGRAPHER: Will the court reporter
2 please swear in the witness.

3 P R O C E E D I N G S

4 WHEREUPON,

5 KEVIN JAKEL

6 called as a witness, and having been first duly
7 sworn, was examined and testified as follows:

8 THE VIDEOGRAPHER: Please proceed.

9 EXAMINATION BY COUNSEL FOR THE PATENT OWNER

10 BY MR. GRANAGHAN:

11 Q Good morning, Mr. Jakel. State your name
12 for the record, please.

13 A Hi. Kevin Jakel.

14 Q You're the unified CEO, right?

15 A I am Unified CEO.

16 Q When I say Unified, I mean Unified
17 Patents, obviously.

18 You've been deposed before?

19 A I have.

20 Q About how many times?

21 A Maybe six to ten times.

22 Q All in IPRs?



1 A No. One previous deposition took place
2 many, many years ago related to transfer of some
3 boxes from one law firm to another and whether or
4 not some materials were in those boxes a long time
5 ago.

6 Q All the other times were IPRs?

7 A All the other times have been related to
8 Unified as part of an IPR proceeding.

9 Q Has anyone from Unified ever testified in
10 an IPR proceeding other than you?

11 A Shawn Ambwani. In my very first IPR, I
12 gave a deposition.

13 Q On real party-in-interest issues?

14 A On real party-in-interest issues.

15 Q Okay. But since then it's always been
16 you?

17 A He had, at that time, he had only been at
18 the company for a couple weeks, but it's always been
19 me.

20 Q Are you an attorney, Mr. Jakel?

21 A I am.

22 Q Where did you go to law school?



1 A GW.

2 Q Can you give me some of your background
3 starting with law school?

4 A Sure. So I moved out to Washington, D.C.
5 and went to work at the USPTO as a patent examiner.
6 I went to law school. I graduated from GW in 2003
7 or 2004. I then was an attorney at Howrey and then
8 was an attorney with Kaye Scholer and ultimately
9 became, or I ultimately left Kaye Scholer to become
10 head of IP litigation at Intuit and then I left
11 Intuit in 2012 to found Unified Patents.

12 Q Do you still consider yourself the
13 practice of law?

14 A I do.

15 Q Where are you licensed?

16 A In California and D.C.

17 Q All right. So I'm -- sounds like you have
18 some pretty extensive deposition experience, so I'm
19 going to assume that you know the ground rules. I'm
20 happy to go over them if you want, but I assume you
21 know them.

22 A I do.



1 Q Okay. What did you do to prepare for this
2 deposition today?

3 A Yesterday we went over just some of the
4 voluntary interrogatories and some of the materials
5 that were in the briefing.

6 Q Who is "we"?

7 A Myself and Ash Fawzy.

8 Q Okay. Did you talk to anyone else to get
9 ready for the deposition?

10 A I did not.

11 Q Other than the voluntary interrogatory
12 responses did you review any documents?

13 MR. FAWZY: I'm just going to caution the
14 witness not to divulge anything we talked about
15 during the -- any privileged information during
16 the preparation of this deposition.

17 BY MR. GRANAGHAN:

18 Q And I'm not asking for any of your
19 communication with your counsel. Just did you
20 review any documents?

21 A I did review documents.

22 Q Did you review briefing on the motion for



1 additional discovery?

2 A That document was not, no.

3 Q Okay. What other documents did you
4 review?

5 MR. FAWZY: I'm going to object. What we
6 reviewed is privileged.

7 BY MR. GRANAGHAN:

8 Q Okay. Are you going to follow that
9 instruction?

10 A Yes.

11 Q All right. Were you the first CEO of
12 Unified Patents?

13 A Yes.

14 Q And when did you start it?

15 A I started Unified Patents in the summer of
16 2012.

17 Q And just before that you were an attorney
18 at Intuit, right?

19 A I was.

20 Q Why did you start Unified?

21 A I saw a business opportunity to do
22 deterrent work for technology areas related to the



1 monetization of patents by nonpracticing entities.

2 Q What made you see that business
3 opportunity?

4 A It's kind of a long story. Do you want
5 the whole thing?

6 Q Sure.

7 A So joint defense groups -- my experience
8 was both from an outside counsel perspective at Kaye
9 Scholer and Howrey and then again as head of IP
10 litigation at Intuit. Joint defense groups were
11 wildly ineffective and slow where you depend on your
12 fair share of joint defense groups. In many cases
13 nothing got done.

14 And when it came to NPE litigation in
15 particular, it's not just one company that is facing
16 the, kind of a common issue, there were other
17 solutions out there, namely, RPX, that their model
18 of doing kind of patent risk mitigation was to try
19 and buy companies out of expensive litigation.

20 My problem with that was that it kind
21 of incentivizes NPEs to take some of the profits
22 they get from RPX, reinvest them and go out and buy



1 more patents, so it incentivizes everyone to kind of
2 have more NPE litigation.

3 My problem was that lots and lots of
4 patents -- actually, across the board there's lot of
5 patents that are invalid, but in particular it's
6 lots of patents that I felt like were invalid that
7 were asserted by NPEs, and so I wanted to start a
8 company that would have a way to deter people making
9 investments into asserting patents in the NPE space.

10 There's, you know, patent owners,
11 people who buy patents. There are patent licensing
12 entities who are in charge of doing that. There's
13 the contingency counsel who take on NPE matters and
14 there's obviously kind of litigation funding from
15 behind the scene. All of those entities are making
16 kind of investment decisions into, you know, who
17 they want to sue, how they want to sue, technologies
18 they want to sue, and what I wanted to do was kind
19 of deter the use of bad patents so that technology
20 areas were not sued over and over and over and over
21 again.

22 And so I came up with this idea kind



1 of in the, in early kind of 2012, and then worked on
2 that and ultimately decided to make a run at it and
3 see if I could start a company that would do that
4 kind of deterrence work in the summer of 2012.

5 Q And for the record, when you say NPE, do
6 you mean non-practicing entity?

7 A I do.

8 Q So is it fair to say that one of your main
9 goals in starting Unified was to fix the
10 inefficiencies of joint defense groups when
11 companies in those joint defense groups are
12 litigating against NPEs?

13 MR. FAWZY: Object to form.

14 A It wasn't, it wasn't like to fix the
15 efficiencies of the joint defense groups. I wanted
16 a kind of third-party to do something that no one
17 else could kind of do, which was create deterrents.
18 Joint defense groups aren't about creating
19 deterrents. Joint defense groups were about, you
20 know, kind of everyone working and doing their own
21 kind of litigation strategies and stuff.

22 I'm not trying to replace joint



1 defense groups. Actually, the whole idea of being
2 an entity that would be independent of all of that
3 is that we would have kind of the ability to do our
4 own thing. You can't really do deterrents as a
5 joint defense group, that's kind of the idea. Being
6 outside of that whole system it allows the
7 third-party, in my view, in this case Unified, to
8 create deterrents, and that is kind of the way in
9 which I kind of view Unified going forward.

10 BY MR. GRANAGHAN:

11 Q Did the passage of the American Invents
12 Act play into your decision to start Unified?

13 A Not entirely. There were things about the
14 American Invents Act that I thought would make the
15 ability for us to create deterrents more productive,
16 and actually I started working on this idea even
17 before, even before the passage of the American
18 Invents Act, I didn't know if it was going to pass,
19 but I had thought around ideas of how you could use,
20 back then, inter partes examination for this. I
21 think we could have used inter partes through
22 examination and done the same thing.



1 I do think that the, the procedures
2 around the inter partes review are overall a better
3 system and therefore, yeah, we take advantage of the
4 AIA (phonetic) and the changes that were made to
5 inter partes re-examination to bring about the PTAB
6 and the IPR process.

7 Q So other than the AIA's creation of inter
8 partes review, are there other portions of the AIA
9 that you saw as a benefit to your efforts to deter
10 these?

11 A I guess I -- I mean, a big part of the AIA
12 was about bringing the U.S. laws into kind of
13 consistency with international patent laws.
14 Unified, I think, could have worked using inter
15 parties re-examination. I mean, I guess when I say
16 that there's aspects about it that I think are
17 better, we don't have inter partes re-examination
18 anymore, so it's not like, it's not like I have a
19 choice between the two.

20 So are there other aspects of the
21 AIA? I mean, there's lots of things about the AIA.
22 If you have some specifics, I might be able to tell



1 you whether I think any of them benefit us, but
 2 ultimately having a good patent system, I think, is,
 3 is a good thing for both Unified and everybody else.

4 Q When did Unified file its first IPR?

5 A We filed our first IPR in the summer of
 6 2013.

7 Q And you said you started Unified in 2012?

8 A I did.

9 Q Who did you start Unified with?

10 A Started by myself. I left Intuit, I
 11 believe it was July of 2012, went out, started
 12 talking to people and companies about what I had in
 13 mind.

14 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22 Q And has he left since then?



1 A Yes.

2 Q So do you, [REDACTED]

3 A [REDACTED] So Brian Hinman left Unified in
4 the summer of 2013 and at the time he left, Shawn
5 Ambwani joined and [REDACTED]

[REDACTED]
7 [REDACTED]
[REDACTED]
[REDACTED]

10 Q And Mr. Ambwani is the chief operating
11 officer, right?

12 A He is, yes.

13 Q Who was Unified's first customer?

14 MR. FAWZY: Objection.

15 MR. GRANAGHAN: What's the objection?

16 MR. FAWZY: To the form of the question.

17 Unified doesn't have customers.

18 A The first company to sign an agreement
19 with Unified was NetApp.

20 BY MR. GRANAGHAN:

21 Q And you don't refer to them as customers;
22 is that right?



1 A I mean, everyone signs a membership
2 agreement so we call them a member and they become a
3 member of a zone and you could be a member of one
4 zone, you could be a member of two zones, you could
5 be a member of all of our zones. It's not like
6 we -- we call them, if you have a membership
7 agreement, so we refer to them all as members.

8 Q Do you consider that as different than a
9 customer?

10 A I don't think so, no. They're customers,
11 yeah.

12 Q Is NetApp still a customer?

13 A It is, yes.

14 Q But it is -- [REDACTED]

16 A [REDACTED]

17 [REDACTED]

18 Q So what kind of activities does Unified
19 perform for its members?

20 A So members sign up to a zone. A zone has
21 a whole bunch of things that we do, data analytics,
22 we do landscaping work, we do kind of research and



1 analytics, we do prior art. We do all kinds of,
2 kind of activities in the space. We want to be kind
3 of the most knowledgeable people about all of the
4 activity that's going on in a particular zone.

5 We have tools and services that we
6 provide through our portal that includes like patent
7 quality tools and a whole bunch of other things.
8 The big thing that all of our zones do is what we
9 refer to as deterrence. That deterrence is kind of
10 an independent service that we run to choose how
11 we're going to create that deterrence.

12 And we use IPRs to identify or we
13 identify and then we file IPRs against patents we
14 believe are invalid, and when doing so we try to
15 show that those patents should never have been
16 issued in the first place. We think that that
17 deterrent strategy is designed to deter others --
18 well, and the patent owner that we file against.

19 But in addition to that, most
20 important point, we want every IPR to have kind of
21 an outsized deterrent impact so that others watching
22 will also be deterred from bringing kind of invalid



1 patents and trying to entice those in our zones.

2 Q What percentage of Unified's expenditures
3 today are spent on IPRs?

4 A So as part of our total expenditures, IPRs
5 are like one of the most expensive parts of what we
6 do, it's simply because they're expensive, but we
7 think that all the other stuff we do is important as
8 well. But IPRs are kind of a, one of the more
9 expensive parts of what we do for them.

10 Q Do you know, ballpark percentage, of the
11 expenditures that you have on IPRs?

12 A So of our expenditures, IPRs would make up
13 the largest percentage of it. [REDACTED]

14 [REDACTED] In our
15 standard essential patent zone, the video codec
16 zone, it makes up a [REDACTED] of our
17 expenditures because we have done some other work
18 that's quite expensive as well.

19 We have done an economic analysis of
20 HEVC and as part of that, that was a rather
21 expensive endeavor as well. We also developed some
22 tools, landscaping tools, curated data around that,



1 which is also pretty expensive. And we've also done
2 some additional kind of database work around
3 submissions to the standard setting bodies, that has
4 been pretty expensive as well.

5 So our standard essential patent
6 zone, actually the expenditures on IPRs is [REDACTED]
7 it would be in our NPE zone.

8 Q When you say "standard essential patent
9 zone", are there zones within the standard essential
10 patent zone?

11 A Let me just maybe break this up. We
12 originally started working on NPE matters and we
13 called those kind of NPE zones. And then in -- when
14 we started working on standard essential patent
15 issues, SEP issues, we created another part of the
16 business that would be kind of working on standard
17 essential patent licensing issues. And inside that
18 we have a standard essential patent zone. We
19 would -- you know, we're always working on creating
20 new standard essential patent zones around other
21 standards. LTE is an example or Wi-Fi or 5G or, you
22 know, any of the other standards, USB, I don't know,



1 there's tons of other standards.

2 So each of those other standards
3 would possibly get their own zone for us to be doing
4 this kind of work on standard essential patent areas
5 on each of those standards.

6 Q So just to make sure I'm clear, though,
7 the SEP zone is not synonymous with the video codec
8 zone. The video codec zone is based on within this
9 SEP area, right?

10 A Yes, correct. Yes, absolutely.

11 Q So going back to the expenditures and IPR.
12 Do you know a percentage in number, percentage of
13 Unified's expenditures, that it spent on IPRs?

14 A As a percentage, I do not. I haven't
15 tracked, as a percentage, expenditures in the video
16 codec zone and a specific amount that is related to
17 the filing of IPRs.

18 Q Do you think it's more or less than
19 [REDACTED]?

20 A [REDACTED]

21 Q You think it's [REDACTED]?

22 A I don't know.



1 Q How many employees does Unified currently
2 have?

3 A I believe we currently have 14 employees.

4 Q How many of those are attorneys?

5 A Most of them. I have to try to count them
6 up. I can, if you want me to.

7 Q Yeah. Go ahead and do it. When I say
8 attorneys, I mean how many are actually practicing
9 attorneys, would you consider?

10 A All of the attorneys that are -- all of
11 the attorneys that are working at Unified are
12 licensed attorneys to practice law.

13 Q All right.

14 A So they're all practicing attorneys.

15 Q Okay.

16 A I think 11 out of 14 are attorneys.

17 Q And what are their responsibilities at
18 Unified?

19 A We have a department of attorneys that are
20 responsible for overseeing and doing legal work
21 related to IPRs. We have -- well, I'm an attorney
22 so I'm in charge of kind of all of the operations



1 and I oversee the legal department. I oversee all
2 the departments too, so I'm engaged in all of that.

3 Shawn is an attorney and he
4 participates in all of that activity as well. [REDACTED]

[REDACTED]

12 [REDACTED]

17 Q And how many attorneys are in the
18 department?

19 A So that department, not including myself
20 or Shawn, who both are in that department, by the
21 way, but I'm just going to -- I'll include us too,
22 so that would [REDACTED]



1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
5 A [REDACTED]
6 Q [REDACTED]
[REDACTED]
[REDACTED]
9 A [REDACTED]
[REDACTED]
[REDACTED]
12 Q Okay. [REDACTED]
[REDACTED]
14 A [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



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1 Q So what do you do day-to-day as Unified's
2 CEO?

3 A So day-to-day any given day would include
4 some, you know, just like over, overhead kind of
5 running the company. Anything from HR to payroll to
6 management meetings, meeting with people. It would
7 include kind of engaging with the legal department
8 around the filing of IPRs and that process. It
9 would include business development and, you know,
10 kind of strategy and pipeline issues for Unified.

11 Finance would make up another aspect
12 of it, just being on top of budgeting for the entire
13 company. All of that would go into kind of my
14 day-to-day activities.

15 Q Do you interface with Unified's members?

16 A I do.

17 Q How much of your time is spent doing that?

18 A Not very much. If there's an opportunity
19 to engage. I mean, there's no, like, schedule for
20 me to engage. If there's a reason to talk with
21 someone, I do, but I don't -- like specific
22 questions on what type of engagement.



1 Q How do you usually talk to them? Phone,
2 e-mail, text?

3 A Phone would be the biggest means of
4 communication.

5 Q What kind of things do you usually talk to
6 the members about?

7 A Most of what we're talking about is going
8 to be like activity in the industry, understanding
9 the NPE litigation is going up, NPE litigation is
10 going down. If there's any type of like industry
11 information about how their industry is doing, if
12 there's lots of investment in startups, if the
13 industry is growing or retracting, whether or not
14 that's an indication that NPE activity in the long
15 run is going to be high or going to be low.

16 If we're talking about like the
17 standard of essential patent zones, we're talking
18 about kind of issues around transparency of SEP
19 licensing, case law around SEP licensing, economic
20 issues of SEP licensing, the standard essential,
21 sorry, the standard setting bodies and how they work
22 and what they're doing and all of the things around



1 these issues would all be -- have industry
2 information that are constantly looking to learn
3 from.

4 These same conversations happen with
5 me with nonmembers too. Like this is the same
6 industry information topics that we're going to be
7 talking with everyone about.

8 Q Is it usually Unified giving members and
9 nonmembers industry information or are these members
10 and nonmembers giving you guys industry information?

11 A This is -- I guess it's a little bit of
12 both. I mean, it's kind of just like this is not --
13 industry information, when I say industry
14 information, I'm talking about like just public
15 information. None of this is like confidential or
16 anything. It's like public knowledge about kind of
17 what's going on in the industry. When I talk about
18 NPE trends it's just like litigation data. Is NPE
19 activity going up in an area, is it going down in an
20 area, you know, what are they seeing. Are they
21 feeling like the NPE activity is going up or going
22 down. We track all the litigation that's out there.



1 So all this public information is
2 kind of something that we would be talking about so
3 it's kind of just like this is not like a data dump
4 from them to us or a data dump from us to them.
5 This is just what is everyone feeling about a
6 particular issue. If it's NPE stuff, it's NPE kind
7 of public data about NPEs. If it is SEP stuff it's,
8 you know, public data we've learned or heard about
9 or they've heard or learned about, about the SEP
10 industry.

11 Q Did you talk to these third parties about
12 specific patents with them?

13 A We do not talk about specific patents.
14 So, I mean, I don't think the answer is -- the
15 answer is no, I mean, this is not like a -- we do
16 not talk to our members about a specific patent. We
17 don't really talk to third parties about specific
18 patents either. That's not really the type of
19 engagement we have with our membership or with third
20 parties.

21 Q What about patents, nonspecific patents
22 but patent portfolios?

1 A Well, no. I mean, we don't really talk
2 about specific patent portfolios either. There are,
3 there are big portfolios that get mentioned all the
4 time, Intellectual Ventures, nonintellectual --
5 Intellectual Ventures, really, really well known.
6 Intellectual Ventures is selling patents to NPEs at
7 a remarkable rate. They're really one of the big
8 sources of patents right now.

9 Just as an example of a portfolio
10 that would have come up at conferences and
11 conversations and everything about what's going on,
12 in zones, outside of zones, general information.
13 So, yeah, I mean of course portfolios come up as an
14 example. Intellectual Ventures is an example of one
15 of those.

16 In the SEP space, we also talk about,
17 like, all the big players that are out there. So
18 there are some, as I'm sure you're aware, there are
19 three major patent pools around the SEP space, MPEG
20 LA, HEVC Advance, Velos Media.

21 So these, these are like portfolios,
22 I guess, or like big topics. All of this gets kind



1 of -- this is industry information and knowledge.
2 This is talked about in the context of all, all SEP
3 information. This is the ecosystem around what is
4 currently the standard essential patent licensing
5 related to HEVC.

6 Q So you have talked to your customers about
7 Velos?

8 A We have.

9 MR. FAWZY: Objection, vague.

10 A We have talked to everyone that's, that's
11 dealing with or engaged in SEP licensing issues on
12 HEVC. We've talked to all of them about MPEG LA,
13 HEVC Advance and Velos Media in the context of that
14 being the ecosystem that is currently being licensed
15 in the, the video codec space.

16 BY MR. GRANAGHAN:

17 Q Have you ever talked to any of your
18 customers or companies that are not customers about
19 any specific Velos patents?

20 A Never.

21 Q What about specific patent families of
22 Velos?



1 A We have not.

2 Q So when you're talking to Unified's
3 members, what kind of person are you usually talking
4 to? Is it usually in-house counsel?

5 A Yes. We're talking to either a nonmember
6 or a member about our video codec space. If it's a
7 company, it is usually going to be an in-house
8 counsel or maybe, maybe a licensing guy who's not
9 necessarily a counsel but is still working on the
10 legal matters around standard essential licensing.

11 Q So Mr. Ambwani is the chief operating
12 officer, right?

13 A He is.

14 Q And how do his responsibilities differ
15 from yours?

16 A So he, he is mostly in charge of
17 marketing. So he does a lot of the marketing effort
18 that I do not. We are both kind of equally engaged
19 on sales and business development. We pretty much
20 do that pretty much together on almost all the same
21 type of calls and stuff together on business
22 development issues, and he also kind of oversees the



1 kind of technology development side of Unified.

2 We have two full-time in-house
3 developers for all of our data stuff and then all of
4 the kind of marketing and data stuff that we do. I
5 think that takes up a big part of his time just
6 overseeing the, the creation of data. So we import
7 every single IPR, every single document that goes
8 through the PTAB.

9 We have a bunch of data services on
10 the inside that crunch all that information and we
11 have a predictive tool and we got all this stuff
12 that ultimately makes it on to our portal. And then
13 we -- a lot of that is used for marketing stuff, so
14 people who want to find a particular IPR when they
15 search just that IPR on the Web, it pops up on our
16 Web page. So it's kind of marketing type stuff for
17 trying to get people to have traffic to our
18 Web site.

19 We have a litigation database where
20 we ingest litigation data and then we curate it and
21 then ultimately publish that on our Web site as
22 well. We have tools around patent quality and a



1 whole bunch of predictive stuff around the use of
2 AEI (phonetic) and other things. He oversees kind
3 of all of, all of that activity as well. He -- so
4 anyway, those are some of the things. He's also
5 engaged on the legal team as well as kind of
6 overseeing helping to participate in the legal
7 teamwork and all the work that it does.

8 Q Would it be fair to say that he interfaces
9 with customers and noncustomers more than you do?

10 A I don't necessarily think that's true, no.

11 Q Who at Unified is primarily in charge of
12 everyone it interfaces with, customers and
13 noncustomers?

14 A So the primary responsibility for
15 companies once they become members is me and I
16 probably handle 95 percent of the kind of customer
17 interaction or member interaction once a company
18 becomes a --

19 Q Who handles the other five percent?

20 A So Shawn would probably handle the other
21 aspects of that at the highest level. We have -- I
22 mean, Shawn's the other one that handles the stuff I



1 don't do.

2 Q Who is generally in charge of talking to
3 noncustomers, trying to convince them to become
4 customers?

5 A So we -- Shawn and I kind of work together
6 on our sales pipeline and our business development
7 work. So the two of us are the ones that kind of go
8 out there and pitch to everyone. We both speak on
9 industry events and we're both engaged quite often.
10 A lot of our business trips are, you know, together
11 to -- if we're going to Asia or Europe, a lot of
12 times we actually travel together to those places.
13 It helps to have more people for that kind of stuff.
14 And so we work very closely together on our business
15 development work.

16 Q So let's talk about that in the context of
17 the video codec zone. Tell me, when you're trying
18 to convince somebody to become a customer, what does
19 your sales pitch look like?

20 A So our sales pitch to companies on the
21 standard essential patent zone is that there is
22 significant, there's a really significant



1 information gap between licensors in the standard
2 essential patent areas and the licensees in the
3 standard essential patent area.

4 So things, things like pricing, you
5 know, how much does an aggregate royalty rate for a
6 zone or for a -- not for a zone -- for a standard
7 is, right? There's lots of times you have no idea
8 what your, what your cost is going to be for
9 implementing a standard.

10 I mean, that's one of the big
11 problems with HEVC right now, is we have no idea if
12 you are going to end up paying 20-cents a device
13 like everyone did on the previous standard, called
14 AVC, you don't know if you are going to be paying
15 anywhere from -- we don't know what everyone is
16 asking so we have no knowledge about what the total
17 royalty stack is going to be, but if you just kind
18 of add up some of the stuff that we have it could be
19 very significant amounts of money and no one knows
20 if that's going to be what they have to pay or some
21 amount that's kind of left, less than that.

22 So that lack of transparency is a big



1 part of our conversations with people. The kind of
2 lack of tools and solutions around standard
3 essential patent licensing. So landscapes, in
4 particular, around standard essential patent
5 licensing are fairly unsophisticated, I'd like to
6 say. And we think we've got a landscape around HEVC
7 that approaches the kind of question of, of how you
8 figure out what patents are actually essential to
9 the standard.

10 We think we came up with a landscape
11 that's going to be uniquely designed to help
12 companies negotiate across the table from companies.
13 So giving them data, we want people to actually
14 engage in good faith and negotiate within rates and
15 we have tools that we want people to use on those
16 fronts.

17 We talk about the fact that standard
18 setting bodies have the submission process and it
19 feels like there's a lot of licensors that play a
20 lot of games with that, you know, companies file one
21 patent application and then will keep continuations
22 open in trying to write claims on a standard, you



1 know. In some cases there are still patent families
2 that are open reading on AVC, which was ten years
3 ago. These are kind of issues around standard
4 essential patent licensing that we would be talking
5 about.

6 I talked about the kind of aggregate
7 royalty rate issues and, you know, we would be
8 telling them we've done an analysis. We have
9 publicly released what we found our analysis to be.
10 We talk about how we went about that just using kind
11 of completely independent information and did our
12 own independent analysis of what HEVC should cost
13 separate and apart from, from all third parties,
14 members or not, and said, hey, we think that this,
15 you can use this information to show that there's
16 really good economic analysis out there around the
17 value of HEVC and you can use that in your
18 negotiations because many companies don't do that
19 work at all when they engage in negotiations around
20 this.

21 And, you know, we walk through the
22 tools that deal with all of those kind of data



1 offerings we have. We also talk about the fact that
2 we have a deterrent strategy on the standard
3 essential patent zone, we would be doing that
4 deterrent strategy. A deterrent strategy would work
5 just like all of our other zones. We don't want the
6 monetization of bad patents generally and that our
7 strategy for deterring the use of invalid patents is
8 the best one out there. I mean, we believe that to
9 be the case.

10 And we also talk about kind of
11 over-designation issues where the problem of a
12 standard setting body, you know, everyone's claiming
13 they have all these patents and no one knows if
14 those patents are actually essential to the standard
15 or not.

16 And then one other thing we would
17 obviously touch on as well is that when patent pools
18 and others, standard setting bodies, deal with all
19 these what people are claiming are essential
20 standards, no one does any work to figure out if
21 what is claimed as an essential patent and everyone
22 wants to be licensed, no one does any work to see

1 whether or not those patents are actually valid or
2 not.

3 So all of this work is done on
4 essentiality but the industry basically tries to
5 ignore the fact that there's -- validity is another
6 aspect of whether or not you should or shouldn't
7 license a patent, it's not just a question of
8 whether or not it's essential to the standard, it's
9 a big part of helping people understand that there's
10 a lot of patents that we think licensors are trying
11 to license are likely invalid and we want to deter
12 the use of licensing of invalid patents across the
13 board.

14 That would be kind of an example of
15 what our -- I'm sure I'm missing a bunch of things
16 that we talk about too, but that's a pretty decent
17 overview of some of the issues we talk about. We're
18 talking about the SEP landscape and our video codec
19 zone.

20 Q So one of the things that you guys pitch
21 is this deterrence through the filing of IPRs,
22 right?



1 A Sure, of course.

2 Q And why, why does Unified think that these
3 potential members would be interested in this
4 deterrent solution by Velos?

5 A Well, I think that companies --

6 MR. FAWZY: Objection. Calls for
7 speculation.

8 A I mean, our pitch for deterrence is that
9 we've been doing this for a long time and we think
10 it works. So, I mean, I don't know what they think
11 about the, the deterrent strategy, you have to ask
12 them, but I know what we -- I'm talking about what
13 we pitch our members on in terms of the deterrent
14 strategy.

15 BY MR. GRANAGHAN:

16 Q But you pitch them on this deterrent
17 strategy thinking that it benefits these potential
18 clients, right?

19 MR. FAWZY: Objection. Mischaracterizes
20 testimony, vague.

21 A When we pitch that strategy, this is
22 the -- we say the same thing about all of our, all

1 of our zones. We believe deterrent strategy works
2 and, you know, I don't know if they believe it or
3 not or what their belief is. But we put out there
4 the same, you know, conversation around our
5 deterrent strategy all the time. We're going to go
6 out there, we don't think that invalid patents,
7 people should be forced to license them, and we
8 think everyone should be kind of raising their game
9 and not only bringing patents to license and
10 negotiations that are of the highest quality from a
11 validity perspective, not just from either its
12 invalidity or infringement or anything else.

13 Q But Unified doesn't actually make anything
14 that practices any of these video codec standards,
15 right?

16 A I mean, we have solutions on our Web page
17 and we, you know, have videos and we do things like
18 this. We -- I'm certain we are using video codec,
19 absolutely.

20 Q Okay. But your primary business is not,
21 not selling products that implement video codec,
22 correct?



1 A We do not sell phones or TVs.

2 Q So why does Unified seek to deter these
3 licensors in the video codec space?

4 A I guess I'm confused as to why you're
5 questioning me. We have a video codec zone, I just
6 described what it is that we tell people to do, and
7 if they like the, the sales pitch of what we put
8 forth of what we're going to do for them and what
9 they get for participating in the zone, then you'd
10 have to ask them why they choose to sign up or not.

11 Q But Unified Patents itself does not
12 benefit by deterring licensors of the video codec
13 zone from trying to modify their patents, right?

14 A I don't -- I mean, we might --

15 MR. FAWZY: Objection, vague.

16 A I don't know if I will ever receive a
17 demand letter or someone might sue me for the use of
18 a video codec or a video codec patent.

19 BY MR. GRANAGHAN:

20 Q Do you guys have slide decs that you go
21 through with these potential customers?

22 A We do.



1 Q Are they all generally the same?

2 A It's a -- yeah, it's one dec, we've been
3 using it for forever.

4 Q All right. Did Unified used to call its
5 zones micro zones?

6 A Yeah. When I founded the company we
7 called the zones micro pools and when Shawn got on
8 board he thought that was confusing, and he was
9 right. It had a sense, a feel of patent pools and
10 that had nothing to do with what we were doing and
11 so I think he rightfully so suggested that I or that
12 the two of us then change them to zones and thought
13 it was a better, a better descriptor for our, for
14 our product.

15 Q What is it that makes -- so Unified starts
16 a new zone. What is it that prompted you to find a
17 new zone?

18 A So, I mean, we look for our own business
19 opportunities. So we're looking to see if there are
20 technology areas where the monetization of patents
21 is an area in which we would be able to kind of sell
22 our services. That would be the highest level of



1 what we do. And the standard essential patent area,
2 we saw an opportunity that companies were having
3 difficulty with kind of SEP licensing. We thought
4 that we might be a unique company to bring data
5 services to those companies to help them.

6 Q So is it fair to say that you're looking
7 for an industry where there might be companies that
8 are interested in Unified's deterrents strategy?

9 A Well, let's -- are you referring to kind
10 of NPE zones or the SEP zones?

11 Q Let's talk about the SEP zones.

12 A So the SEP zones we are, we're looking for
13 any company that might be a document, the standards,
14 video codec standards, and we believe that they're
15 in a position and likely going to be engaged in
16 negotiating licenses around video codec. We don't
17 know which licenses or who they're kind of
18 negotiating with, but we know that they're probably
19 going to be negotiating with someone.

20 And they, in order to do those
21 negotiations well, we think that those companies
22 might be interested in both the data we have as well



1 as the deterrent strategy that we have.

2 Q So what you're trying to -- the video
3 codec zone is trying to benefit companies that are
4 implementing the video codec standards, correct?

5 MR. FAWZY: Objection.

6 BY MR. GRANAGHAN:

7 Q Let me rephrase. Your -- Unified's
8 strategy in the video codec zone is to undertake
9 activities for the benefit of companies that are
10 implementing video codec standards, right?

11 MR. FAWZY: Objection. Mischaracterizes
12 testimony and vague.

13 A So the thing -- the work that we do in our
14 video codec zone we believe is ultimately going to
15 be to the whole video codec zone being a better
16 place and help with freedom to operate, ability for
17 everyone to get the licenses and negotiate those
18 licenses with good data, with information, with
19 access to information about the actual standard
20 setting process.

21 We want to provide them with an
22 economic analysis that we hope that they think is



1 useful and they believe that the underlying analysis
2 that was done is justified and really good and we
3 think that all of our work that we do on deterrent
4 strategies and everything else is going to benefit
5 the zone.

6 The truth is that it benefits
7 everyone in the video codec space, people who are
8 paying us, people who are not paying us. All of
9 what we kind of do we think is going to benefit the
10 zone but when we refer to the zone and the benefit
11 that the zone gets, we're not referring to an
12 individual company. We, just like everyone else,
13 has like kind of a free writer problem. Everyone
14 kind of benefits from the kind of work that we do.

15 Q If it benefits everyone, why would anybody
16 pay?

17 A Because there are some companies --
18 MR. FAWZY: Objection. Calls for
19 speculation.

20 A So because we go out and we pitch this
21 idea and -- you are going to have to ask them why
22 they, they feel like they get a benefit from it.



1 But we think that by benefiting the zone, everyone
2 is going to, to get a good deal, but you are going
3 to have to ask individual companies why, why they
4 think they benefit. Any answer on my end of that
5 would be speculation.

6 BY MR. GRANAGHAN:

7 Q All right. Let's shift gears a little
8 bit. Who, who at Unified is the one that makes the
9 ultimate decision to file an IPR?

10 A Well, I mean, I don't want to -- since I'm
11 the CEO and honestly I have the control of the
12 company, eventually it all flows up to me, but I
13 wouldn't want to say that I'm the guy who, like,
14 comes in and tells everyone what to do. There's a
15 team of people. Everyone gets involved. We all
16 talk about all of the IPRs that we file and then we
17 have a consensus decision, but I would say that
18 ultimately the final decision on the thing that we
19 do would obviously rest with me.

20 Q Are there certain guidelines that you
21 consider when deciding whether or not to file an
22 IPR?



1 MR. FAWZY: And I'm just going to object,
2 caution the witness not to discuss any
3 privileged attorney-client or attorney work
4 product information or any discussions about --
5 related to legal work.

6 A So in lot of our depositions we get to
7 this point where people want to ask questions about
8 our decision-making process. I can probably answer
9 questions at the highest level about what our
10 general process is, but in the specifics about any
11 one patent and the specifics about what we
12 considered in terms of deciding whether or not to
13 file an IPR on something would be attorney work
14 product, that would be work product that Intuit, or
15 I'm sorry, not Intuit, that Unified did on its own.

16 BY MR. GRANAGHAN:

17 Q Understood. I'm asking generally. What
18 do you generally consider?

19 A Sure. Kind of like to set -- make sure
20 everyone is on the same page. So at the highest
21 level what we are looking for is a, is an IPR that
22 we believe is going to have a deterrent impact for



1 the zone, and so we would be doing analysis around
2 identifying patents.

3 Obviously we look at lots of patents.
4 Another big question around that is whether or not
5 it's actually invalid or not. There are lots of
6 patents out there that, if you were to file an IPR,
7 you would lose, and so what -- a big part of that as
8 well is we go through the process of deciding, one,
9 if we would ultimately get a deterrent impact for
10 doing that and two is, you know, another one is
11 whether or not its invalid or not.

12 Q So you consider, you consider the subject
13 matter of the patent? Does that matter?

14 A Subject matter? Can you give me some,
15 like, define that a little bit more?

16 Q Sure. So, I mean, is it correct to say
17 that before Unified will consider filing an IPR
18 against a patent, the patent has got to relate to
19 one of Unified's zones, right?

20 A I see. So we do have a process, an
21 important one that I thought might be obvious but,
22 yes, we do decide whether or not a patent meets the

1 zone definition or, or if not, so yes.

2 In any given zone if we're going to
3 do something, a patent would have to meet one of our
4 zone definitions before we would file an IPR.

5 Q And if it doesn't meet one of the zone
6 definitions then Unified is not going to file an
7 IPR?

8 MR. FAWZY: Objection, mischaracterizing
9 testimony.

10 A If -- I mean, I guess I don't know what to
11 say, like. If a patent doesn't meet any of our zone
12 definitions then we wouldn't file an IPR.

13 BY MR. GRANAGHAN:

14 Q Does whoever the patent owner is play any
15 role in deciding whether to file an IPR?

16 A I don't know what a patent owner does. We
17 do look at who owns patents. I mean, in the NPE
18 space obviously we look to see if a patent owner is
19 an NPE. In our standard essential patent area we
20 also look to see who owns the patent because one of
21 the things we're looking to achieve is a deterrent
22 strategy.



1 Q So besides whether the patent relates to a
2 specific zone, who the patent owner is, what else
3 does Unified consider when deciding whether to file
4 an IPR?

5 A The validity of the patent is, you know,
6 obviously a big part of that too. If the patents
7 are not invalid or not going to file an IPR, expect
8 to loose.

9 Q Anything else?

10 A I'm sure there's lots of things on any
11 specific patent but the, the kind of value of that
12 patent, I mean, I guess, but I mean all of these are
13 kind of very patent, very specific patent issues as
14 we kind of look at it to decide whether or not we
15 think that that would be a -- a filing of an IPR
16 there would give us a deterrent strategy for the
17 zone.

18 Q Does Unified have any formal guidelines
19 anywhere that it considers when deciding whether to
20 file an IPR?

21 A No. I mean, a filing of an IPR is like an
22 extremely patent specific process. You really have



1 to -- I mean, you have to dive in on that patent.
2 So on any one patent we might be looking at dozens
3 and dozens of things, whether or not there's means,
4 there's function, claiming, the specification. All,
5 all these various things. I mean, whatever we can
6 talk about, dozens and dozens of patent law issues
7 that go into any one patent, whether we believe it's
8 indefinite or not, whether or not it's got 101
9 issue.

10 Like, I don't know, we could go on
11 and on and on about the scope, whether or not we
12 believe the patent scope is really big or really
13 small, all type of construction issues. Literally
14 the number of things that would go into deciding
15 whether or not an IPR was a good fit for us would,
16 would be extremely long and on any one patent we
17 would discuss everything that we thought we would
18 identify in that patent before making a decision to
19 pull the trigger on an IPR.

20 Q So there's no document that says this is
21 what we consider when deciding to file an IPR?

22 A No.



1 Q Who is it that defines the prior art that
2 you are going to assert? Again, generally, not
3 specific to any --

4 A So the -- we use half a dozen prior art
5 search firms. So the legal department or outside
6 counsel, depending on each individual IPR, would
7 make a decision to order prior art. We also have
8 kind of our own internal databases we use for trying
9 to define prior art as well. And so all of that
10 would be kind of brought in as an internal process
11 for finding prior art.

12 Q It's been about an hour. I'm at a good
13 stopping point if you guys want to take a quick
14 break.

15 THE VIDEOGRAPHER: The time is now
16 11:14 a.m. This is the end of DVD No. 1.
17 We're going off the record.

18 (Whereupon, there was a break from
19 11:14 a.m. until 11:28 a.m.)

20 THE VIDEOGRAPHER: The time is now
21 11:28 a.m. This is the beginning of DVD No. 2.
22 We are back on the record.



1 BY MR. GRANAGHAN:

2 Q Mr. Jakel, you're certainly aware at this
3 point that there are many questions of whether
4 Unified is really the sole real party-in-interest in
5 IPR's files, right?

6 MR. FAWZY: Objection, vague.

7 A I certainly wouldn't agree with that
8 statement.

9 BY MR. GRANAGHAN:

10 Q You wouldn't agree that people question
11 whether that's true, the case?

12 A I think you said many or all kind of
13 things. I just don't agree with that.

14 Q Okay. Unified has actually structured
15 itself to try to avoid the determination that it's
16 not the sole IPR, right?

17 MR. FAWZY: Objection, form, vague.

18 A I can go in to why we structured Unified
19 the way we did. Would you like me to do that?

20 BY MR. GRANAGHAN:

21 Q Well, you had -- Unified has structured
22 itself to avoid findings that it's not the sole RPI

1 in IPR's files, right.

2 MR. FAWZY: Objection to form, vague.

3 A Yeah, I've never said that. I can tell
4 you why we structured Unified the way it is, if you
5 want me to answer that question.

6 BY MR. GRANAGHAN:

7 Q Just for the record, when I say RPI, I
8 mean real party-in-interest. Everybody understands
9 that?

10 A I understood.

11 Q Okay. Good.

12 (Whereupon, Velos Exhibit No. 2015 was
13 marked for identification.)

14 BY MR. GRANAGHAN:

15 Q You've been handed what's been marked
16 Exhibit 2050.

17 A Fifteen.

18 Q 2015?

19 A Yeah.

20 Q 2015, which appears to be a written
21 interview, part two of a written interview you gave
22 with Above the Law; is that right?



1 A It would appear that way.

2 Q All right. Did you give a written
3 interview to Above the Law in around May 2018?

4 A I might have. I don't remember it
5 specifically.

6 Q Okay. So is it -- where it says KJ on
7 here, is it your understanding that that is your
8 answer to these questions?

9 A I believe that's probably correct.

10 Q All right.

11 A I'm not saying I didn't do this, I just --

12 Q You just don't remember right now?

13 A It's not off the top of my head right now.

14 Q All right. So question two is, "How does
15 Unified navigate the interest of its members in
16 situations where it has to deal with companies named
17 as defendants in parallel district court
18 proceedings. Is it important that Unified act
19 completely independent of them to avoid time-bar
20 issues." Right? That's the second question?

21 A That is the question.

22 Q All right. And then you said -- let me



1 find it here. About five lines down, the answer
2 says, "As an NPE-deterrence solutions whose 200+
3 members are often targeted by NPEs with demand
4 letters and district court proceedings, Unified
5 Patents is well aware of these issues and has
6 carefully structured our solution to comply with all
7 of the existing, existing legal requirements to file
8 administrative challenges as the sole RPI", right?

9 A That's what it says, yes.

10 Q Do you agree with that statement today?

11 A I do agree with this statement today.

12 Q So Unified has structured itself to make
13 sure that it is the sole RPI in the time period?

14 MR. FAWZY: Objection. Mischaracterizes
15 the testimony and the exhibit.

16 A So this question, the question, this is
17 kind of in context. Outside of content I don't, I
18 don't believe that we structured Unified. The whole
19 structure of Unified is not about real
20 party-in-interest. This question was specifically
21 about kind of issues around parallel location and
22 why it's independent and time-bar issues and all of



1 this, which relates to real party-in-interest, so in
2 context of this question, yeah.

3 Like, one of the things that we do is
4 we file IPRs and we are the sole real
5 party-in-interest, but if you ask me why I
6 structured Unified Patents, that's not exclusively
7 about real party-in-interest.

8 BY MR. GRANAGHAN:

9 Q Do you think it's important that Unified
10 avoid a finding that it's not the sole real
11 party-in-interest?

12 A Is it important? I don't know really how
13 to answer that question about its relative
14 importance.

15 Q Do you think Unified would lose customers
16 if there was a finding that Unified was not the sole
17 RPI?

18 MR. FAWZY: Objection to form. Calls for
19 speculation.

20 A I was going to say I actually don't know
21 what members would do if there was a finding of real
22 party-in-interest other than Unified patents.



1 BY MR. GRANAGHAN:

2 Q All right. Move down a little bit.

3 There's a sentence that's probably -- it's about ten
4 lines from the bottom. It says, "We think that's in
5 part because we laid down strict internal guidelines
6 from the get-go that (1) Unified alone independently
7 makes all decisions regarding any challenge
8 proceeding (and will neither confirm nor deny
9 whether it, whether it is may challenge a patent,
10 will not discuss ongoing matters, and keeps
11 separation between counsel and membership, (2)
12 Unified alone bears all costs of any such
13 proceeding, and (3) while Unified's members pay
14 annual subscription fees in addition to Unified's
15 other revenue, members have no control over when,
16 how, or even if Unified spends its revenue, both
17 that receive from its members and otherwise."

18 Do you agree that Unified still has
19 guidelines like in this answer?

20 A Yeah, the guidelines, one, two and three,
21 are kind of founding principles for Unified patents
22 since day one and are still through today.



1 THE VIDEOGRAPHER: The time is now
2 11:35 a.m. We're going off the record.
3 (Whereupon, there was a break from 11:35
4 a.m. until 11:37 a.m.)

5 THE VIDEOGRAPHER: The time is now
6 11:37 a.m. We're back on the record.

7 BY MR. GRANAGHAN:

8 Q All right. So we were just talking about
9 these guidelines that were mentioned in this written
10 interview, Above the Law. And I believe you said
11 that these three guidelines were kind of founding
12 principles for Unified Patents, right?

13 A These have been around since day one,
14 yeah.

15 Q Okay. Why did you implement these
16 guidelines when you started Unified patents?

17 A So my experience in, in joint defense
18 groups and in litigation and in every, all my
19 previous experience, all related to filing inter
20 partes re-examinations and everything, was when you
21 have too many cooks in the kitchen, every lawyer
22 thinks they're the smartest lawyer in the room and



1 ultimately you get nothing done.

2 And so what I wanted was a way for us
3 to be kind of independent and so we ultimately
4 structured this so that basically we would be a
5 third-party to do kind of whatever it wanted.

6 One of the results of that is that we
7 would then not be real parties or, sorry, we would
8 be the sole real party-in-interest if we were to
9 take advantage of an IPR, but the ultimate goal for
10 structuring the company this way was that we would
11 have the kind of independence so we could move
12 quickly. We could not be bogged down in having to
13 deal with lots of different companies having any say
14 in how we go forward with our kind of deterrent
15 strategy.

16 Q Doesn't Unified advertise that it has
17 never lost an RPI challenge?

18 A We do advertise that we have never lost an
19 IPR challenge.

20 Q You have a Web page on having never lost
21 an IPR challenge, right?

22 A We have a, I think it's more like a blog



1 post that just keeps track of all of it, but we do,
2 yes.

3 Q Yet you got something on your Web site
4 that talks about I've never lost an IPR challenge,
5 right?

6 A That's true.

7 Q Yeah. Why does Unified advertise that?

8 A One of the issues around being able to
9 work independently is that if this is what we want
10 to do, we want complete freedom, but if there were
11 issues around real party-in-interest on it we
12 wouldn't be able to achieve the kind of efficiency,
13 freedom that we want in order to make our decisions
14 and implement our deterrent strategy.

15 As I think you're aware, if another
16 party's a real party-in-interest on your, your IPR,
17 then they might have the ability to influence your
18 decisions and make decisions and honestly that just
19 bogs down this process of being able to kind of go
20 out and generate the deterrents work that we want to
21 do.

22 So we basically, we want to be this

1 sole real party-in-interest so that we can also, we
2 maintain our independence and that independence
3 allows us to do that. And then consequently if it
4 were to be reversed and that was not the case, then
5 we would have to work with other parties, of course
6 you could, but that's not, that's not what we want
7 to go forward with.

8 Q But why do you publicly advertise that
9 you've never lost an RPI challenge? I get why you
10 want to maintain information but why do you
11 specifically advertise that you've never lost an RPI
12 challenge?

13 A Because this is like part of Unified, is
14 designed to be independent, and we tell everyone we
15 are independent. This is also an issue of
16 transparency for us before the PTAB. We want to be
17 transparent. We give discovery, [REDACTED]
18 [REDACTED] -- once
19 we get under a protective order, we want the USPTO
20 and PTAB to see [REDACTED] if
21 they want to see it.

22 We want everyone, including patent



1 owners, to know that we didn't, like, deviate from
2 the rules we put in place. So this is like -- this
3 is something that we kind of, like a reputational
4 thing, we do what we say. We're going to operate
5 independently so that we have the freedom to create
6 the deterrents that we want, but in front of the
7 PTAB people want to know, whether it's the patent
8 owner or it's the PTAB or it's other companies, all
9 of them, we want everyone to know what we do, we
10 operate the way we say we're going to do in all of
11 our materials and operate independently.

12 Q All right. Let's look at the first
13 guideline here which is, "Unified alone
14 independently makes all decisions regarding any
15 challenge proceeding (and will neither confirm nor
16 deny whether it is may challenge a patent, will not
17 discuss ongoing matters, and keeps separation
18 between counsel and leadership."

19 That's the first guideline, right?

20 A That is the first guideline.

21 Q Okay. Unified doesn't actually prohibit
22 its members from suggesting a specific patent for



1 review?

2 MR. FAWZY: Objection, vague.

3 A As a prohibit, I mean, I don't know how
4 you prohibit anyone from doing anything. Our -- we
5 tell our members you can't tell us what to do and
6 we're not going to, to take any input from you on
7 what IPR we're going to file and not going to file.

8 So we don't have conversations with
9 members about specific patents and we certainly
10 don't have any discussion about whether or not we
11 are going to file an IPR or not, so. But
12 prohibit -- we have in our membership agreement
13 saying you can't do this, you can't tell us what to
14 do or we can kick you out of the, the group.

15 So I want to -- I mean, we do have
16 mechanisms in place, whether or not those qualify as
17 prohibiting or not, I don't know, but we do have
18 mechanisms in place to form our memberships, tell
19 them they can't tell us what to do, but in terms of
20 prohibit, I guess I don't know what you, you mean by
21 specifically prohibit.

22 Q Have you ever had a member suggest a



1 patent for review?

2 A We have not.

3 Q Have you ever had a member suggest a
4 certain patent owner whose patents Unified should
5 target?

6 A We don't talk about who we are going to
7 file IPRs on. We don't even talk about who we are
8 going -- who we are not going to file IPRs on. I
9 mean, by having it both ways, the whole idea is that
10 it gives everyone out there, the PTAB, companies,
11 patent owners, everyone the kind of assurance that
12 we're not having conversations with companies about,
13 like, what we do on our IPRs.

14 And so we don't, we just don't have
15 those conversations, we don't talk about it with
16 anyone, whether or not we're going to file one. And
17 then as an extra safeguard on making sure that that
18 was, that was true, we made sure to let everyone --
19 would also not tell them who we were not going to
20 file IPRs on, just to give it kind of an extra added
21 level of, like, reliability, I guess.

22 Q So Unified has never gotten a



1 communication suggesting a particular patent for
2 review?

3 A We, we have never -- no member has ever
4 sent us a patent or portfolio or anything saying,
5 hey, we want you to file IPRs on that, that's -- we
6 don't have those conversations.

7 Q Or a member has never said we want you to
8 file IPRs against patents from this patent owner?

9 A We have not.

10 Q All right. Let's look at guidelines two
11 and three, which are both related to how the IPRs
12 are funded. So guideline two is, "Unified alone
13 bears all cost of any such proceeding." Guideline
14 three is, "While Unified members pay annual
15 subscription fees in addition to Unified's other
16 revenue, members have no control over when, how or
17 even if Unified's spent its revenue, both that it
18 received from its members and otherwise."

19 So the subscription fees that you're
20 talking about, those are paid by the members, right?

21 A Subscription fees are paid by members.
22 okay.



1 Q And you say, "Revenue, both that it
2 receives from its members and otherwise." Does
3 Unified get revenues from its members other than
4 through subscription fees?

5 A So we -- I think I included this, then,
6 because we, we have sponsorships of our, of our,
7 like, annual conference. So we sell to law firms
8 to, like, buy the opportunity to attend the
9 conference or host a panel or sponsor the lunch or
10 whatever. So there's a little tiny bit of revenue
11 that comes in from nonmembership fees.

12 Q So is it fair to say that the vast
13 majority of Unified's revenue is through
14 subscription fees?

15 A Correct.

16 Q And you also say here that subscription
17 fees for one zone are never used for activity in
18 another zone; is that right?

19 A Yes, that's correct.

20 Q Why is that one of Unified's guidelines?

21 A Early on we wanted to, to structure
22 Unified so that there was kind of an alignment



1 around our zones so, like, the people don't give us
2 money for cloud zones and we run off and buy patents
3 or do anything or spend money doing anything, IPRs
4 or otherwise, in automotive or some other, I don't
5 know, any other place.

6 So we wanted to be able to have kind
7 of a zone specific alignment so that the money that
8 a company gave us for a zone was for that zone and
9 not for other technology areas. Whether it's other
10 zones or even not, we wanted people to know it's
11 going to be used in that zone.

12 Q Why does Unified focus on specific zones?

13 A Why does it focus on specific zones? This
14 was a, an idea early on that there are companies who
15 have risk that basically applies across lots of
16 zones and there are companies that do kind of very
17 specific stuff like, you know, there are some
18 smaller companies that specialize in a particular
19 area. Those companies would be able to kind of pick
20 and choose on an a la cart basis what technology
21 areas that make sense for them, if they like the
22 idea of us doing kind of deterrence work in a zone.

1 And then there are bigger companies
2 which would be interested in that same zone but
3 because of their size and breadth of products they
4 could then pick and choose other zones as well.

5 So we try to find a way to, to
6 basically provide a flexible solution for providing
7 deterrence in our zones that was designed to, to be
8 accommodating to what I felt like was the industry
9 problem around NPE monetization, or the patent.

10 Q So the Unified structure in the zone is
11 really for the benefit of members or potential
12 members so that they can pick and choose which
13 industry areas that they're interested in, right?

14 A I mean, I don't know about for the benefit
15 of them, I wouldn't agree with that. That's how
16 we -- that's how I structured the company and the
17 way I thought I could sell it best. That was, I
18 structured this, I never asked companies whether or
19 not they would benefit from this structure or not.
20 This is how I thought from, just the pure operation
21 of a company in this space, this is how I thought I
22 could, you know, sell it best.



1 Q So, so that, like, for example, like you
2 said, a small company that only operates in a
3 certain zone doesn't have to pay for Unified
4 services in another zone, right?

5 A Well, they could --

6 Q If they don't want to?

7 A -- that way they could pick and choose
8 whatever technology areas they want. Again, both
9 big and small companies have this option but I
10 thought this was kind of the best way to structure
11 Unified from a sales and business perspective on my
12 end.

13 Q All right. So a bit further down it
14 actually spans, pages one and two here, it says,
15 "This complete independence is one of the unique
16 advantages Unified uses to deter NPEs from
17 monetizing overbroad or questionable patent claims
18 or coming in with settlement demands priced below
19 the cost of any one party's defense cost.
20 Independence from our members allows Unified's
21 talented legal team to respond quickly and
22 strategically to challenge patents of poor quality,



1 to counter the tragedy-of-the-commons problems
2 prevalent in joint defense situations, and to reduce
3 abusive NPE leverage, litigation, and nuisance
4 settlement cost."

5 So what do you mean there by "the
6 tragedy-of-the-commons problems prevalent in joint
7 defense situations"? Is that the same joint defense
8 group problem that we've talked about a couple times
9 already?

10 A Yeah. So this is the case. I mean, this
11 isn't, this isn't specific to members, by the way.
12 This is a -- in any particular technology area you
13 just, you have -- NPEs don't just sue one company,
14 it's pretty common NPE monetization strategies would
15 be to, to assert patents against lots and lots and
16 lots of companies. And any one company that would,
17 that would try and fight that person, who knows what
18 the other companies may or may not do.

19 I mean, some of them might help
20 participate, not participate, people free writing,
21 but, you know, the cost of defense and all of the
22 kind of, the fact that there's lots of companies all



1 facing the same thing when an invalid patent is used
2 against all those companies, in some cases nothing
3 ever gets done. The kind of tragedy of commons is a
4 very well known kind of way of describing a
5 situation when lots of companies all face the same
6 problem. Sometimes no one company is willing to, to
7 do this and, you know, I don't think it's a surprise
8 that NPE is taking advantage of suing lots of
9 companies on the same patent and hoping that no one
10 company is going to try and show that that patent
11 was invalid and do it.

12 This is true for -- in any one zone.
13 This is true for everyone in that zone, it's not
14 unique to our membership at all. This is all
15 companies have this same kind of, quote, strategy is
16 a common problem. All of what we're talking about
17 there is kind of an industry issue around doing
18 this.

19 Q How does Unified solve that problem?

20 A Well, by being independent and then
21 choosing to engage in a deterrent strategy we end
22 up -- basically what we want to do is make a couple



1 of patent owners look at a particular zone and say
2 basically we want to show that those patents are
3 invalid.

4 The whole point of doing all of that,
5 by the way, I mean, it sucks when one company gets
6 selected, it's kind of unfortunate, kind of bad luck
7 in a way, but what we're trying to do is pick the
8 right entity that we think will have a deterrent
9 value so that everyone is making investment
10 decisions on the next round.

11 This, this one patent isn't really
12 our, our goal. Yeah, we want to beat that patent,
13 we want to show the world that it's invalid, but we
14 want the next time that patent owner is going to
15 reinvest money that they, that they have or, or go
16 out and buy another patent, we want them to either
17 do one of two things. We want them to avoid our
18 zone, which is why we're a deterrent strategy, or we
19 want them to avoid buying low quality patents and
20 trying to do this again.

21 If they go and buy high quality
22 patents and those patents are valid, by the way, we



1 don't play a role in the assertion of high quality
2 valid patents at all. There's nothing we can do
3 about a patent that is high quality and asserted
4 against our own.

5 We are not a litigation strategy for
6 helping companies get out of a litigation at all.
7 That's -- we just don't do that, and members have no
8 idea one way or another what we're going to do. And
9 so by having the ability to be independent and go
10 after whatever company or whatever NPE or whatever
11 patent owner zone that we identify, we want that
12 impact to downstream, actually say, okay, we're
13 going to do a better job of identifying patents of
14 high quality and only bring those into the
15 enforcement strategy.

16 This is the idea of deterrents. Some
17 people are, you know, apparently think that it's
18 worth doing and pay us for it and some people don't.
19 But the solution we have is to create this deterrent
20 strategy for a zone and that's how we address this
21 kind of tragedy of commons problem and some of the
22 other problems that are listed in this sentence as



1 well.

2 Q This one's big. I promise we're not going
3 to spend a ton of time on it.

4 A Are we done with this?

5 Q Yeah, we're done.

6 (Whereupon, Velos Exhibit No. 2016 was
7 marked for identification.)

8 BY MR. GRANAGHAN:

9 Q You've been handed what's been marked
10 Exhibit 2016; is that right?

11 A Sure.

12 Q Which is a final written decision in
13 Unified Patents, Inc. versus Uniloc USA, Inc. and
14 Uniloc Luxembourg, S.A. Is this -- are you familiar
15 with this final written decision?

16 MR. FAWZY: Just one question. Is this
17 the redacted version?

18 MR. GRANAGHAN: Oh, yeah. I meant to make
19 that clear, yeah. So it says confidential
20 board parties only. This is the public
21 redacted version.

22 MR. FAWZY: Oh, okay.



1 MR. GRANAGHAN: I guess I didn't redact
2 that when I did it. Yes, it is redacted.

3 MR. FAWZY: Sorry.

4 MR. GRANAGHAN: I don't have the
5 unredacted version.

6 BY MR. GRANAGHAN:

7 Q Okay. Do you recognize this? Have you
8 seen it before?

9 A I believe I have seen this before.

10 Q All right. All right. So I want to go to
11 Judge Quinn's concurrence which starts on page --
12 probably two-thirds of the way back, so the -- if
13 any of the board goes through page 32 and then Judge
14 Quinn's concurrence starts on the next page starting
15 with the page number, restarting one. Are you
16 there?

17 A I am at the front page, yes.

18 Q All right. All right. So let's go to
19 page four of the concurrence. And do you understand
20 that Judge Quinn would have found in this case that
21 Unified was not the sole RPI, right?

22 MR. FAWZY: Objection, form, vague. He



1 hasn't read the document. Calls for
2 speculation.

3 BY MR. GRANAGHAN:

4 Q Have you read the document before?

5 A I do not know that I have read every word.
6 I think it's a concurrent, right?

7 Q Yeah.

8 A I have not read probably every word of
9 this concurrence but I have seen this, this
10 concurrence before.

11 Q Are you aware that Judge Quinn would have
12 found Unified was not the sole owner of the RPI in
13 this case?

14 MR. FAWZY: Objection, form and calls for
15 speculation.

16 A So I have read the parts of this opinion
17 where she dealt with real party-in-interest.

18 BY MR. GRANAGHAN:

19 Q All right. So page four of her
20 concurrence, concurrence states about halfway
21 through the page, it says, "Second, there is
22 evidence in the record that Unified seeks to file

1 inter partes reviews to benefit its members." Do
2 you see that?

3 A I see those words.

4 Q Okay. Do you agree with Judge Quinn that
5 Unified seeks to file inter partes reviews to
6 benefit the members?

7 A I would disagree with that statement.

8 Q Okay. Why do you disagree with that
9 statement?

10 A Because we do not file IPRs to benefit our
11 members. We file IPRs to create deterrents, to
12 create deterrents and impact for other zones. And
13 there are -- we have no idea whether or not any one
14 of our members is actually going to benefit or not.
15 In many cases we don't even know if our member has
16 already licensed patents to those patents or not,
17 and so we don't know if they're on the verge.

18 When we file we have no idea if we're
19 on the verge of settling or not, we have no idea
20 what they're litigation strategy is. We also don't
21 know what their claim construction strategy is or
22 any other aspect of where they are in their



1 litigation. And so as I'm sure you're aware, it's a
2 very, like, lawyers take it very seriously how IPRs
3 are used in their own litigation strategies and we
4 have no idea of any of those things.

5 We don't talk to our members about
6 their litigation strategies. We don't talk to our
7 members about where they are in settlement. We
8 don't offer to settle patent litigations for them.
9 We don't offer to settle anything for our members.
10 So I completely disagree that we are acting on
11 behalf of a member when we file an IPR.

12 Instead we look at the patent, we
13 look at it relative to the zone we're working in.
14 We make a determination in-house. If we --
15 completely independent, by the way, of any
16 information from outside parties, whether or not we
17 think members -- sorry -- whether or not we think
18 the zone will benefit from us taking action for
19 that.

20 And, you know, to the extent that
21 there's any benefit, it is for everyone in the zone,
22 it's for the zone. So we don't know if any one



1 company is going to benefit.

2 So I don't think there is any
3 evidence in this record or in any of the records of
4 any of the IPRs where we actually filed something
5 specifically for a company with the notion that it
6 was going to benefit them.

7 Q If Unified knew that every one of its
8 members was licensed to a specific patent, would
9 Unified still consider filing an IPR except that?

10 MR. FAWZY: Objection. Improper
11 hypothetical. Calls for speculation.

12 A We would look -- we do look at every
13 single patent and, one, we don't know. We simply
14 have no idea if a patent is -- comes up on our radar
15 either through litigation or we see it sold on the
16 secondary market or we see it -- it's just used --
17 Intellectual Ventures is a great way. We have filed
18 on lots of Intellectual Ventures patents and we have
19 no clue whether or not our previous companies who
20 may or my not have been members of Intellectual
21 Ventures are already licensed out.

22 In fact, all of our members could be,



1 we would have no idea, and our process would be
2 identical to what you just described, like what I
3 just described. We would go through the process of
4 figuring out whether or not that patent, we
5 believed, by showing that it was invalid, we would
6 send a signal to everyone looking at monetizing our
7 zone would, would receive -- by doing so we would
8 get a deterrent value for the zone, and so we would
9 go through the process just like any other doing
10 that.

11 So I think the answer to your
12 question requires a little bit of explanation. I
13 think the answer is yes, we would look at that
14 patent to figure out if there's a deterrence value
15 even though we know that members are licensed.

16 Q So whether your members are licensed to a
17 specific patent play any role in Unified's
18 determination of whether to file an IPR?

19 A It does not because we simply don't know
20 whether or not members are licensed or not.

21 Q But you could figure it out in some
22 places, right, if there's been litigation?



1 A Not --

2 Q Pretty good idea, then?

3 A We have no idea if it got dismissed
4 because the, the -- in many cases cases are
5 dismissed because the, the company came to, behind
6 the scenes, showed the patent owner -- I mean, I'm a
7 former litigator. So you make an infringement claim
8 and the company comes back to you and says our
9 products work like this, it's completely opposite of
10 what your patent does, we would like you to withdraw
11 this claim. And if that's the truth, the pattern
12 owner will go ahead and dismiss the case.

13 So we're not going to -- the idea of
14 being licensed or not is something that it would
15 take -- by the way, we have lots of companies, so
16 the idea of doing what you're suggesting is a
17 massive burden on just the day-to-day workings of
18 Unified trying to figure out who is licensed, whose
19 strategy Unified's fighting an IPR would benefit and
20 whose strategy it would actually hurt is, one, we
21 structured Unified to not have those conversations
22 at all in any form.



1 So we don't engage in this analysis
2 of whether or not a company being licensed or not or
3 having any other litigation strategy would benefit
4 or not. We don't go down that path of trying to
5 figure out if that's what is going to motivate us to
6 file an IPR or not.

7 Q All right. Let's turn to the next page,
8 page five. So the last sentence of this first
9 paragraph here says, In my view, member companies
10 such as Apple, redacted, upon agreeing to be members
11 in a particular zone have expectations that Unified
12 will file petitions for inter partes review of
13 patents in those zones."

14 Do you agree that Unified's member
15 companies have expectations that Unified will file
16 petitions for IPR patents in a zone of which it's a
17 member?

18 MR. FAWZY: Object to form. Calls for
19 speculation.

20 A So I don't know what our members have in
21 terms of their expectations for us. There are all
22 kinds of things that we can do and we do for the



1 creation of our deterrent strategy for a particular
2 zone and I don't know what members have as
3 expectations or not.

4 I do know that they have, they have
5 no expectation that they can't have any guarantee or
6 at all that we are going to do any one thing in our
7 zone. And we have complete control over, over doing
8 all of the deterrent work that we choose to do.

9 Q Turn to the next page which is page six of
10 the concurrence.

11 All right. So second paragraph, the
12 first full paragraph on the page, about five lines
13 down, a sentence that says, "What matters is that
14 when Unified does request review of a patent that is
15 asserted in litigation against a member, subscribe
16 to the micro pool and includes that patent, that
17 member directly benefits from that activity and a
18 member has an expectation that Unified's actions are
19 aligned with the member's interest." Do you see
20 that?

21 A I do.

22 Q Do you agree with that statement?



1 A I completely disagree with that statement.

2 Q Why?

3 A So we have for, going all the way back,
4 have told people they should have no expectation,
5 that this is not a litigation solution in any way.
6 And I think that it is impossible for -- this is
7 impossible for Judge Quinn to even know. She has no
8 idea whether or not Apple's strategy in this case or
9 any other members that might be in litigation in
10 this strategy or in this, with respect to this
11 particular patent, are going to benefit from our
12 IPR.

13 It is possible that they were on the
14 verge of settling when we filed an IPR. It is
15 possible they were on the verge of filing their own
16 IPR with a different claim construction and had
17 spent all this time preparing. I have no idea.

18 I might have actually thrown a
19 complete monkey wrench into their litigation
20 strategy and Judge Quinn and I, neither of us know
21 what it was that these companies had in terms of
22 expectation or their, their benefit. It's complete



1 speculation on, on Judge Quinn's part and it is, it
2 would be complete speculation on my part to say that
3 a company is actually having a -- is going to
4 directly benefit from this. Any benefit that our
5 members get, all members would get if we are
6 successful in IPR, but that is only true if, if the
7 benefit actually works. I am -- we simply don't
8 know.

9 There are examples where our claim
10 construction just is inconsistent with a claimed
11 construction that a member has on the same patent in
12 the same -- on them. They're involved in
13 litigation, Unified and IPR, if they file a claim
14 construction, it's completely different than ours.

15 I don't know if you've ever done any
16 work on the defense side and done claim construction
17 work, but I guarantee you lawyers don't let that
18 happen if you're collaborating together. Every --
19 everyone gets on the same page. This is -- I hate
20 to -- I mean, having been in those shoes and, like,
21 talked to other lawyers, like, one of the things
22 that makes it painfully obvious that we are not



1 collaborating with anyone's counsel, the most
2 obvious example of that is when a claim construction
3 that we put forth is not the same claim construction
4 that anyone else puts forth.

5 And we have, we have those as
6 examples and that is the clearest example I can ever
7 come up with is there is no collaboration between us
8 and any of our members, outside counsel or even
9 their in-house counsel around how to handle this
10 stuff because no lawyer managing litigation would
11 ever allow contradictory claim construction to go
12 out there if they were in any way controlling those
13 things. And that's the kind of thing where, like,
14 it's impossible for Judge Quinn to know that these
15 companies benefited from this and I disagree with
16 the analysis of, of this opinion.

17 Q You can put that one aside. All right.
18 I'm going to hand you what has already been marked
19 in this proceeding as Exhibit 2010. And this is a
20 Web page from Unified Patents' Web site pulled from
21 the wayback machine.

22 Have you -- do you recognize this Web



1 page?

2 A I recognize, I recognize this as a very,
3 very old version of our logo and all that stuff.
4 This is all extremely old stuff.

5 Q Does this appear to be a previous Web page
6 for Unified Patents?

7 A I have no reason to think otherwise.

8 Q All right. All right. So this Web page
9 here generally talks about, quote/unquote, UI
10 patents, collaborative deterrence approach. And I
11 want to look at the last sentence, not the last
12 sentence, I'm sorry, the last paragraph here. It
13 says, "Subscription to a micro pool calculated based
14 on a fee schedule tied to company revenue and may be
15 free for startups or small companies. Because
16 Unified patents offered its micro pool solution on a
17 technology-by-technology basis, companies can
18 subscribe to and pay for only those micro pools they
19 need. This structure provides complete alignment
20 between Unified Patents and its member companies."
21 Do you see that?

22 A I do.



1 Q Okay. Do you think those first two
2 sentences still accurately describe Unified Patents'
3 structure?

4 A Yeah. I mean, the issue of alignment has
5 come up before and the word alignment showed up in a
6 case related to RPX. The alignment that is referred
7 to here in this sentence is completely different
8 than alignment that was referred to in the RPX case.

9 Here what we're talking about is the
10 alignment between a zone, like meaning the
11 technologies the zone defines, and that a member,
12 like, actually has products and services, whatever
13 they care about that zone. Maybe they care about it
14 because they're moving into that zone, I don't know,
15 but the idea is that they care about that definition
16 as opposed to having alignment between their
17 in-house legal team and our, like, legal team.

18 In RPX the alignment was really
19 referring to kind of RPX working directly with
20 in-house counsel to settle litigation, talking about
21 settlement, talking about their litigation strategy,
22 talking about how to do that, and the word alignment



1 used in the RPX case was really relating to, like,
2 the actual work that RPX was going to do being
3 completely aligned with the in-house strategies and
4 everything of their, of their members.

5 Unified, on the other hand, the
6 alignment that we're referring to here, is not an
7 alignment between our company and their in-house
8 legal team. We're not talking about alignment
9 between how they would handle an individual legal
10 matter and how we would handle it. In fact, we
11 don't have an attorney-client privilege relationship
12 with our members so our members would never share
13 with us for issues, I'm sure you're aware of waiver,
14 they would never share with us any of what I just
15 described because that waiver obviously could be
16 extended to all kinds of things that would be
17 painful for them.

18 So this alignment mentioned in this
19 statement here, I agree with and I still do to this
20 day, but it is not the same kind of alignment that,
21 that the word alignment has been used in other
22 contexts in this, in this type of situation.



1 Q So is it referring to alignment between a
2 customer's business and what, the activities that
3 Unified is undertaking in a particular zone? Is
4 that the kind of alignment that it's referring to?

5 A It is an alignment between, like, the
6 definition that we have as I published on our Web
7 page, so you can always go look at the definition of
8 each of our zones. This alignment is saying that
9 companies have the ability to pick and choose which
10 zones they care about.

11 I mean, you can pick or go talk to
12 each of those companies as to why they believe that,
13 but this is what we wanted, was, as I said, a
14 structure because I thought this would be a great
15 sales opportunity, companies can pick and choose
16 which of those technology areas they care about and
17 which ones they don't.

18 So that is the alignment that we're
19 talking about, offering up the flexibility for them
20 to pick and choose and that, I mean, this is what
21 this is saying, it's not talking about alignment in
22 terms of the actions we take. We have no idea if



1 the actions we take are actually going to align with
2 what they care about.

3 They might -- we might have all of
4 our IPRs, everything we do, direct to one little
5 corner of a zone definition and they might not do
6 those things. So they're -- you know, we are not
7 saying that what we are going to do is going to be
8 aligned with your products and services and that's
9 not what we, that's not what we do. What we say is
10 we're going to take action on behalf of a zone and
11 you have all these zones, we're going to come up
12 with definitions for them and then the alignment is
13 companies get to pick and choose what zones they
14 care about and which ones they do not.

15 Q And they pick a zone with the assurance
16 that Unified's work in that zone is only going to
17 relate to technologies that, that have some
18 relevance to that zone, right?

19 A Yeah. I mean, I think I would say that
20 the deterrent strategies that we take are going to
21 be for the zone.

22 Q As an example, you know, like in SEP zone,



1 video codec zone, members join that zone with the
2 assurance that all your work is going to relate to
3 video codec, you're not going to go and file an IPR
4 on a, a dishwasher out something like that, right?

5 A Yeah, if there's -- I mean --

6 Q Assuming this dishwasher does not
7 implement some video codec.

8 A Yeah, that's kind of my point. If a
9 dishwasher actually had a, I don't know, yes, I
10 mean, we can always create an extreme version of
11 something but, yes, we -- the whole idea of having a
12 definition is that we want to create deterrents so
13 that everyone who looks at what we do and wants to
14 know how that deterrence works, they can look at
15 that definition, right? This is true for patents
16 owners as well.

17 So that when NPEs or anyone is
18 looking to monetize in a zone, they can look at that
19 definition and understand what we are doing. That's
20 kind of critical in our view to what it means to
21 create deterrents.

22 Do we mind if we take a break?

1 Q Yeah, I was actually about to turn to
2 something else if you guys want to take a break.

3 MR. FAWZY: Yeah, I was going to say this
4 is a good spot.

5 THE VIDEOGRAPHER: The time is now
6 12:20 p.m. We're going off the record.

7 (Whereupon, there was a break for lunch
8 from 12:20 p.m. until 1:07 p.m.)

9 THE VIDEOGRAPHER: The time is now
10 1:07 p.m. We are back on the record.

11 BY MR. GRANAGHAN:

12 Q Mr. Jakel, I want to shift gears a bit,
13 talk more specifically about the video codec zone.
14 When was the video codec zone first formed?

15 A So the video codec zone was, well, what we
16 call launched under the agreements. It was
17 launched, I believe, the beginning of June 2018.

18 Q When was the first IPR in the video codec
19 zone filed?

20 A I believe it was the IPR at issue here and
21 that was in November 2018, I believe.

22 Q Seems right. Who decided to form the



1 video codec zone?

2 A I guess I decided to. I mean, being the
3 person responsible at the top, I guess I decided to
4 form the video codec zone.

5 Q What was it that prompted you to start
6 the, this SEP area in the video codec zone?

7 A Well, we talked about some of this before
8 going all the way back to kind of 2016, 2017, he
9 started seeing kind of licensing issues around the
10 HEVC, kind of all over the press and certainly
11 became a greater and greater topic at conferences
12 where kind of standard essential patent issues were
13 identified, and then we started kind of eventually
14 working on that, came up with an idea for providing
15 data and deterrence work for, like, standards, like
16 technology areas that were standards as opposed to
17 the kind of technology areas we would work on in the
18 NPE space.

19 We saw this as kind of like a growth
20 opportunity and an area for Unified to diversify and
21 add additional products to its, its business. And
22 so we saw this as an opportunity in which we could



1 do something interesting for the, the technology
2 area around what is video codec.

3 Q So when you talk about these conferences
4 that Unified goes to, what kind of conference are we
5 talking about?

6 A IPBC, I mean, that's one conference on a
7 yearly basis that we, that Shawn and I actually
8 attend. But other conferences like AIPLA or IPO or,
9 and there's LES stuff. So this -- all of these
10 events started to see, I think, personally, a
11 greater focus on some of the standard essential
12 patents issues and a lot of those were, I think,
13 driven by some of the issues that were taking place
14 at that particular moment in time around HEVC, but
15 another big area that's kind of always talked about
16 right now is kind of the future potential licensing
17 area around 5G and so, yeah, all of this.

18 We saw lots of different areas around
19 standards that appeared to have lots of interest
20 around them, kind of market research like going to
21 conferences and reading about the areas. We
22 eventually decided that this working on standard

1 essential patent stuff would be kind of an
2 interesting area in which to see if we could get
3 some work done.

4 Q Are there specific entities that the video
5 codec zone is focused on? By entities I mean
6 licensing entities.

7 A There is no specific entity that the video
8 codec zone is focused on.

9 Q So what are the services that Unified
10 provided to members of the video codec zone that are
11 different than the services it provides in the MEP
12 zones?

13 A Well, in both of the zones there's lots
14 of, kind of, data tools that people get access to.
15 In particular our portal has some kind of public
16 access to the tools that we have. But only members
17 kind of get in to use the full suite of, like search
18 functions and everything, so it's kind of a limited
19 set of stuff.

20 But in the SEP zone we have some data
21 that is kind of, like, specifically directed at the
22 patents around kind of the standard essential



1 patents related to HEVC in this case. So I'm
2 building other landscapes as well so those are all
3 going to be available in there too eventually.

4 But one we call is a tool called
5 OPAL, so it's a landscaping tool that has kind of a
6 slightly different approach to how to calculate
7 patents that are similar to a standard. So that's a
8 big piece of what we have. Another tool that's in
9 the video codec zone which is not really in any of
10 the other zones is something we call OPEN, it's a
11 database that basically ingests all the, the
12 submissions to the standard setting body and it
13 makes them, it indexes them and makes them
14 searchable and the documents have been scraped to
15 pull the kind of important information off them and
16 index it so that can you search for who submitted
17 certain things to a, to a standard setting body.

18 And then, and then we have also an
19 economic analysis. We hired an economist to
20 generate a, an economic report and analysis of what
21 he believed the HEVC technology should be licensed
22 for, basically calculating what's called an

1 aggregate royalty rate, and that is also a piece of
2 data that is in the, the video codec zone.

3 Those three pieces are kind of, I
4 guess, unique pieces of data that's available to
5 the, the SEP zones that is not necessarily in the
6 MEP zones.

7 Q So those three things are -- OPAL, which
8 is O-P-A-L, right?

9 A Um-hum.

10 Q You said OPEN, O-P-E-N, right?

11 A Um-hum.

12 Q And then this economic analysis, is that
13 also called OVAL?

14 A O-V-A-L, yeah.

15 Q Are those three things only available to
16 members of the video codec zone?

17 A Some of that, again, kind of like with
18 our, all of our tools, part of it is just marketing.
19 We want people to come to our Web site and use some
20 of these tools but they don't get access to all of
21 it, so with all of those some of that information
22 has actually been made public that we do want kind

1 of everyone to, to use. But then we also provide
2 the kind of full access to it for members to, to the
3 zone.

4 Q So kind of like a limited access for
5 nonmembers and members get the, the whole thing?

6 A Yes.

7 Q So earlier, you know, when we were talking
8 about the percentage of Unified's expenditures on
9 IPRs versus the other things that it did, and I
10 think you estimated that it's over 50 percent spent
11 on IPRs, but you said that it's, [REDACTED]
12 the video codec zone is [REDACTED] than it is in other
13 zones. Is that correct?

14 A The data, the specific data that we just
15 talked about is a bigger percentage, it's more, it's
16 more labor intensive --

17 Q Sure.

18 A -- than some of the other stuff that we
19 kind of already built. So just as a percentage, the
20 SEP zone, I think the IPR work, would just naturally
21 by the math [REDACTED].

22 Q Do you still think that the expenditures



1 in the video codec zone on IPRs are [REDACTED]
2 [REDACTED] of Unified's expenditures in the video
3 codec zone?

4 A Let me see if I -- make sure I understand
5 your question. Of the expenditures in the video
6 codec zone, I would expect the, the amount of money
7 that has been spent on IPRs to represent [REDACTED]

8 [REDACTED].

9 Q Okay. Yeah. That was my question.

10 All right. So we talked earlier
11 about generally how Unified determines whether it's
12 going to file an IPR against a patent. Does that
13 process look any different when you're talking about
14 patents in the video codec zone?

15 A Are you asking relative to the NPE zones?

16 Q Yeah, relative to the -- yeah, the NPE
17 zones.

18 A I don't think so. I don't think so, not
19 at all. I mean, I believe, again, look at who owns
20 the patent, we look at whether or not the patent
21 fits the zone definition, we look at whether or not
22 we think that patent is valid or not and we look at



1 whether or not we think we're going to get a
2 deterrence impact for doing that. And then we,
3 whatever, a couple dozen other things that would go
4 into this whole process, all of which gets discussed
5 among the whole legal team. And ultimately we, we
6 all as a team kind of arrive at a decision that's --
7 in that context it is, it is no different.

8 Q Do you consider, and I meant to ask this
9 earlier, is it a consideration whether there's
10 another party out there that may or is likely to
11 also challenge the patent?

12 A No. We are -- I mean, what we feel like
13 we do is challenge patents in such a way that we
14 have a different kind of, of impact and when -- if a
15 company files an IPR, that would not mean that we
16 would suddenly stop working on it. We would make a
17 decision internally if we still wanted to or we were
18 going to and, in fact, we have lots of companies
19 that filed IPRs before us and then we filed the
20 IPRs, we decided that includes members and
21 nonmembers.

22 Q Where did Unified first learn about the,



1 the licensors in this video codec area?

2 A I don't know when each of the licensors
3 kind of started identifying themselves. This goes
4 back to -- I mean, the exact date upon which -- I
5 think the first one was MPEG LA to say they made a,
6 a decision to form a patent pool around, around the
7 video codec zone, so honestly off the top of my head
8 I don't know when that happened. I wouldn't be
9 surprised if it's going all the way back to 2016 or
10 even further, I don't recall.

11 And then I think the second one to
12 kind of come out was HEVC Advance, and like the
13 separate, I think the group, the company that pulled
14 out of the discussions on MPEG LA and to form their
15 own patent pool on HVEC and I believe the timeline
16 was sometime after that. There -- Velos Media came
17 out with their thing, I don't know when the Web
18 sites came online on all of this, but that process
19 is one that was not lost on me. This is a big, big
20 deal in the patent world. Patent pools and patent
21 license is something that I'm generally aware of.

22 And so I don't know when we became

1 aware of any of these entities specifically, but
2 this is kind of something that was taking place in
3 the background of activity in our space, so I was
4 aware of it. I mean, it's also true that you could
5 say I became aware of it when I learned there are
6 companies that made declarations back during the
7 standard setting body process. Lots of companies
8 declared that they have patents either at a blanket
9 declaration or through a specific identification of
10 which patents they believe are essential to the
11 standard.

12 You know, that's another way to say
13 when did I become aware of it? The first time I
14 looked at kind of the ITU (phonetic) data. All of,
15 all of this is kind of an industry specific area.
16 We've been watching the development of HVEC for
17 quite some time and have been aware of all of these
18 as entities for years.

19 Q I am going to hand you -- let's mark that.

20 (Whereupon, Velos Exhibit No. 2017 was
21 marked for identification.)

22



1 BY MR. GRANAGHAN:

2 Q All right. So what's been marked as
3 Exhibit 2017, which are Petitioner's Supplemental
4 Second Voluntary Interrogatory Responses in this
5 proceeding, and these were handed to me today, and I
6 understand these are going to be served
7 electronically on Velos later today. Is that
8 correct?

9 A That's my understanding as well.

10 MR. FAWZY: Yes.

11 BY MR. GRANAGHAN:

12 Q Can you turn to page -- the very last
13 page, the verification, that's -- you verified
14 these, right?

15 A It is.

16 Q That's your signature?

17 A Yes.

18 Q All right. So Voluntary Interrogatory No.
19 6, which starts on page two, is, "Identify any and
20 all members or entities who are members" and then
21 the answer is, "Unified states that the following
22 members are members of the SEP video codec zone",



1 right?

2 So just to clarify, the question is
3 "Identify any and all members or entities who are
4 members", which is very broad, I think, but the list
5 is specific to the video codec zone, right?

6 MR. FAWZY: I'll just clarify the members
7 is a defined term in the definition section.

8 MR. GRANAGHAN: Okay.

9 A So this is the list of members in the
10 video codec zone.

11 BY MR. GRANAGHAN:

12 Q Okay. All right. And so the original
13 response here lists a number of entities and then
14 the supplemental response lists a number of other
15 entities. It is my understanding that the, the
16 members that are listed in the supplemental response
17 are all members that don't have to pay to be
18 members; is that right?

19 A Correct.

20 Q Okay. And so any, any members that pay to
21 be members of the video codec zone are listed here
22 in the initial response to Interrogatory No. 6,



1 correct?

2 A Correct.

3 Q All right. And just to clarify this, the
4 ones that have asterisks next to them are members of
5 the video codec zone by virtue of their membership
6 in [REDACTED] correct?

7 A I think you got that wrong. I think the
8 companies are not downsized.

9 Q I'm sorry, the ones with asterisks next to
10 them are companies that are members of the video
11 codec zone by virtue of their membership in cable
12 companies; is that correct?

13 A Yes.

14 Q Okay. So those companies that have
15 asterisks next to them don't actually pay anything
16 to Unified, right?

17 A I mean, they are, they are -- we do not
18 have contracts with those companies directly.

19 Q [REDACTED] pays Unified?

20 A We have a, an agreement with [REDACTED]
21 yes.

22 Q Okay. So do you know how many actual



1 paying subscribers, companies that actually pay
2 Unified that Unified has in the video codec zone?

3 A I mean, we don't necessarily make a
4 distinction there between [REDACTED]. I
5 mean, [REDACTED] is paying us but, I mean, for those
6 kind, if we can count the contracts, I mean, we
7 would look at all the companies that don't have
8 asterisks next to them.

9 Q Okay. So, sure. So how many members in
10 the video codec zones actually, video codec zone
11 actually have contracts with Unified?

12 A I'm just going to count them up.

13 Q I count [REDACTED], if that helps.

14 A I think that sounds about right. I
15 just -- I never -- yeah. I mean, that sounds about
16 right.

17 Q Okay. So the ones that I've counted were
18 [REDACTED]
19 [REDACTED]. Does that
20 sound correct to you?

21 A That sounds correct to me.

22 Q Why does Unified consider [REDACTED]



1 [REDACTED] to be members of Unified?
2 A Well, I mean, [REDACTED], rather -- I
3 mean, [REDACTED]
4 [REDACTED], and so we ended up, a very long time
5 ago, they joined our [REDACTED] and rather than
6 kind of go through the process of selling all, every
7 cable company out there, it was just maybe if we
8 could short circuit kind of an old activity by doing
9 a deal with [REDACTED].
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 Q Does [REDACTED] pay the same amount to be
15 a member of the video codec zone as every other
16 paying member of the video codec zone?
17 A [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 Q Do you know -- so each of those [REDACTED]



1 members of the video codec zone with which Unified
2 has agreements, do you know when each one joined the
3 video codec zone?

4 A Off the top of my head, not exact dates
5 for sure. One big group of them joined and the zone
6 launched on [REDACTED] When it
7 launched, then we still hadn't signed any agreement
8 with [REDACTED], so [REDACTED] agreement ultimately got
9 signed kind of a [REDACTED] something like that.

10 [REDACTED]
11 [REDACTED] was over the, over the [REDACTED]
12 [REDACTED] That's typically how
13 our zones work, it launches and slowly more people
14 kind of come in over time.

15 Q Do you know which entities were in that
16 big group that signed up with launch?

17 A It would be easier if I had a list in
18 front of me, but of the ones -- if we want to talk
19 about them, I can tell your whether or not I think
20 they're in that first group or not.

21 Q I can just go through them. [REDACTED]?

22 A I think [REDACTED]



1 [REDACTED]
2 [REDACTED]
3 Q [REDACTED] we had already talked about, was a
4 [REDACTED]
5 A [REDACTED]
6 Q [REDACTED]
7 A [REDACTED]
8 Q [REDACTED]
9 A [REDACTED]
10 Q [REDACTED]
11 A [REDACTED]
12 [REDACTED]
13 Q [REDACTED]
14 [REDACTED]
15 A [REDACTED]
16 Q What about [REDACTED] ?
17 A [REDACTED]
18 Q [REDACTED]
19 A [REDACTED]
20 Q [REDACTED]
21 A I believe [REDACTED]
22 [REDACTED]



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1 Q [REDACTED]

2 A I [REDACTED]

3 Q All right. [REDACTED]

4 A I believe they were, [REDACTED]

5 Q Okay. So the ones -- this IPR was filed
6 in November 2018, I believe. Does that sound
7 correct?

8 A Yes.

9 Q So the members that were -- of that group
10 of [REDACTED], the ones that would have been members when
11 this IPR was filed are [REDACTED]
12 [REDACTED]. Does that sound
13 right?

14 A Sounds right.

15 MR. FAWZY: Objection.

16 A But I don't really have a list in front of
17 me or what to, to keep all this in my head.

18 BY MR. GRANAGHAN:

19 Q Okay.

20 A It's the list of companies I said that
21 were in the beginning.

22 Q Okay. Plus [REDACTED]?



1 A Yes, [REDACTED] consider that kind of the
2 beginning, [REDACTED].

3 Q [REDACTED] plus those companies that are in
4 that, that [REDACTED]
5 [REDACTED]?

6 A Yes.

7 Q Were the ones that would have been members
8 at the time that this IPR was filed, right?

9 A I believe that's accurate, yeah.

10 MR. FAWZY: I'd just like to, for the
11 record, designate the transcript confidential
12 under the protective order since we're talking
13 confidential information.

14 MR. GRANAGHAN: That's fine.

15 BY MR. GRANAGHAN:

16 Q All right. Handing you what is going to
17 be marked as Exhibit 2018.

18 (Whereupon, Velos Exhibit No. 2018 was
19 marked for identification.)

20 MR. GRANAGHAN: Did I give you one?

21 MR. FAWZY: No. Thank you.

22



1 BY MR. GRANAGHAN:

2 Q All right. So this appears to be a member
3 agreement between Unified and [REDACTED] executed on, or
4 with an effective date of [REDACTED] Is that
5 right?

6 A Yes.

7 Q Okay.

8 A [REDACTED]

9 Q And then Exhibit A, which is the main
10 agreement, goes through page 14. Exhibit A starts
11 at the very next page. [REDACTED]

[REDACTED]

14 A Correct.

15 Q Okay. So when this was produced to us, it
16 was represented to us as a sample agreement for a
17 member in the video codec zone. Do you agree with
18 that characterization?

19 A I do.

20 Q Okay. Is it fair to say that this
21 agreement is substantively the same as the
22 agreements for the other members of the video codec



1 zone?
2 A Yes.
3 Q Let's start with the payment. Let's go to
4 the Exhibit A, Section five, which is on page two of
5 Exhibit A.
6 A Okay.
7 Q This is a subscription fee for joining the
8 video codec zone, right?
9 A It is, yes.
10 Q Okay. So Subsection A is not withstanding
11 the subscription fees outlined in the agreement,
12 annex one of the agreement. So generally in the
13 main agreement, the way the fees are determined is
14 based on the revenue of the member; is that correct?
15 A That's correct.
16 Q [REDACTED]
17 [REDACTED]
18 A That is correct.
19 Q All right. So [REDACTED]
[REDACTED] correct?
21 A Correct.
22 Q And they paid [REDACTED] right?



1 A Correct.

2 Q Is my understanding correct that there --

3 that [REDACTED]

4 [REDACTED]

5 A That's correct.

6 Q Is there, is there a fee change based on
7 their revenue?

8 A What we have tried to do just to -- when
9 it comes to NPE activity, because size of the
10 company is kind of a good indication of whether or
11 not companies are going to see NPE activities,
12 bigger companies see more NPE activity, smaller
13 companies see less NPE activity.

14 We used revenue as a guidepost for
15 trying to find a number that kind of spreads the,
16 the relative kind of liability for that out as an
17 indication for how we would be able to charge for
18 it.

19 In the video codec zone, what we try
20 to do is look to see like what video codecs that
21 company is, is using and how many of them. So
22 companies that have lots and lots and lots of



1 products that deploy video codecs are at the higher
 2 end of the fee schedule, not fee schedule, just the
 3 high end of what we would charge. And then
 4 companies with kind of the smallest amount of use of
 5 a video codec in the products and services would
 6 kind of be at the bottom end.

7 It's not nearly as nice and concise,
 8 but it's another way to kind of try to figure out
 9 what's was the relative amount we would charge a
 10 member in the video codec zone.

11 Q So is it correct to say [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]?

15 A [REDACTED]

16 Q All right. Let's look at Subsection B
 17 there. And that essentially says that [REDACTED] had no
 18 obligation to, to pay its subscription fee for the
 19 video codec zone until Unified got a total
 20 commitment for the video codec zone of [REDACTED]

21 Is that right?

22 A That is correct.



1 Q Why, why did Unified agree to this
2 provision?

3 A So like lots of things this is, you know,
4 we're not going to go to work for only kind of a
5 small amount, it's not necessarily worth it for us.
6 And I'm not sure if companies really want just to go
7 to work if we're the only one in and it's not, I
8 think, the way that the model is, is designed.

9 So what we do is kind of set a
10 threshold for where we think the critical mass needs
11 to be and this time around we set that critical
12 threshold at [REDACTED] and just said you got to,
13 you got to go out there and we have to go out there
14 and get it, and if we do then at the moment you sign
15 someone up that meets that threshold, then
16 everyone's kind of, agreements become effective and
17 then all of a sudden a zone launches.

18 So when I said earlier the zone
19 launched beginning of June, when this document was
20 signed we had not reached the [REDACTED] as a
21 critical, as a critical mass. And then at some
22 point later, whoever it is that signed that



1 agreement, would have kind of thrown us,
2 collectively with these contracts, over the
3 [REDACTED] threshold at which point we would
4 have, in quotes, launched the zone.

5 Q And is [REDACTED] the amount that Unified
6 thought that it needed to be able to undertake
7 sufficient deterrent and other activities in the,
8 the video codec zone?

9 A This is a number that we -- honestly, I
10 don't remember how we came up with this number. A
11 lot of it has to do with just, like, business
12 decisions about where you think -- you know, we
13 obviously want to, to do as much stuff as possible.
14 We like going out and doing this.

15 So the number for that, I don't
16 remember exactly how I came up with it, but it's
17 always the case where you kind of want to encourage
18 companies to, to sign, and one of the ways to get
19 people to sign, even though the zone hasn't
20 launched, is to have a provision like this that
21 allows them to sign and if we never get to what we
22 want as the minimum threshold, then there's no



1 obligation for them to pay, so it's very little kind
2 of risk to them that they would sign and we would
3 have met our kind of critical threshold.

4 It's allowed -- a big part of this is
5 just kind of I have to hurt CATS (phonetic) in order
6 to get to the point where I can launch one of my
7 zones, and this allows us to kind of help with the
8 process of, of hurting CATS for purposes of getting
9 a, an agreement signed.

10 Q How much in fees has Unified received so
11 far for the video codec zone?

12 A On a yearly basis or just total? Total, I
13 don't know off the top of my head, but I can help
14 out on other, other numbers.

15 Q Sure. What do you mean by on a yearly
16 basis?

17 A Well, so, we -- people pay on a yearly
18 term basis.

19 Q Sure. So I guess how much do you have
20 committed?

21 A So when we --

22 Q To the video codec zone.

1 A Help out here. So when we launched, we
2 had over [REDACTED]. [REDACTED] came in, I think we had
3 [REDACTED] basically after [REDACTED] a little more, a
4 little less, I don't remember the exact number, but
5 basically around [REDACTED] at the -- after [REDACTED].
6 And then at this point we are over [REDACTED] a year,
7 kind of annual contracts, for the video codec zone
8 after the other companies have joined throughout the
9 year at this point.

10 Q Which of your members in the video codec
11 zone pay the most to be a member of that zone?

12 A [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q And they're the [REDACTED] contributors to
16 the video codec zone?

17 A They are.

18 Q Who's [REDACTED]? Do you know?

19 A I think [REDACTED] is probably [REDACTED].

20 Q Do you know how much they pay?

21 A Somewhere [REDACTED] in that

22 ballpark.



1 Q So [REDACTED] make up [REDACTED] of
2 [REDACTED],
3 right?
4 A Yes, I believe so, yes.
5 Q And so since [REDACTED] wasn't a member at
6 the time that this IPR was filed, [REDACTED]
7 would have made up a [REDACTED] at the time
8 this IPR was filed, [REDACTED] right?
9 A Between the two of them, it would have
10 made up [REDACTED].
11 Q Do you know how much [REDACTED] pays?
12 A [REDACTED] I think.
13 Q Do you know how much [REDACTED] pays?
14 A [REDACTED].
15 Q What about [REDACTED]?
16 A [REDACTED]
17 Q And [REDACTED]?
18 A [REDACTED].
19 Q What about [REDACTED]?
20 A [REDACTED], I
21 believe.
22 Q And [REDACTED] is the last one.



1 A I believe they are [REDACTED]

2 Q All right. Let's go back to Section 2.1

3 of the main agreement. It's on page two of the

4 agreement.

5 A Okay.

6 Q All right. This, this -- I guess what I'm

7 looking at is Section 2.1, and this [REDACTED]

8 [REDACTED]

9 [REDACTED] right?

10 A Correct.

11 Q [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 A [REDACTED]

16 Q Does Unified have any patents in the video

17 codec zone or have any right to license any patents

18 in the video codec zone?

19 A We do not.

20 Q Where does Unified get the patent it has a

21 right to license?

22 A Well, for the NPE zones if we were to



1 settle with a NPE, and that license would, when we
2 do that deal, we would get the right to sublicense
3 and it would then flow through us to the members.

4 Q Why does Unified choose to license the
5 patents that it has the rights to license?

6 MR. FAWZY: Objection, vague.

7 A Yeah.

8 MR. FAWZY: Calls for speculation.

9 A So we license patents as like a good term
10 strategy. If we are able to get a license to a
11 patent, basically we agree to terminate that IPR as
12 part of that strategy. What that does is allow us
13 to save money on licensing and -- I'm sorry, save
14 money on, on that IPR, which obviously it would
15 terminate at that point, and we would then -- sorry,
16 distracted by the person coming in. So maybe we can
17 just start over. Can you repeat that question?

18 Q Can you read it back? I also got
19 distracted.

20 Oh, it was why does Unified choose to
21 give licenses to its members for patents that
22 Unified has a right to license?



1 A Okay. So yeah. So we, as a deterrent
2 strategy, very early on we want to find a way to
3 have like the most impact we possibly could in our,
4 in our zone. So one way to do that -- well, I mean,
5 people started calling us up, but the very first
6 sets of, of licenses were actually initiated by
7 patent owners who came to us and said, hey, we want
8 to find a way to terminate this IPR and we'd like to
9 find a way to keep the patent and then figure out a
10 way to do that. So I had to come up with an idea
11 around what we could do that would actually achieve
12 deterrents and allow kind of both parties to kind of
13 get to a point that made sense for both of us.

14 So if -- what I came up with was you
15 can sell the patent. Giving Unified a license is
16 kind of financially meaningless, if you know what I
17 mean. It's like we, you know, we might practice
18 some patents but, like, obviously we're not selling
19 products and services for any particular patent.

20 So, you know, having an impact on a
21 kind of damages calculation model on any one patent
22 in the future would be mostly meaningless to give it



1 to Unified. So I had to find a way to give that
2 patent license in a way that it would have kind of
3 meaningful value. But on the flip side, obviously
4 you can't give it to the entire world, one, knowing
5 if he wants to give a license to everyone out there
6 because then the patent would be worthless, and then
7 why try to terminate the IPR, they were the ones who
8 asked for us to terminate this IPR.

9 So in many ways in negotiations with
10 the kind of the first round of NPEs who tried to
11 negotiate a license with us and do this, I basically
12 found a way to put the NPE under NDA, make sure that
13 they weren't going to talk to anyone, put ourselves
14 under NDA so that we weren't going to talk to
15 anyone, and then we would negotiate a license.

16 When we did that, our members, what
17 we ended up negotiating, our members ended up
18 getting the license, it has a meaningful impact
19 basically from a some day future damages
20 calculation, which we always have felt like that's a
21 really awesome deterrence. And we get to terminate
22 IPR.

1 What we then get is to save money on,
2 on that IPR. Either that makes us more profitable,
3 which is good for us, or alternatively it means that
4 we have the ability to go and spend that same money
5 on another IPR which makes us even more powerful on
6 determining or creating our deterrent strategy.

7 So, you know, we had to figure out
8 how to kind of do that first licensing deal in such
9 a way that no one had any idea we were doing it, it
10 was completely independent, but at the same time
11 structured the deal in such a way that it actually
12 created a deterrent strategy that we wanted to go
13 forward with.

14 Q Has there ever been a situation where
15 Unified was not willing to dismiss an IPR in
16 exchange for a license, to have a patent license to
17 all of its members?

18 MR. FAWZY: Objection to form and calls
19 for speculation.

20 A So I know of no situation in which we
21 would not entertain discussing a license with
22 anyone. So if anyone came to us and said, hey, we'd

1 like to talk about that, I think that there's never
2 been a case in which we said no, we don't want to
3 negotiate with you for any reason.

4 We would under those circumstances
5 almost certainly we would create an NDA, go under
6 NDA. There are lots of entities that have told us,
7 hey, we'd like you to call us prior to you filing an
8 IPR because we will go under NDA and take a look at
9 what you got just to see if, if it's worth trying to
10 do a licensing deal before you file it.

11 So, you know, this comes in lots of
12 different flavors, but there's never been an entity
13 that we wouldn't engage with if they came to us and
14 said, hey, we'd like to, we'd like to talk to you.

15 Q Has there ever been a time that Unified
16 has turned down an offer to license a patent to
17 Unified and all its members in exchange for
18 dismissal of an IPR?

19 A Yes. Because there are lots, there are
20 lots of patent owners who have demanded things like
21 payment and demanding -- I mean, this is a
22 negotiation. So there have been situations where

1 people have said, who have been demanding things in
2 negotiations that we refused to give and so, you
3 know, we turned down the, the offer. But that's not
4 to say that we, we refuse to negotiate.

5 Q And I just mean like has there ever been a
6 situation where it's just a clean, in exchange for
7 using this in the IPR, I will give you a license
8 with the ability to license all your members to the
9 patent at issue in the IPR?

10 A If that deal that you described was the
11 same as all of our other deals, I know of no
12 situation right now where, that we, that we were
13 offered a deal and we said no, it was like all of
14 our others. That's not always the case. We have
15 said no, like I said. But if it's the same deal
16 that we've done with other companies, I know of no
17 situation where we have chosen not to, to settle
18 with someone because of, of any reason. I don't
19 know that that's ever happened.

20 Q Do you know any, any -- starting over. Do
21 you know of any situation in which that would
22 happen? We're talking about the same deal that

1 you've done before. If anybody offered that deal,
2 is there any reason that Unified would not take it?

3 MR. FAWZY: Objection, vague and improper
4 hypothetical.

5 A Yeah. I was just going to say that, like,
6 I -- no, off the top of my head. There's no reason
7 for me to think so right now, but that's not to say
8 that, that there couldn't be some reason in the
9 future. But as I sit here right now, I don't think
10 I, I don't think we've ever had that and I don't
11 know what our answer would be, something in the
12 future, just because of unknown circumstances.

13 BY MR. GRANAGHAN:

14 Q Sure. Fair enough. All right. Let's
15 look at Section 3.1 on page four.

16 A Yes.

17 Q All right. So this is, this section [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]. Is
22 that right?



1 A That's what it says, yes.

2 Q All right. And this is [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A Yeah. I mean, this -- we have a whole
6 list of, of things that are under here but this
7 is -- that language is -- what we try to put in here
8 is kind of the [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q All right. So one of the things that
12 Unified agrees to do, and this is Subsection C, is

13 [REDACTED]

14 [REDACTED]

15 [REDACTED];

16 A I mean, it's not -- we're not like
17 agreeing to do it. We are saying this is one of the
18 things that we may do to achieve the, the deterrent
19 strategies for our zone.

20 Q Is there any zone in which Unified has not
21 filed an IPR?

22 A There is not.



1 Q All right. So further down, Subsection
2 3.1, little V, at the very bottom of the page. You
3 see that?
4 A Little -- what is that? Little V?
5 Q V.
6 A V as in Victor.
7 Q Yeah.
8 A Yeah.
9 Q The very bottom of the page.
10 A Yeah, that's little 5. Gotcha.
11 Q Yeah, little five. It's a little
12 confusing because it switches from --
13 A I know.
14 Q -- letters to, to roman.
15 A Some of this stuff is left over from the
16 very, very earliest days of Unified and I would have
17 changed some of it, but it is what it is.
18 Q All right. So that, that subsection
19 agrees that [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]?



1 A Yes.

2 Q So, for example, under Subsection A,

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 A Assuming we actually bought a patent or

8 anything then we would -- the acquisition of that

9 would be something we would -- that this was in an

10 effort to be transparent so we said we would

11 basically say where we spent money.

12 Q And in Subsection B, sub Subsection B,

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 A Correct, that's what it says.

17 Q And C through E, [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A Yeah. All of that -- [REDACTED]

22 [REDACTED]



1 Q All right. [REDACTED]
2 [REDACTED]
3 A We, we have over the years basically moved
4 to a model where the vast majority of all of this
5 information is provided in kind of a public data
6 basis. So like if we wanted to say activities and
7 all this, all the stuff that's related to, to this,
8 the only thing that's kind of not necessarily public
9 that's on this list here is kind of the cost for IPR
10 activity, costs for, whoever bought and sold a
11 patent, that would be something we would disclose
12 here, but we haven't done that.
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED] All the other stuff is
22 kind of publicly available through our Web site.



1 So this would be we do meet this
2 obligation by preparing, like, an [REDACTED] at
3 the end of the year.

4 Q [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A Yeah. To be honest, this goes all the way
9 back to the very original, like, founding of
10 Unified. One of the other entities out there when I
11 founded Unified was RPX and at the time RPX had a
12 kind of a notorious history of not telling anyone
13 what they paid for or did anything with so, like,
14 you never knew -- a lot of people --

15 I mean, as an in-house attorney I
16 used our RPX so I kind of know this all firsthand,
17 so they never knew what RPX paid for a particular
18 deal and what they did with any one entity. There's
19 a lot of lack of transparency on this.

20 So one of the things that I did just
21 as a business model and as a businessperson trying
22 to figure out a way to create a company that people



1 really trusted and that people really thought we
2 were kind of running our company and kind of, like,
3 the best way, was kind of best practices, whether I
4 was right or wrong, being transparent about the cost
5 was something that I thought was going to be a good
6 thing for just being a business in the space.

7 And the other thing is that this
8 information is actually the kind of thing that lots
9 of companies like to benchmark, so I always thought
10 that when we reached scale, you know, even things
11 like inter partes review or ex parte re-exam or kind
12 of a cost of doing all of this stuff, it would be
13 valuable data that other companies would be able to
14 kind of benchmark their own kind of legal expenses
15 on and so I thought companies would kind of
16 appreciate and like the idea of being able to see
17 some of that so I thought that was some business
18 value of us being kind of transparent and sharing
19 that kind of information.

20 I don't really know if anyone's
21 actually using that data, but anyway, it's part of
22 our, it's part of our renewal dec and we provide it



1 as part of doing this.

2 Q All right. I'm going to hand you the
3 initial voluntary interrogatories that Unified filed
4 in this case. These have already been marked as
5 Unified Exhibit 1014.

6 All right. Do you recognize this
7 document as Unified's Voluntary Interrogatory
8 Responses in this proceeding?

9 A That's what it looks like.

10 Q Okay. And on page nine, that is your
11 verification of the responses, correct?

12 A It is, yes.

13 Q Let's look at -- well, actually, let's go
14 back to the other interrogatories first. I'm sorry.

15 MR. FAWZY: You mean Exhibit 2017?

16 MR. GRANAGHAN: Exhibit 2017, yeah.

17 BY MR. GRANAGHAN:

18 Q All right. Voluntary Interrogatory No. 7
19 on page 11.

20 A Okay, yeah.

21 Q All right. And the interrogatory is,
22 "When did Unified Patents become aware of the 449



1 patents." The response is, "Unified states that it
2 became aware of the 449 patent through public
3 sources including records of the U.S. Patent and
4 Trademark office around October 2017."

5 What public sources are you referring
6 to there?

7 A So in October of 2017, our kind of
8 internal data department, we decided to, as part of
9 our work on some day bringing in the SEP zone into,
10 into reality, we started downloading every single
11 patent that we could find that was related to HVEC.
12 That included all of the patents that had been
13 identified as being related to MPEG LA, it includes
14 all the patents identified as being related to HEVC
15 Advance, it includes all the patents identified and
16 related to Velos Media.

17 When it comes Velos Media, we were
18 basically using the assignment records, USPTO, to
19 identify which, which patents to download. And we
20 also downloaded every single patent that had been
21 identified through the APU as having been self
22 declared for the HVEC standard.



1 And then we included every single
2 patent that was related to those patents so we kind
3 of included family information. So it's kind of
4 public, completely public sources of every single
5 patent that Unified could find any indication that
6 it was related to HEVC.

7 This was one patent, obviously, that
8 was either related to patents that officially got
9 transferred or a family that officially got
10 transferred, whatever. So Velos Media, we uncovered
11 that through assignment records and ultimately then
12 that's how it got on the list and we downloaded all
13 of these patents all at once, which -- thousands of
14 patents.

15 That is the first time that we can
16 tell that this patent came in to any part of the
17 Unified system.

18 Q Did Unified find out about any Velos
19 patents in any other way that you know?

20 A No.

21 Q How did Velos first get on Unified's
22 radar?



1 A Going back to, I think, 2016, 2017, we --
2 I have known about Velos Media. Again, I don't
3 recall the first time I've learned of Velos Media
4 but the kind of the way in which the various patent
5 pools around HEVC developed, I was, just through
6 information and others, I was aware of Velos Media
7 when I believe they kind of became public as an
8 entity and they had a Web site and they became
9 public and people started speaking on panels and all
10 of that. Someone from Velos Media spoke at our
11 industry event, as an example.

12 So I could not tell you when I became
13 aware of Velos Media but it happened years ago.

14 Q Do you -- could it had been from a member
15 of Unified's -- Unified?

16 A I was definitely aware of Velos Media,
17 MPEG LA, HEVC Advance and all of these issues around
18 this before any one member talked to me about the
19 HEVC or before we pitched the idea of trying to do
20 something around standard essential patents.

21 Q So are you aware that there's six
22 different entities that have contributed patents to



1 Velos?

2 A I believe that information's on their
3 Web site, and I couldn't name them off the top of my
4 head, but I'm aware that there's a various number of
5 entities that are participating in Velos Media.

6 Q So I'll represent to you it's Qualcomm,
7 Sony, Ericsson, BlackBerry, Panasonic and Sharp.
8 And so Unified has filed against patents assigned to
9 Velos from -- were originally assigned to all those
10 entities for Ericsson. Is that something you're
11 aware of?

12 A I became aware of that in your briefing, I
13 believe, is the first time I became aware of the
14 fact that we had filed against companies other than,
15 other than Ericsson.

16 Q Has anybody told Unified not to file
17 against patents that were originally sent to
18 Ericsson?

19 A No one has ever told me not to file
20 against Ericsson.

21 (Whereupon, Velos Exhibit No. 2019 was
22 marked for identification.)



1 BY MR. GRANAGHAN:

2 Q So you've been handed what's been marked
3 as Exhibit 2019. For the record this may already be
4 an exhibit in this IPR, I just did not print out the
5 one that was actually filed as an exhibit, so we're
6 remarking it.

7 All right. So this is a post from
8 Unified's Web site dated November 8, 2018. Have you
9 seen this before?

10 A This looks like that post, so I assume
11 I've seen it before.

12 Q Who is responsible for creating this post?

13 A It's basically a format, so it gets
14 created, I think, by one of our in-house people who
15 creates a template, shares it with the entire team,
16 and one gets an opportunity to make sure they fix
17 spellings and data and all that, so I saw this in
18 the process of it going out the door. And everyone
19 would have kind of helped make sure that it was the,
20 the right information, patent number, firm, all this
21 information.

22 The team helps out. Once it's in the



1 right spot it's sent out via, like, a massive, a
2 massive -- well, this goes to the, the blog. So
3 this gets posted on the blog but we also put this
4 information out through other means.

5 Q And this specific post announces the
6 filing of this IPR, right?

7 A Yes.

8 Q And Unified usually posts articles like
9 this on its blog after it files an IPR, right?

10 A We do one -- I guess this doesn't happen,
11 typical type thing, so after every single IPR we do
12 one of these.

13 Q And I believe it's done so after almost
14 all of the IPRs are filed against Velos, right?

15 A I mean, if we missed one it would have
16 been an accident, I think but, yeah, we do this on,
17 after every single IPR, regardless whether it's
18 Velos or not.

19 Q What's the purpose of posting these
20 articles?

21 A Just to make everyone aware of the
22 activity. I mean, obviously part of this is also



1 marketing and we want to, to have everyone know that
2 we are active in the zone and we want not only
3 companies but patents owners, basically we want
4 everyone to be able to find the information of what
5 we're doing. And this is, the blog is one place in
6 which we kind of just keep a record of it, let
7 everyone know they can go to one place, see all the
8 activity.

9 Q So you say everyone. Who is the intended
10 audience?

11 A Literally, I say, I mean everyone.
12 Patents owners, companies that includes members and
13 nonmembers. We basically put this out, we want
14 everyone, we want all the companies that are
15 involved in HEVC both from the licensor perspective
16 and from the licensee perspective to all be able to
17 see this, get this information and see it on both
18 sides.

19 Q All right. Let's look at the first
20 sentence of the second paragraph here. It says,
21 "The 449 patent and its corresponding extended
22 patent family is the third-largest family known to



1 be owned by Velos and represents approximately 5.9%
2 of Velos' total known assets." You see where I'm
3 reading from?

4 A I see that, yes.

5 Q What does it mean that the patent
6 represents approximately 5.9% of Velos' total known
7 assets?

8 A So kind of unlike other NPE areas or lots
9 of other stuff, standard essential patent licensing
10 is a big part of this, it probably describes the
11 idea that these patent families go on for like
12 really, really long times. So people continuously
13 file claims and try to direct them at, at claims.
14 If you get another kind of standard essential
15 patent, then that kind of goes in the bucket of
16 patents you can count that are essential to the
17 standard, and then they file another application and
18 they do that again and again and again.

19 So, and each one of those, if they
20 get a set of claims that reads on the standard, then
21 they will count that as another kind of standard
22 essential patent. I have long believed that this



1 practice is kind of little bit funky and, and it
2 also, it's like one specification and then you get,
3 you know, five, 10, 20 patents sometimes. I kind of
4 look at those as all as, like, one patent. They're
5 all based on the same specification and all the
6 claims are basically directed on to a standard.

7 So what we think about when we're
8 talking about standard essential patents is this is
9 something that's a little bit different than what we
10 do in our NEP zones but we want people to know kind
11 of the impact we're having by following on IPR is
12 that we want like, again, this is a deterrent
13 strategy, right? We want to know, everyone know
14 that we're talking about standard essential patents.

15 And if you think about these patents
16 as all kind of a continuum of the same specification
17 by filing one IPR or kind of talking about one
18 patent obviously in the IPR, but it's related to a
19 bunch of patents that are all designed kind of
20 specifically at, at a standard, and so we kind of
21 think of these things as one big piece. And so they
22 give everyone an idea of just how big a piece we



1 have calculated out of the known patents related to
2 any one entity and how they relate to the standard.
3 The size of the impact we think any one filing is,
4 is having and that's just a part of this, you know,
5 deterrent strategy that we think kind of helps us in
6 the SEP zone.

7 So you won't see that in the NEP area
8 because it doesn't really make as much sense, but in
9 the SEP area, because of the differences, we think
10 this is kind of an interesting piece of data to
11 include in our, in this type of broad post.

12 Q Do you know who calculates that number?

13 A Yes.

14 Q Who calculates it?

15 A So we have a guy named Sam Jaffnot
16 (phonetic) who's an attorney on our team. He is the
17 guy who, like, has the, the spreadsheet of
18 calculating a number of patent families and he goes
19 through and processes, kind of calculating out the,
20 the 5.9 percent.

21 Q He's the math guy?

22 A He actually does have a background in

1 computer science engineering and he's a Harvard law
2 grad, definitely capable of doing this basic math.

3 Q Do you know how he calculates it?

4 A Yeah. I mean, he basically -- I mean, we
5 have every single patent that we know of that has an
6 assignment record that's dedicated to, that we know
7 has been kind of assigned to Velos Media and we then
8 add all of those up.

9 And we add in to that, by the way,
10 like every related patent that's related to that,
11 and then it actually does change over time so we
12 found that like a new patent will issue or a new
13 assignment record will show up on Velos Media's
14 assignment records and when we -- we're tracking
15 that. So when we see that, that patent gets added
16 so on any given day these numbers can change a
17 little bit from, from one, week-to-week, day-to-day,
18 whatever.

19 But that's the, that's the way it's
20 done. Add up all of those patents that are assigned
21 and/or related to assigned patents, that would give
22 you the total number of, of patents and then you



1 would find out how many, you know, patents that we
2 filed on and all the related patents to that. It
3 turns out that's the fraction and then you, you
4 multiply that by a hundred.

5 Q Is the goal to challenge patents
6 representing as much of Velos' portfolio if
7 possible?

8 A It is -- I wouldn't say that that's the,
9 the goal but, I mean, we do think that that number
10 represents a way in which to give a representative
11 an aspect of, of the impact we are having, but there
12 is no, there is no number we have ever set or
13 discussed with anyone of what percentage of Velos
14 Media patents we would be filing IPRs against.

15 Q And Unified continuously updates the
16 percentage of Velos' assets that it's challenged,
17 right, in its posts?

18 A I mean, I wouldn't say it that way. I
19 would say that if we file an IPR and we know that a
20 patent -- I think that number has to be calculated
21 every time this post is made, meaning like you check
22 to see has the database changed, whatever, is there



1 more patents than the calculated number of patents
2 related to this, calculate the number of patents
3 that are, that we know of and that's why we're
4 pretty, we try to be very clear here.

5 So when we say known to be owned by
6 Velos, that's as careful as we can be about the, the
7 fact that we don't know. I mean, there could be
8 dozens and dozens of patents that have been assigned
9 to Velos that we don't know are assigned to Velos.
10 So this is an example of you got the right thing.

11 Q Let me do this, make sure.

12 MR. FAWZY: Any time it's a good chance
13 for a break.

14 MR. GRANAGHAN: Okay, yeah. Let's do this
15 one really quick then it's a good time for a
16 break.

17 (Whereupon, Velos Exhibit No. 2020 was
18 marked for identification.)

19 BY MR. GRANAGHAN:

20 Q All right. This is another post from the
21 Web site. The header looks a little different,
22 that's just the way we printed it.



1 Now, it's saying a filing of a
2 different IPR against Velos patent. Have you seen
3 this post before?

4 A I don't recall seeing this specific one
5 but I don't doubt that this is a post from our
6 Web site.

7 Q Okay. At the, the last sentence of the
8 second paragraph says, "Including this petition,
9 Unified has now challenged patents representing over
10 35 percent of Velos' total know U.S. assets. Do you
11 see that?

12 A I do.

13 Q So Unified -- so what I'm asking is
14 Unified does maintain a running tally of the
15 percentage of Velos' total value asset that it's
16 claiming, right? Or patents representing the
17 percentage of Velos' total amount of U.S. assets,
18 right?

19 A Yes.

20 Q And it publishes that. It continuously
21 updates it and publishes it as a challenge against
22 patents, correct?



1 MR. FAWZY: Objection to the form of the
2 question. Vague.

3 A We -- every time -- I guess that's what I
4 was trying to say, that every time we file an IPR,
5 the percentage needs to be calculated. So we
6 calculate the percentage but that needs to
7 include -- like, I'm just saying that -- I guess my
8 point was this 5.9 percent with the 449 patent,
9 which is the first one we filed, I don't necessarily
10 believe that it still represents exactly
11 5.9 percent.

12 This one represents a different
13 percentage of the total known assets that are in
14 Velos Media's portfolio.

15 Q Just based on new information?

16 A Based on new information, based on patents
17 that get issued that we didn't know about before
18 that were, that were just pending, that were in the
19 prosecution at the time this came out.

20 I really do think there have been
21 additional, like, continuation applications that
22 have issued since this came out. I think that's



1 true. And I think there have been additional
2 patents that have been assigned or recorded, is
3 probably a better way to say that, where we, new
4 information became available, we put that into the
5 database, and then when this thing goes out, the new
6 next one goes out, you have to recalculate it.

7 We're not necessarily recalculating
8 it based on this patent, we're just -- this one, it
9 would be a whole new calculation number.

10 Q Okay. So I get why we talked a little bit
11 about why Unified can base the percentage of a
12 family, I'm sorry, the percentage of a total
13 portfolio that a patent's challenge represents.

14 So similarly, why does Unified convey
15 information about the total percentage of Velos'
16 known U.S. assets that it represents? That it
17 challenges, I'm sorry.

18 A So in this particular context a lot of
19 what we are trying to do is go out there and show
20 there are lots of invalid patents and even people
21 who claim that have, like, great patents and they're
22 out there licensing them, those patents are, are



1 invalid too.

2 So this is a deterrent approach of
3 saying big portfolios have significant numbers of
4 invalid patents. And the point of that is -- by the
5 way, this, this could be calculated by anyone. This
6 is not, like, this is not public or, sorry,
7 confidential information that we could hide from
8 everyone if we wanted to, this is just the
9 cumulative number. And if people wanted to they
10 could just simply add each post up if we did it the
11 other way around, but this way we are -- what we
12 think is basically going on out there and showing
13 that we think that a percentage of Velos' known
14 assets are invalid.

15 By the way, this is a fraction of all
16 the patents that are in the whole system, right?
17 But we want to show that this is a, the deterrent
18 impact of what Unified is having is we think going
19 to show that a big percentage of any portfolio out
20 there, not just Velos Media, is going to be invalid.

21 Q Okay. This is a good time for a break.

22 THE VIDEOGRAPHER: The time is now



1 2:28 p.m. This is the end of DVD No. 2. We're
2 going off the record.

3 (Whereupon, there was a break from
4 2:28 p.m. until 2:42 p.m.)

5 THE VIDEOGRAPHER: The time is now
6 2:42 p.m. This is the beginning of DVD No. 3.
7 We're back on the record.

8 BY MR. GRANAGHAN:

9 Q All right. I'm going to hand you another
10 document we need to mark. I think this one is also
11 an exhibit but I did not print the one that was
12 already marked. This will be 2021.

13 (Whereupon, Exhibit No. 2021 was marked
14 for identification.)

15 BY MR. GRANAGHAN:

16 Q So this is another, I guess it's a blog
17 post from Unified's Web site dated January 9, 2019.
18 Do you recognize this post?

19 A I have no reason to believe it's not a
20 post from Unified Patents and I'm sure I looked at
21 it before it went out.

22 Q So this announces the release of Unified's



1 comprehensive objective economic evaluation (OVAL)
2 study of HEVC/H.265 standard-essential patents
3 royalty rates.

4 Is that the same study on royalty
5 rates that we were talking about a little bit
6 earlier?

7 A It is the same one.

8 Q All right. And the studies analyzed
9 licensing rates charged by various licensors of HEVC
10 patents and came to a conclusion of what the proper
11 rate should be; is that right?

12 A I wouldn't say -- I don't know about
13 should be. It's not exactly how -- kind of this is
14 like one economic study. We basically worked with
15 the economist, he came up with things that he wanted
16 to look at. Our internal lawyers went out to the
17 public world and helped him gather information, we
18 curated it all, everything that we could about HEVC
19 that was like a public, an objective approach to it.

20 We worked with him to kind of get him
21 everything and he built a model of what he thought
22 it should cost based on kind of the big part, what

1 the previous version of the standard, AVC cost. And
2 then we basically went public with what the findings
3 were for him between the details and behind the
4 scene stuff of that report. We have kept it
5 confidential. We will give a copy of this report to
6 members but otherwise this is, yeah, that is what we
7 did.

8 Q What does OVAL stand for?

9 A I think it's Objective Valuation. We make
10 a joke internal that Shawn who, I like said, does
11 like the marketing, we sometimes call it alphabet
12 soup because you'll find it's OPAL and OPEN, OVAL.

13 Q I was wondering what some of the other
14 ones stand for.

15 A Yeah, you're going to -- now every time
16 you see our Web site you're going to giggle because
17 you are going to think alphabet soup and it is
18 pretty funny, but yeah, all of them. Sometimes like
19 a little, like a letter that's not capitalized,
20 capital, capital, little, little letter, big, big
21 capitalized, it's hilarious.

22 Q You got to keep people guessing. And so



1 this study is actually called for by the
2 subscription agreement for the video codec zone, I
3 believe. Is that right?

4 A I wouldn't say called for. This was
5 something we came up with as -- a lot of what we are
6 doing in the video codec zone is trying to provide
7 companies with all the data that they might need if
8 they wanted to engage in trying negotiations with a
9 party.

10 It's not specific to any party. This
11 economic report isn't specific to any company,
12 there's nothing specific about this. But one of the
13 ways in which to calculate a grand offer is to go
14 through a process and figuring out how, what
15 percentage, apportionment of any one licensor has
16 relative to all the patents that are essential to
17 the standard. You could use OPAL in order to try
18 and calculate that number for yourself.

19 OPAL is an interesting thing that
20 allows you to kind of move the size, you know,
21 change the size of the, the universe for standard
22 essential patents, so it could be 8,000, depending



1 on how you use it, it could be 10,000, depending on
2 how you use it.

3 The number of patents in the universe
4 changes how you use the tool but, you know,
5 regardless you would find out what apportionment an
6 individual licensor has, you would multiply that by
7 the aggregate royalty rate of what someone believes
8 that might be. We have put out one version of what
9 we think it is, companies may are may not use it,
10 honestly we don't know.

11 But we want there to be a place where
12 someone can come and get a really well done, like,
13 evaluation of the technology because, to be honest,
14 lots of companies don't do that work, it's
15 expensive, and I don't think everyone negotiating
16 standard essential patent licensing out there is
17 very sophisticated.

18 So we thought it would be interesting
19 to basically create a place where you could come and
20 get basically everything you would possibly need to
21 do your own independent third-party negotiations.
22 We're not involved in any of that, but we want to



1 provide all the data that someone could use.

2 They may or may not use our economic
3 report, they may think it's too expensive, they may
4 think it's too cheap. I literally don't know what
5 anyone thinks about the, this report. It's kind of
6 why we do call it objective, is that we feel like we
7 did this independently and said we're going to
8 provide this out there for anyone who wants to pay
9 us for it, and then they can use it for whatever
10 they want.

11 The third part of this kind of, like,
12 negotiation is case law says that you should, you
13 know, evaluate what patents cover what technologies
14 to see if a patent on an individual standard is
15 really important or not, and whether an individual
16 company actually submitted to the standard through a
17 submission in technology or not.

18 So if they are responsible for
19 technology being incorporated into the standard,
20 then they might be entitled to get a greater
21 licensing royalty than just simply the apportionment
22 calculation.



1 So case law says that this is
2 something you should do. So if you have a third
3 part of this data, kind of platform is the, open to
4 this, which is every single submission that it put
5 out there to the world.

6 So now outside counsel, whoever's
7 working for members or anyone, can get in and
8 basically research exactly who submitted what to the
9 standard, which I don't know if you know, it used to
10 be done by, like, an individual expert who went to
11 every single standard set by and collected a paper
12 version of every single submission ever made. They
13 put it in a binder and they keep it and then they're
14 called upon by companies to help figure out who did
15 what, whether or not the patents were invalidated by
16 the previous versions of the standard and so on, so
17 forth.

18 But anyway, that used to be the old
19 way. We think there's, by having it all in a
20 database, everyone's going to be able to kind of
21 negotiate better if they have access to the stuff.
22 So that suite of data is something that we provide



1 to help everyone do what we think are good faith
2 negotiations and we offer this up to make this
3 available to them.

4 Q Are Unified's IPR activities also intended
5 to help companies negotiate licenses for video
6 codec?

7 A So they're not, partly because like the
8 description that I just described doesn't
9 actually -- actually, it very rarely includes one
10 patent. So you're usually talking about like a
11 whole group of patents and, I mean, there are 8,000
12 patents in our, well, not 8,000, but an estimate,
13 there's lots of patents in the HEVC standards that
14 are kind of going to be considered essential to the
15 standard.

16 So like our own activities on the IPR
17 front are not designed in any way to effect, like, a
18 company's negotiating position with them. What we
19 want to be out there doing is saying, hey, all of
20 the, the companies out there that are going to be
21 bringing patents and, and engaging in licensing
22 activity, those patents that they put on the table,



1 we hope they've looked at, not just for
2 essentiality, but we hope that they've looked at
3 them for, for validity too. And the reason why we
4 hope they've done that is because we're going to go
5 out there and show that at least some patents out
6 there in the universe of standard essential patents
7 for, for HEVC, we tend to think that validity is a
8 problem with HEVC standard essential patents and
9 we're going to try to go out and prove that.

10 But we don't, we don't know who is in
11 negotiation with who. I mean, to put that in, that
12 part in perspective, we don't know which ones of our
13 members are negotiating with MPEG LA or HEVC Advance
14 or Velos Media or Nokia or any, I mean like any
15 other, probably dozens and dozens of companies.

16 I mean, we have a tool if you just
17 look to see who owns those patents on HVEC, our
18 landscape will tell you all the licensors, the
19 biggest patent owners out there, and you can just
20 look to say I don't know who's in negotiation with
21 who. We don't know who's under NDA with anyone. We
22 don't know if anyone has a license.

1 I mean, our members might already be
2 licensed. We simply don't know who is, is in
3 negotiations and who's not. So we don't do this to
4 try to affect any one licensing negotiation. Just
5 like in litigation we don't file IPRs to help any
6 one company in their litigation. Instead, we have a
7 much bigger strategy around, hey, we are going to
8 create a deterrent strategy that helps make sure
9 that everyone in this zone are using the best
10 patents that they possibly can find in their
11 portfolio and not using those patents that are
12 obviously overbroad and invalid for purposes of, of
13 negotiations.

14 Q So is part of the reason Unified files
15 IPRs in its video codec zone to show people who may
16 be or at some point will want to negotiate a license
17 for HEVC patent, that there may be patents out there
18 that Unified will observe invalid?

19 A I don't understand your question. Can you
20 restate it?

21 Q Is part of Unified's goal to, to message
22 to people that are negotiating or may negotiate for

1 HEVC technologies that many of the patents that
2 these licensors are trying to license, Unified Media
3 believes them to be invalid?

4 A No. So I mean, in the same way what we
5 are trying to effect is, like, the future behavior
6 of patent owners. This is consistent with
7 everything we do in all of our zones. Deterrence is
8 about what people kind of do in the future and we
9 have -- it's impossible for us to effect what is
10 currently going on or kind of predict it or figure
11 out how it's going to benefit any one company or
12 not. It's we just simply don't know the status of
13 any of the negotiations or anything.

14 So rather than try and figure any of
15 those things out, including what you just described,
16 rather what we want is for the, in the future, we
17 don't know about it, but in the future when two
18 companies engage in negotiations, we hope that the
19 patents that the licensor brings to the table, they
20 have it looked at from both a essentiality
21 perspective, that's a big part of standard essential
22 patent licensing.



1 But one of the things that we keep
 2 talking about is there's essentiality -- everyone
 3 talks about essentiality, but validity is something
 4 that no one, no one really looks at. But we want
 5 licensors when they bring portfolios and ask people
 6 to pay in this case, like, potential hundreds of
 7 millions of dollars a year for, like, the very
 8 biggest people out there, numbers are really big.

9 So if they're going to ask people to,
 10 to pay numbers for those, that they do so on really
 11 good, solid patent portfolios that are valid from a
 12 validity perspective, not just from, not just being
 13 essential to the standard.

14 Q Go back and look real quick at the
 15 agreement, it's 2018, Exhibit 2018. Page two of
 16 Exhibit 1, it's the next to last page of the entire
 17 document.

18 A Okay. That's perfect.

19 Q Okay. The very top paragraph says, [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]



1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 Is the report that we've been talking
6 about the report that's referenced in this paragraph
7 right here?

8 A Yeah. I mean, so just to give you context
9 around this, we don't have what you might call
10 comparable licenses. So we, we're never going to
11 try and create -- you might be familiar, it's kind
12 of like two areas, kind of case law, standards,
13 essential patent licensing. One is like a top-down
14 approach where you look to find out, like, what the
15 value of that technology is, kind of refer to the
16 top-down approach.

17 The other one is you start from --
18 and that, that approach kind of works like that
19 equation, kind of talked to you about before.

20 Another, like, way in which to try to
21 figure out what a FRAND rate might be would be to
22 look at what would be comparable licenses from a



1 bunch of other companies that had done deals.
2 Because of the kind of independence of the Unified
3 patents, there's no way for us to engage with anyone
4 to find out what, kind of, previous licenses are
5 neither from companies and nor from licensors. So
6 we don't have any of that.

7 So this is kind of talking about,
8 hey, put everyone on notice we're not going to be
9 using comparable licenses to do any of this work, so
10 putting everyone on notice of that. And so this
11 analysis there, this kind of, this analysis on the
12 video codec is not -- we might do one of these
13 reports, by the way, on AVC or might do one of these
14 reports on the next version, which I think is called
15 EVC (phonetic), or other, any other video codec out
16 there in the space.

17 So this language isn't specific to
18 this particular report, economic report. Rather,
19 it's saying, hey, we're going to remain independent
20 and we are not going to ask anyone for licenses or
21 any type of comparable information, this is not
22 going to be based on that.



1 So the report we did, we consider to
2 be a top-down analysis, meaning it doesn't rely upon
3 confidential previous licenses that any licensor may
4 or may not have done.

5 Q Can you look at page -- you can put it to
6 the side. Go back to 2021, page three. The last
7 sentence of the last full paragraph on that page
8 says, "Velos Media has not disclosed pricing, but
9 its rates are rumored to be over \$1.00 without any
10 annual cap." Do you see that?

11 A I do.

12 Q And then it references a footnote one,
13 which is on the next page. That says in part,
14 "Velos does not publish their rates so it is an
15 estimate based on industry data." Do you see that?

16 A We do.

17 Q All right. Do you know what industry data
18 that footnote is referring to?

19 A The -- so Shawn and I have been to, like,
20 half a dozen conferences over the last year, talked
21 to lots of people. We talked to HEVC Advance about
22 this. We talked to -- at industry events. I've



1 talked to representatives of theirs. I've talked to
2 all kinds of people.

3 I mean, this is kind of -- because
4 the numbers we have here are so specific for MPEG LA
5 and Advance that to say, you know, to try to give an
6 idea, like we have to put footnote, we don't know
7 what it is. But what we have heard from people is
8 that it's more than what HEVC Advance is asking and
9 I think it's public that HEVC Advance is asking for
10 80 cents a device or something, something along
11 those lines, off the top of my head I don't recall.

12 But like this is -- if it's more than
13 80 cents a device, we're like almost to the dollar.
14 So this is the kind of industry knowledge of what we
15 have heard and so we're doing our best to, to
16 accurately say this information's public, we have no
17 idea what Velos Media is asking, but what we have
18 heard from the industry is that it's over a dollar
19 device.

20 Q Who in the industry have you heard that
21 from?

22 A This is over the last year. I've talked



1 to all kinds of people. I don't remember any one
2 specific person of who said 1 dollar device.

3 Q You don't remember any single one of them?

4 A Not any single one of them that said 1
5 dollar a device. I would think this is rumor. More
6 than, more than -- some people say more than HEVC.
7 People have said, oh, it's over a dollar. This is
8 conversations. In some cases I was just part of a
9 big, broader conversation, a panel where those
10 numbers got thrown out.

11 Like this is, this is something
12 that's talked about all the time at industry events
13 and I have no knowledge, like, of a specific person
14 who told us what, who said 1 dollar device.

15 Q Do you have any knowledge of the specific
16 person that said it's more than 80 cents a device?

17 A Well, here's the thing. We don't -- we
18 have never had any person say anything specific
19 about it who actually might really know because,
20 because everything is -- I don't think this number
21 even gets out to anyone until you guys are, not you
22 guys, but until Velos Media is under NDA. My

1 understanding of how, just generally speaking, how
2 really Velos Media is working, kind of opposite of
3 MPEG LA and Advance who have kind of published their
4 rates.

5 So one thing that, you know, we talk
6 about is, like, lack of transparency. That's
7 another reason why we think it's interesting to be
8 working in the spaces, there's lots of data.
9 Licensors have the ability to have all the data that
10 they need, keep it all kind of confidential and then
11 only if they engage with lots and lots of people,
12 those companies don't really even know who they are.

13 But the only time that Velos Media
14 engages with them is under an NDA. And so for that
15 reason, we don't have any real specific information.
16 It's -- the rumors are kind of what I'm talking
17 about. I don't recall any one person who I ever
18 talked about a specific number with, but this is
19 kind of the feeling we've had over the, like, year
20 and a half before we even launched the zone of what
21 we thought those rumors represented and we tried to
22 accurately represent that by this footnote and



1 everything to clarify.

2 Like, we don't know. The only time
3 this information is shared is, our understanding, is
4 under an NDA, and therefore this is the best we can
5 kind of do but, you know, we have heard that this is
6 the, the ballpark.

7 Q Okay. So outside of specific numbers, any
8 names that you've talked about, what Velos charges
9 with?

10 A Not really. I mean, we don't talk about
11 these numbers with members, so I -- this is not
12 something we talk about with members. It's really
13 not something we even talk to -- we don't talk to
14 nonmembers about it either when we are engaging in,
15 in kind of selling companies on this. I mean, this
16 1 dollar number goes back to, I would say, probably
17 early 2017 of what we kind of, you know, kind of
18 heard and rumors of it long before we ever launched
19 a zone.

20 So like the 1 dollar number is
21 something that I think has been in our heads for a
22 very, very long time. We have no specifics. So we

1 just use this 1 dollar number for all the materials.

2 Q Okay. How much did Unified pay for that
3 study? Do you know?

4 A I would say that all in, with all the
5 various information we had to buy and data we had to
6 buy and everything, I would say it probably cost us
7 [REDACTED]. But we wanted to hire kind of like
8 litigation grade economists so that it would be kind
9 of top-notch and that companies who would use it
10 would have some confidence in feeling like it was
11 well done.

12 (Whereupon, Velos Exhibit Nos. 2022 & 2023
13 were marked for identification.)

14 (Whereupon, there were discussions off the
15 record.)

16 THE COURT REPORTER: Hold on. I need to
17 go off for a second. Can we go off the record
18 for a second?

19 THE VIDEOGRAPHER: The time is now 3:07
20 p.m. We're going off the record.

21 (Whereupon, there was a break from 3:07
22 p.m. until 3:09 p.m.)



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1 THE VIDEOGRAPHER: The time is now

2 3:09 p.m. We're back on the record.

3 BY MR. GRANAGHAN:

4 Q All right. So you've been handed what are
5 exhibits 2022 and 2023 as well. So 2022 is a
6 LinkedIn post from Shawn Ambwani from about 12
7 months ago. Have you seen this before?

8 A Have I seen this before? Yes.

9 Q When did you see it first?

10 A Shawn and I talked about this post before
11 it went out and I saw it probably not long after.

12 Q Okay. So in this post he links to a, a
13 mass e-mail from Fred Teleki (phonetic) to a number
14 of people about the Velos licensing program, right?

15 A Yes. That would be appear to be, yes.

16 Q So that is -- and does Exhibit 2023 appear
17 to be what he was doing?

18 A It appears to be what he went to.

19 Q Okay. Do you know where Unified got this
20 e-mail from Mr. Teleki?

21 A We do.

22 Q Where did it come from?



1 A So it came from, I think it's a guy named
2 David Vavia (phonetic) or V -- I think it's Vavia,
3 something like that. I can find that, that name for
4 you.

5 Jonathan Stroud who's our chief,
6 chief patent counsel, chief IP counsel, he went to
7 a, an industry event held by a prior art search
8 firm, I believe that's which firm was on LinkedIn,
9 at that -- it was a, it was a basketball game, I
10 think it was the Warriors or some of the people in
11 D.C., Warriors --

12 MR. FAWZY: Wizards.

13 THE WITNESS: Hum?

14 MR. FAWZY: Wizards, yeah. Sorry. I'm
15 not a big sports fan.

16 BY MR. GRANAGHAN:

17 Q I'm sorry.

18 A Sorry. Jesus. So Jonathan went to that
19 event, he sat down apparently next to David. They
20 did not know each other before they talked about it,
21 but after hanging out for a night sitting next to
22 each other watching basketball the guy learned that



1 Jonathan worked for Unified Patents and this guy
2 David said it's crazy, I mean, we just got a letter
3 from a patent troll, his words apparently, and he
4 said I'll send you the e-mail I got.

5 And so that, that e-mail was sent to
6 Jonathan Stroud and the first time we learned that
7 that e-mail was related to Velos Media was when it
8 arrived in our inbox from David to Jonathan Stroud.

9 Jonathan Stroud shared that with
10 myself and Shawn and then we discussed what we would
11 do with that and one of the things that we decided
12 to do was to show how some of the kind of lack of
13 transparency around licensing and the standard
14 essential patent was being done was that, you know,
15 kind of letters like this were being sent out to
16 lots and lots of different companies. And so
17 that's, that is exactly how we learned of this
18 letter.

19 Q Is Vavia, are they a member of Unified?

20 A They are not.

21 Q Did you receive a copy of this letter from
22 anyone else, any type?



1 A We have not received any other copies of
2 this, and actually we haven't really, we haven't
3 asked for it, we didn't ask for this one, and we
4 have not asked for this from any other company
5 either.

6 Q Has Unified received any other
7 correspondence between Velos and any of its members
8 or its nonmembers?

9 A We have not. Certainly not from our, our
10 members and not from our nonmembers either. This is
11 the only known communication from Velos to another
12 third-party that we're aware of.

13 Obviously, generally speaking, we're
14 aware of, both through this and through industry
15 rumors, that there is licensing activity going on.
16 But we're unaware of, like, any of those licensing
17 activities. We don't know who's licensing or who's
18 negotiating, who's not. We don't know who's under
19 NDA, we don't know who's not. We don't know who
20 else besides this company has received this letter,
21 but we found out about this one by accident and
22 decided to use it as an example of how we see

1 there's a kind of lack of transparency in the
2 market.

3 Q Have you ever received an NDA between any
4 of your members in Velos or any nonmembers of Velos?

5 A No, no. I don't think we've ever
6 received -- an NDA for us to sign?

7 Q No, no, no, I'm sorry. An NDA that any of
8 your members or nonmembers have executed with Velos.

9 A Not to my knowledge, no, I don't think so.

10 Q Can you turn to page -- doesn't have page
11 numbers on it, but it's the third page of Exhibit
12 2023.

13 A Sure.

14 Q And it says after we enter into an NDA we
15 will provide you with the following, and it has a
16 list of nine different things. Do you see that?

17 A Sure.

18 Q If you could just look through that and
19 tell me if Unified has ever received any of the
20 things that are mentioned here in this list?

21 A I don't think we have ever received any of
22 this information.



1 Q Okay. Ever received any claim charts from
2 Velos?

3 A We have not.

4 Q All right. No patent lists?

5 A We have not.

6 Q I hand you one what has been marked
7 previously as Exhibit 2023. This is another post
8 from Mr. Ambwani. Have you seen this one before?

9 A I think I have seen this one before as
10 well.

11 Q Okay.

12 A I believe this has been used in your, your
13 promotions, yeah.

14 Q So in this post he, he surmises that the
15 patents Velos got are not the best that their
16 original owners had, right?

17 A Happy to read that sentence, if you point
18 it out.

19 Q Yep. So it's about halfway down, it says,
20 "One might guess a reason is because the patents
21 they got were not the best their owners had."

22 A I see that sentence.



1 Q It says, "Not exactly #FRAND in my
2 opinion". Hashtag FRAND.

3 A Understood.

4 Q Is Mr. Ambwani's post the position of
5 Unified?

6 A Yeah. I mean, Shawn and I talk about
7 these. I mean, this is the -- this is not specific
8 to anything but this is, in our estimation, that
9 there's a whole lot of lack of transparency and I
10 think we both agree that when it comes to Velos
11 there's a whole, that there's even more lack of
12 transparency than some of the other patents pools
13 out there because of the structure and the
14 arrangement of Velos Media.

15 Like you really -- I think that the
16 structure of how Velos is doing their FRAND
17 licensing, we don't believe that that kind of
18 activity is the kind of thing that, the rules around
19 FRAND for any particular standard setting body
20 really envisioned people doing for purposes of kind
21 of standard essential patent licensing.

22 So I mean, I'm certainly -- I would



1 agree that I don't feel like this is the kind of
2 activities that, that people envision when they say
3 it's FRAND licensing.

4 Q Okay. Mr. Ambwani, he's pretty active on
5 LinkedIn?

6 A I mean, so this is kind of the, kind of
7 marketing stuff and, yeah, I mean, we try to keep a
8 high profile. To be honest, he's better at this
9 stuff than I am, but we work rather closely on
10 making sure that what we're sending out is kind of
11 something that we can all kind of get behind.

12 So like this is -- this is not -- we
13 think that there's a better way for kind of FRAND
14 licensing to be done and we're going to go out there
15 and tell everyone what we think about it.

16 Q So that's a little bit of where I was
17 going is, are Mr. Ambwani's posts, are they kind of
18 coordinated with Unified?

19 MR. FAWZY: Objection, vague and calls for
20 speculation and object to the form.

21 A I would not say that every single post
22 that Shawn puts out there is, is specifically, like,



1 Unified's position. But there are posts where -- I
2 mean, if you put any post in front of me I would be
3 able to read it and tell you whether or not it's,
4 that that's something that Shawn and I kind of
5 worked together, we both agreed on, and strategy
6 issues on standard essential patent licensing as
7 described here and the problems and difficulties
8 that, that are being experienced in the standard
9 essential patent space on HEVC are something that
10 Shawn and I have discussed dozens and dozens of
11 times together.

12 And like the way in which certain
13 patent portfolios are going to get licensed, I think
14 that there's a lack of transparency from portfolio
15 to portfolio, the lack of transparencies and what
16 people were paying for different portfolios. All of
17 that lack of transparency ultimately hurts the
18 industry, in our opinion, and we don't think it's
19 terribly -- we don't think it's the kind of thing
20 that FRAND should be, that shouldn't be FRAND
21 license. A FRAND license should be a lot more
22 transparent, and we don't think that it is.

1 This, if I can go through each post,
2 if you want me to, and tell your whether or not I
3 consider that to be Unified's position or not. Some
4 of these we actually talk about and know about
5 before they go out and some of them I, I don't
6 necessarily know about.

7 Q Is this one that you talked about and knew
8 about before it went out?

9 A I'm not necessary -- probably not every
10 single word on here but Shawn and I talked about
11 Velos Media talking about the structure of FRAND
12 licensing in HEVC and the various ways in which it's
13 really difficult to, to understand, like, what Velos
14 Media really has. I mean, a lot of this, by the
15 way, has nothing to do -- this actually has nothing
16 to do with our NPR.

17 So everything you see on here has,
18 has really nothing to do with IPR activity. In
19 terms of lack of transparency when we talk about
20 this and about FRAND and things, what we're really
21 talking about is we have this, you know, we want
22 people to think that we have the data that's going



1 to help them figure this stuff out.

2 So FRAND licensing, we have the OPAL,
3 as an example, we want there to be greater
4 transparency and have good tools. So, you know,
5 OPAL can look to see how many patents Velos Media
6 owns by itself, assigned to it and the associated
7 family, but then a lot of lack of transparency is
8 what else are you going to be licensing? No one, no
9 one really knows.

10 And so what are the patents that are
11 in the hands of the companies who are participating
12 in Velos? Which ones are there that haven't been
13 transferred out? Lack of transparency is something
14 that I think is really kind of, it's an interesting
15 issue for how to handle this type of, of licensing
16 and do we think it's FRAND and what was kind of
17 envisioned. No, I don't think we do.

18 Q All right. I'm going to hand you this one
19 that needs to be marked --

20 THE COURT REPORTER: It will be 2024.

21 BY MR. GRANAGHAN:

22 Q -- 2024. And this is one of the



1 communications that Unified produced in this case.

2 (Whereupon, Velos Exhibit No. 2024 was
3 marked for identification.)

4 BY MR. GRANAGHAN:

5 Q It's entitled, "Unified Files IPR Against
6 US 9,338,449 Owned by Velos Media LLC", got Bates
7 numbers UP000001 to five. Have you seen this
8 document before?

9 A I have seen this document.

10 Q And it's, it's essentially a mass e-mail
11 announcing the filing of this IPR, right?

12 A It is a mass e-mail, yes.

13 Q Okay. I want to look at the list of
14 recipients which starts on page three and goes to
15 page five.

16 A Okay.

17 Q Are all of the people on here in-house
18 counsel?

19 A So this mass e-mail goes to our membership
20 list. This includes members who are members of the
21 video codec zone and members who are not members of
22 the video codec zone. We have a mass e-mail



1 strategy that we send out two mass e-mails about any
2 given, any given filing that we've got. Part of it
3 is we -- this one works a little bit differently
4 than the other. We hope that not every e-mail goes
5 to spam.

6 So for -- so this mass e-mail is one
7 that, that we send to members and so this would be a
8 list of e-mail accounts of contacts we have at the
9 companies that we are working with.

10 Q It's not -- is it exhaustive? Like is it
11 all of Unified's members?

12 A This is, this is not the members that are
13 the free members. So it is not, like, exhaustive
14 because the, the free members is a pretty long list.
15 And so this is the list of companies kind of on the
16 paid members list.

17 Q And are -- I don't know if I asked you,
18 but are most of these people in-house counsel?

19 A To be honest, to be honest, I don't know.
20 So we kind of asked them when they signed up as a
21 member, do you want to get e-mails from us? And I
22 know for certain not every single one of those

1 people is, is an attorney. Some of those
2 companies -- some of the people who end up getting
3 lists or e-mails from us are not attorneys, they're
4 just people working in the intellectual property
5 department for companies and some of them on the
6 list are definitely going to be attorneys.

7 I would think that the vast majority
8 of them are attorneys but I know of at least a
9 couple that are probably not.

10 Q Can you look maybe about two-thirds of the
11 way down on this page three. One of the recipients
12 was [REDACTED]:

13 A Yes.

14 Q And on the date opened column it says he
15 opened it on 11/8/2018 at 16:51, so 4:51 p.m. You
16 see that?

17 A No sure.

18 Q And the next line he last opened it on
19 November 9, 2018, at when -- was that, 11:49 p.m.?

20 A Sure.

21 Q Okay. And then it says he opened it 31
22 times?



1 A Sure.

2 Q Do you know [REDACTED]?

3 A I have met [REDACTED], I believe.

4 Q Is he a [REDACTED]?

5 A I don't know, but I recognize the name,
6 but I don't, I don't know him. I mean, I don't --
7 he's not someone that I talk to. I don't know if
8 I've ever had a conversation with him, like,
9 directly.

10 Q Have you talked to him about this IPR?

11 A I have never had a conversation -- I don't
12 know that I've ever had a conversation with [REDACTED]
13 [REDACTED] directly.

14 Q Have you talked to anybody at [REDACTED] about
15 this IPR?

16 A [REDACTED]
17 [REDACTED]

18 Q Have you talked to anyone at [REDACTED] about
19 Velos?

20 A I have talked to people at [REDACTED] about
21 HEVC and in that context I have talked to them about
22 MPEG LA, HEVC Advance, Velos Media, all the other



1 activities. We told them we were going to do
2 deterrence work in this zone. They knew deterrent
3 work was part of what we were going to do, but just
4 like we do deterrence work in all of our zones,
5 members have no idea of what we're going to do in a
6 deterrence work.

7 They don't know if we're going to
8 file ex parte, they don't know if we're going to
9 file inter partes, they don't know if we're going to
10 put patents up on patrol or try to do prior research
11 or publish information about those patents. They
12 have no idea what we're going to do, we don't tell
13 them and we don't talk to them during the pending of
14 the IPR about, about it either.

15 So I've never talked to anyone about
16 these IPRs, [REDACTED] or any other
17 company.

18 Q But you talk to your members generally
19 about how you're going to do the deterrence work?

20 A No.

21 Q Not -- you don't talk to them about
22 specific ways in which you do deterrence work but



1 you talk generally about that you advise going to do
2 deterrence work?

3 A Yes. Like we, like we're not hiding the
4 fact that, like -- I mean, our, like, activities
5 include all these data pieces, deterrence on making
6 sure the companies in the future are going to bring
7 high quality, good valid patents to it, essentiality
8 stuff.

9 Everything that we talk about is
10 going to be on that front but we don't say anything
11 about we're going to file IPRs on any one entity,
12 whether it's HEVC Advance or we don't, or anyone in
13 Velos Media or any of the NPEs that are out there
14 claiming that there are patents that they have that
15 read on, on the standard.

16 I mean, it's not just like -- I mean,
17 the names we've been talking about are the three
18 biggest ones that are involved in all of licensing
19 for HEVC right now, but there are lots and lots of
20 people that are, that have patents that they're
21 claiming that they are essential to the standard.

22 There are litigations that have



1 happened over the last year that the, the litigation
2 was filed. We monitor all litigation and when
3 someone brings a patent in litigation and says that
4 it reads on HEVC, like, that's scooped up into our
5 whole process too. Like, all of these entities are
6 part of the, the whole ecosystem of licensors around
7 HEVC.

8 Q Just one question about this document.

9 (Whereupon Velos Exhibit No. 2025 was
10 marked for identification.)

11 BY MR. GRANAGHAN:

12 Q So you've been handed what's been marked
13 as Exhibit 2025. It appears to be a Unified Patents
14 newsletter from November 2018, Bates numbers
15 UP000011 through 15. Have you seen this before?

16 A Yes, I have seen this before.

17 Q On page -- Bates label 14, is the page,
18 next to last page of the document. It says it went
19 to 28,615 recipients. Do you see that?

20 A Yes.

21 Q So how does this -- do you know how this
22 recipient list differs from the last communication



1 we looked at?

2 A Specifically, I mean, everyone on this
3 list is on this list too. So anyone who got that
4 other list would have been on this one too.

5 By the way, everyone, including my
6 father, gets this e-mail. And every time he does he
7 calls me up and tells me how proud he is that I
8 started a company and built it. So this is every
9 single person that's in our company e-mail system,
10 friends, family to companies to -- if you meet me
11 and I take a picture of your credit card, it gets
12 ingested into my phone, it gets put in my contacts.

13 Shawn has a tool that -- Shawn's the
14 marketing guy, he scoops everyone's e-mail out of
15 everyone's e-mail contacts and it gets thrown into
16 this and the process -- the only people who get
17 taken out is if they, if they don't like getting
18 spam and they, I think they send, you know, the
19 unsubscribe button, I think the system kicks them
20 out, but that is -- it is everyone, everyone,
21 unfortunately. Sometimes a little embarrassing.

22 Q All right. Let's go back to the First



1 Voluntary Interrogatory Responses, if I can find
2 them in my stack. Yeah. It's exhibit Unified 1014.

3 A Supplemental.

4 Q It doesn't have one of the yellow labels
5 on it. It's got the --

6 A Okay.

7 Q That's it. All right. I don't remember
8 if we did this earlier. But on page nine, that's
9 your verification rate?

10 A We did do this earlier, yeah.

11 Q Okay.

12 A So we're good. That is my verification of
13 this, my voluntary rogs.

14 Q All right. Apart from the definitions,
15 does Unified file identical voluntary rog responses
16 in a number of cases?

17 A We, we do file voluntary rog responses.
18 This is the very first IPR we ever filed in our, in
19 our SEP zone so we needed to kind of make it clear
20 that, like, we're adjusting some things relative to,
21 like, our rog responses for, for this relative to do
22 things we used in the past. So I think there's some



1 edits here that kind of update this document for
2 purposes of making sure that it covers and captures
3 the, the differences on the SEP versus NPE issue.

4 Q Do you now file -- in any IPR you file in
5 the video codec zones you apply now follow these
6 interrogatories with definitions changed?

7 A So, I mean, there's been some changes in
8 the laws around, like, how much -- I mean, what we
9 want to do is be transparent and help the PTAB get a
10 handle on what we're doing and in every single case
11 kind of, like, help them understand how we did it,
12 whatever.

13 So there's consistency in our process
14 from IPR to IPR to IPR. This is -- there was a
15 period of time, I think, when we had gotten to the
16 point we felt like the number of IPRs we had -- we
17 built up a track record that people were kind of
18 trusting all of that, so we stopped filing a kind of
19 similar interrogatory in every single one. And then
20 if, if a patents owner thought that maybe our IPR in
21 that instance had come about differently than any
22 others, we would have then issued a voluntary rog

1 that said all those same things to say, hey, it's
2 not, there's no difference here, it's just we're
3 tired of filing these things and we can be more
4 efficient if we want to.

5 That went on for a while and then we
6 decided to ultimately bring it back. I think there
7 was a World's (phonetic) case, I can't remember the
8 name, a case that has to do with the kind of
9 evidentiary burden of the various parties in this
10 and we thought that it would be beneficial again
11 just to say, all right, like we're going to help
12 everyone out and people disagree or are concerned
13 about real party-in-interest and they want more
14 information from us, we will engage with you, we
15 will give you voluntary discovery about any
16 communications about this patent, we'll tell you how
17 we found it, all the stuff that, that we've probably
18 done with you guys so far.

19 So this is kind of that process,
20 trying to make sure that we provide evidence to the
21 PTAB and evidence to patent owners so they have some
22 security. We do these IPRs all the same way. We



1 don't communicate with anyone outside the company.
2 No one knows what we're doing. No one knows what
3 we're not doing. They can't have any input, they
4 don't even know, and we don't know anything about
5 their litigation strategy. We don't talk to them
6 about it and we don't kind of collaborate on any of
7 the stuff.

8 So the thing that makes sure that
9 everyone knows that that's true is these
10 interrogatories which bluntly say we did not talk to
11 anyone about the preparation of this IPR. No one
12 knew that we were filing this IPR. No one knew that
13 we were not filing this IPR, and so, you know,
14 basically this gives everyone confidence and we hope
15 it helps, but some people, you know, wanted to go
16 further, we're happy to help out if we can.

17 Q Let's look at Interrogatory No. 1 on page
18 two.

19 A Okay.

20 Q Says, "Identify any communications between
21 Unified and any entity other than its counsel
22 relating to the financing, preparation, editing,



1 prior review or approval of the petition." And the
2 first sentence of the response is, "Unified states
3 that no such communications "exists." How do you
4 know that that is true in this case?

5 A So I know that is true because the only
6 people who knew that we were working on this are
7 people in the legal department and when we file I'm
8 responsible for making sure that we all know that we
9 did not talk to any company about this. So that's a
10 process I go through with every single IPR is to
11 say, okay, we're ready to go and people ask, like,
12 this is, are we ready to go, and my answer is yes
13 because all of these things are true.

14 So the only people that would be in a
15 position to do that are people that I know to be, to
16 be true.

17 Q Okay. So before, before filing these, did
18 you talk to everyone and ask them to make sure this
19 is true?

20 A For those people who would be in contact
21 with anyone else outside the company, yeah.

22 Q Okay.



1 A So, I mean, I don't go to the, to the
2 computer programmer who's never talked to anyone
3 outside Unified and ask him, but legal department,
4 people who talk to members or talk to companies or
5 talk to anyone, those would all be kind of confirmed
6 that this is the case with this particular IPR.

7 Q All right. Let's look at Interrogatory
8 No. 2 there, "Identify any individuals acting --"
9 I'm sorry, it's on page five.

10 A Yep.

11 Q Says, "Identify any individuals acting for
12 or on behalf of any entity other than UNIFIED'S
13 counsel that participated or assisted in any way
14 with the financing, preparation, editing, prior
15 review, approval, or filing of the PETITION."

16 The first two sentences of the
17 response are, "UNIFIED states that no such
18 individuals exist. UNIFIED further states that no
19 individuals other than UNIFIED's employees and its
20 counsel had any prior knowledge of the filing of THE
21 INSTANT IPR."

22 Was your process and verifying this



1 the same?

2 A It is. I mean, these are extremely
3 closely related. These are structured around one of
4 the decisions that we got or we had a conversation
5 with the board early on, the very first or second
6 IPR that we ever filed, and in that conversation it
7 kind of identified did anything, did any of these
8 conversations take place, can we, were we able to
9 say absolutely not, no.

10 Another question was what about the,
11 you know, the financing, the preparation, prior to
12 all this other stuff. Like, if we didn't talk to
13 anyone, obviously a lot of these things can't happen
14 without talking to someone who can give them
15 approval, but anyway, this is almost completely
16 duplicative of, of number one, but this is, this is
17 accurate as well.

18 Q Okay. Next page, Interrogatory No. 3.
19 "Identify payments by any entity to Unified in
20 connection with the petition and, two, any other IPR
21 infringement proceedings in which patent owner is a
22 party and the patent at issue is asserted." The



1 first sentence of the answer is, "UNIFIED states
2 that no such payments exist." What was your process
3 for ascertaining if that's true?

4 A Well, on this one, this would be -- also
5 I'm the person that oversees all the, the finances
6 and all of that. So every single payment that comes
7 in to Unified, I know what it's for, and so payments
8 that come in for a zone are for the zone payments,
9 they come in because we sponsor, someone sponsors a
10 thing, I know what those came in to.

11 So the only way in which money comes
12 into the, into the company, I'm -- I check off every
13 single time one of those comes in and I know for,
14 you know, what every one of those is for. I also
15 know that none of the agreements and none of the
16 communications around, around signing up a member
17 include any discussion at all about us filing IPRs
18 and who we would file it against.

19 So I can say with a hundred percent
20 certainty that none of the money we received has
21 ever been earmarked or discussed as being applied to
22 any IPR, let alone the one at issue here. And I'm

1 responsible for every single dollar that comes in
2 and I would be involved in, I'm involved in every
3 single contract that we sign.

4 So I, I know that this -- I don't
5 really have to go to anyone to figure this out.
6 This is all basically in my head because I'm
7 responsible for checking off every single time money
8 hits the bank account, I then go and say, yep,
9 that's for this contract, check. And so I have a
10 process of tracking all of that and so every single
11 dollar that comes into the company is tracked
12 through me.

13 Q Do you own any other companies besides
14 Unified?

15 A I do not.

16 Q Are you on any Board of Directors?

17 A I am not.

18 Q I don't recall if I asked this earlier.
19 Did you talk to Mr. Ambwani in preparation for this
20 deposition?

21 A Not in preparation for this deposition. I
22 mean, I talk to him daily but I did not talk to him



1 in preparation for this.

2 Q Give me one second here.

3 A Actually, I'm going to -- it just occurred
4 to me. I did talk to him about where this letter
5 came from and he told me that it came from Jonathan
6 Stroud.

7 Q Okay.

8 A And I called Jonathan Stroud. Jonathan
9 Stroud said it came from David at whatever it is.
10 So that's the only conversation I had about, with
11 John Stroud in preparation for this.

12 Q When was that?

13 A Last night.

14 Q Okay. I have no further questions.

15 MR. FAWZY: Take just two minutes. Let's
16 see if I have anything.

17 THE VIDEOGRAPHER: The time is now 3:47
18 p.m. We're going off the record.

19 (Whereupon, there was a break from
20 3:47 p.m. until 3:53 p.m.)

21 THE VIDEOGRAPHER: The time is now
22 3:53 p.m. We are back on the record.



1 EXAMINATION BY COUNSEL FOR THE PETITIONER

2 BY MR. FAWZY:

3 Q Mr. Jakel, on Exhibit 2003, which was the
4 LinkedIn post by Mr. Ambwani. That one.

5 A Yep.

6 Q There was a sentence we were discussing
7 earlier, the sentence is right in the middle and it
8 says, "One might guess a reason is because the
9 patents they got were not the best their owners
10 had." Do you -- the sentence obviously says one
11 might guess, but does Unified know that sentence to
12 be true?

13 A We have no idea.

14 Q Okay. Unified has never spoken to any
15 licensors to ascertain what they may or may not have
16 given to Velos; is that correct?

17 A Yes, that's true. We've never spoken to
18 anyone about what they may or may not have relative
19 to their, the portfolios that are in the hands of
20 the companies that belong to Velos.

21 Q And with regards to the payments that we
22 were discussing earlier, payments made by members to



1 Unified with regard to the membership agreement.
2 Sample membership agreement we have is Exhibit 2018.
3 Do you remember us talking about the payments made
4 by members?

5 A I believe so.

6 Q And you went through what you recall, off
7 the top of your head, to be payments made by various
8 members. I think the number currently stands around
9 [REDACTED] for the codec zone?

10 A In all, all contracts for a yearly basis
11 is around that number, correct.

12 Q Okay. Is that number that has been
13 committed thus far for one year or for two years?

14 A On an annual run rate we have [REDACTED]
15 committed on an annual basis.

16 Q And is there -- under the membership
17 agreements in the codec zone, how long's the term?

18 A The term is one year. In the video codec
19 zone, we've always wanted to try to get two year
20 agreements, and so we've tried here and we didn't
21 get two year commitments for the video codec zone.

22 Q Is there any -- is there any commitment to



1 continue membership past the two year commitments?

2 A No. At the two year -- at the end of the
3 second term, any number in the video codec zone
4 would then have the option to renew. We have some
5 two year agreements in our NPE zones too, by the
6 way, it's just we've pushed hard to get two year
7 commitments in the video codec.

8 But anyway, at the end of the second
9 year of any two year commitment, the agreement is
10 structured that people, all people have to do is
11 basically pay their membership fees and then their
12 membership renews for the next year.

13 Q And I believe you testified earlier that
14 with regard to the video codec zone, the fee the
15 members pay, the subscription fee, deviates from the
16 fee schedule that's in annex one; is that correct?

17 A It does, yes.

18 Q And that deviation is a number that was

19 [REDACTED]

20 A [REDACTED]

21 [REDACTED]

22 [REDACTED]



1 Q And is it -- that number that was
2 negotiated, was it a random number that Unified
3 selected or is it correlated to some, to something?

4 A Oh, sorry. It is correlated to HEVC
5 codecs. So if a company sells products, lots and
6 lots of products with -- that incorporated an HEVC
7 codec or used the HEVC codec a lot, they would pay
8 more than a company who used an HEVC codec very
9 little.

10 Q And I believe we were speaking earlier a
11 little bit about how Unified decides to file and the
12 resulting deterrent impact or taking into
13 consideration its deterrent, the deterrent impact of
14 its IPR filings.

15 Do you recall us talking about that?

16 A I believe so.

17 Q Where do you get the decision -- where do
18 you get the information that you used as part of
19 your analysis when Unified decides whether or not to
20 file an IPR?

21 A So all of the information that we get for,
22 for deciding to file an IPR, regardless of whether



1 or not we are working in an NEP zone or in an SEP
2 zone, all of that comes from independent kind of
3 public sources, it's nonconfidential. And we would
4 then, you know, do our own analytics and processing
5 of any information we get and then we would
6 basically analyze all that information to make a
7 decision on which IPR we would file.

8 Q Do you ever have input from members as
9 part of the decision-making process when deciding
10 whether or not to file an IPR?

11 A We have no input at all with members. And
12 like I've said previously, our members don't know,
13 actually no one knows, members or nonmembers. No
14 one knows that we are going to file an IPR, whether
15 or not we're working on one, whether or not we're
16 considering one, and they don't know the opposite of
17 that either. They don't know if we decided to not
18 file or that we've stopped working on one, like they
19 don't know the opposite of the information either.

20 Q Okay. And when we -- earlier we were also
21 talking about benefits and I believe we were taking
22 generally about benefits to the zone.



1 Now I'm asking this question
2 specifically with regards to the codec zone. Is
3 there -- do you know of any benefit that your, that
4 you are giving your members by -- through your IPR
5 filings?

6 A So I actually -- like I said before, we
7 actually don't know what we are giving them in the
8 way of, of benefit. In the SEP zone specifically
9 it's, honestly our job is, would be even harder in
10 SEP if we tried to figure it out.

11 We actually don't know who's even
12 under NDA. We don't know who has taken out a
13 license or not. So we don't know if any of our
14 members are even licensed to any of the patent
15 pools, whether it's MPEG LA, HEVC Advance, Velos
16 Media or if they're licensed to any other licensors
17 out there that might be doing licensing on HEVC
18 either.

19 So we don't know about NDAs, we don't
20 know about licenses. So when we file, it's actually
21 just as likely as not, I guess, that there's
22 companies that might be members who have done deals.

1 And I say that because patent pools, certainly in
2 the video codec space, are I think what's referred
3 to as a license of convenience, usually. So you
4 don't have to license these patents from a patent
5 pool.

6 So for antitrust reasons, anyone who
7 wants to license one of the companies inside a
8 patent pool can just go straight to, can go straight
9 to that company and get a license without having to
10 take the license to the entire pool.

11 So not only do we not know who's,
12 like, negotiating or licensing anything directly to
13 the patent pools, we also don't know who has struck
14 a licensing deal with one out of all the companies
15 that are in patent pools.

16 So the lack of kind of interest --
17 so, I mean, very much, it's very much the case in
18 our opinion that if we were to file an IPR on a
19 patent that someone has done a licensing deal on,
20 we're actually not just, we're doing the opposite,
21 would be potentially killing the patent that they
22 have licensed and ultimately, like, basically

1 devaluing the value of the license they've
2 previously struck and so -- but we can't, we can't
3 know any of this.

4 So the kind of complexity and
5 difficulty of all of the licensing activity around
6 the whole ecosystem in HEVC means that we have
7 really, really, really low visibility and to any of
8 the activity that's going on and no visibility into
9 kind of the specifics at all.

10 We do know of, like, the major
11 licensors that are out there, MPEG LA, HEVC Advance,
12 Velos Media, they have Web sites doing that. But
13 anything, like, more detailed than that, we're kind
14 of, we're kind of at a loss as to figure out whether
15 or not anyone would actually get a benefit from our
16 specific IPR. Rather what we do is try to aim for
17 actually creating a deterrent strategy so that the
18 zone benefits from the, the deterrents work,
19 something in the future.

20 Q And also earlier we spoke about Unified
21 stating the percentages of patents that it had filed
22 against, or in Velos' case I believe in, as an



1 example, Exhibit 2024. It states, "That 449 patent
2 represents approximately 5.9 percent of Velos' total
3 known assets." Do you remember talking about
4 Exhibit 2024?

5 A I do. I'll pull it up if I need to. Yep.

6 Q Okay. So with regards to the 5.9 percent
7 number and those calculations, is there any goal or
8 target that Unified sets, target percentage that
9 Unified sets of Velos' known assets that it wants to
10 file IPRs against?

11 A We have no goal and we have no minimum, we
12 have no maximum around what we're going to be doing
13 or filing against Velos Media. That's true against
14 any of the other patent pools, individual companies
15 in patent pools or companies that are not in patent
16 pools. There's lots of patents out there that are
17 not even in the, the patent pool structure, which
18 we're hoping our deterrent strategy ultimately
19 reaches, and then some day we may be moving on to
20 target -- starting those companies some day in the
21 future as well.

22 So like there is no target for anyone



1 that we are working on today and there is no target
2 in terms of percentages of portfolios that we would
3 work on for any day in the future.

4 Q Okay. So would it be accurate to say that
5 this number or a number like this one, when it gets
6 announced in an e-mail, is calculated after filing
7 of the IPR and is not at a goal or an aim of
8 Unified?

9 A I believe that is accurate. I think that
10 this number is -- every time we send out this
11 document, we calculate what that number is.

12 Q Okay. I have no further questions.

13 EXAMINATION BY COUNSEL FOR THE PATENT OWNER
14 BY MR. GRANAGHAN:

15 Q Just quick follow-up. So earlier today we
16 were going through the ten members of the video
17 codec zone that Unified has agreements with. Do you
18 remember that?

19 A I do.

20 Q And then for each one you said what you
21 think they're paying, to the best of your knowledge.

22 A In the right ballpark.



1 Q And for, I believe you said for [REDACTED]

2 [REDACTED] they were [REDACTED];

3 A Yes.

4 Q Is that right? Was that on an annualized
5 basis or is that the total amount that they have
6 committed?

7 A That's an annualized basis.

8 Q Okay. And similarly the numbers that you
9 gave for everybody else was on an annualized basis,
10 right?

11 A That's correct, sir. That's what their
12 membership fee was for the first year. For the
13 second year they paid the same amount again.

14 Q Okay. No further questions.

15 THE VIDEOGRAPHER: The time is now
16 4:07 p.m. This concludes today's deposition.
17 We're going off the record.

18 THE COURT REPORTER: May I have transcript
19 orders for the record?

20 MR. GRANAGHAN: Yeah. By Tuesday, if you
21 can. Electronic is fine.

22 MR. FAWZY: Same.



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1 THE COURT REPORTER: Same time?

2 MR. FAWZY: Yeah. It doesn't have to be
3 rush for us, so. Is that rush?

4 THE COURT REPORTER: It is.

5 MR. FAWZY: Okay. Yeah, we'll take the
6 same order.

7 (Signature having not been waived, the
8 deposition of KEVIN JAKEL concluded at 4:07
9 p.m.)

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1 A C K N O W L E D G E M E N T O F D E P O N E N T

2

3 I, KEVIN JAKEL, do hereby acknowledge I have
 4 read and examined the foregoing pages of testimony,
 5 and the same is a true, correct and complete
 6 transcription of the testimony given by me, and any
 7 changes or corrections, if any, appear in the
 8 attached errata sheet signed by me.

9

10

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13 _____
DATE

_____ KEVIN JAKEL

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1 CERTIFICATE OF NOTARY PUBLIC

2

3 I, SHERI C. STEWART, the officer before whom
 4 the foregoing deposition was taken, do hereby
 5 certify that the witness whose testimony appears in
 6 the foregoing deposition was duly sworn by me in
 7 stenotype and thereafter reduced to typewriting
 8 under my direction; that said deposition is a true
 9 record of the testimony given by said witness; that
 10 I am neither counsel for, related to, nor employed
 11 by any of the parties to the action in which this
 12 deposition was taken; and further, that I am not a
 13 relative or employee of any counsel or attorney
 14 employed by the parties hereto, nor financially or
 15 otherwise interested in the outcome of this action.

16

17

Sheri C. Stewart

18

SHERI C. STEWART, RMR
 Notary Public in and for the
 DISTRICT OF COLUMBIA

19

20

21 My commission expires:
 October 31, 2019

22



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