

2020-1442

**United States Court of Appeals
for the Federal Circuit**

BARKAN WIRELESS IP HOLDINGS L.P.,

Appellant,

– v. –

UNIFIED PATENTS, LLC,

Appellee.

*On Appeal from the United States Patent and Trademark Office
Case No. IPR2018-01186*

**NON-CONFIDENTIAL BRIEF FOR APPELLANT
BARKAN WIRELESS IP HOLDINGS L.P.**

MICHAEL F. HEIM
R. ALLAN BULLWINKEL
BLAINE A. LARSON
HEIM, PAYNE & CHORUSH LLP
1111 Bagby, Suite 2100
Houston, Texas 77002
(713) 221-2000

Counsel for Appellant

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 20-1442
Short Case Caption Barkan Wireless IP Holdings v. Unified Patents, LLC
Filing Party/Entity Barkan Wireless IP Holdings, L.P, Appellant

Instructions: Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: July 15, 2020

Signature: /s/ Michael F. Heim

Name: Michael F. Heim

FORM 9. Certificate of Interest

Form 9 (p. 2)
July 2020

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.
<input type="checkbox"/> None/Not Applicable	<input type="checkbox"/> None/Not Applicable	<input checked="" type="checkbox"/> None/Not Applicable
Barkan Wireless IP Holdings L.P.	Barkan GP Inc.	

Additional pages attached

MemoryWeb Ex. 2057

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

None/Not Applicable Additional pages attached

Armond Wilson LLP	Douglas R. Wilson	Michelle Armond

5. Related Cases. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

None/Not Applicable Additional pages attached

C.A. No. 2:19-cv-00336-JRG	<i>Barkan Wireless IP Holdings, L.P. v Sprint Corp., et al.</i>	
U.S. District Court for the Eastern District of Texas (Marshall Division)		

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None/Not Applicable Additional pages attached

TABLE OF CONTENTS

CERTIFICATE OF INTEREST	i
TABLE OF CONTENTS	iv
TABLE OF AUTHORITIES	vii
STATEMENT OF RELATED CASES	ix
JURISDICTIONAL STATEMENT	1
STATEMENT OF THE ISSUES.....	2
I. STATEMENT OF THE CASE	3
A. Statement of Facts	4
1. Unified Patents, LLC.....	4
2. State of the Art.....	7
3. The '284 Patent Invention	8
II. SUMMARY OF ARGUMENT.....	10
III. ARGUMENT.....	14
A. Standards of Review	14
B. The Board committed legal error in its finding that Unified disclosed all real parties in interest.....	14
1. The Board's Institution Decision violated <i>AIT</i>	16
a. The Board applied an unduly restrictive interpretation of the RPI requirement, which resulted in legal error.....	16
b. The Board ignored Barkan's evidence establishing that the litigation defendants were members of Unified, and had paid money to Unified for post-grant challenges	19
c. The Board relied on unsupported statements by Unified that were backed by no evidence.....	25

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.