REDACTED

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS, LLC
Petitioner

v.

MEMORY WEB, LLC
Patent Owner

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Case No. IPR2021-01413
Patent 10,621,228

SUPPLEMENTAL DECLARATION OF KEVIN JAKEL

MemoryWeb Ex. 2005
Samsung v. MemoryWeb – IPR2022-00221
UNIFIED PATENTS EXHIBIT 1022

I, Kevin Jakel, make the following Declaration pursuant to 28 U.S.C. § 1746:

I. INTRODUCTION

1. I am a founder and the Chief Executive Officer of Unified Patents, LLC ("Unified").

2. I make this supplemental declaration as voluntary discovery in support of Petitioner's reply in response to Patent Owner's Preliminary Response. Unless otherwise stated, the facts stated in this Declaration are based on my personal knowledge.

3. Since its founding, Unified's certification as the sole real party-in-interest ("RPI") has been held to be correct in every instance where it was challenged and addressed. This includes decisions in the more than two years since the Federal Circuit issued its opinion in *Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336 (Fed. Cir. 2018). Unified's members have never been held as RPIs.

4. Unified performs many deterrent activities, including data analytics, analyzing technology sectors and monitoring patent activity (including patent ownership and sales, demand letters and litigation, and industry companies), prior art searching, prior art contests, validity and patentability analyses, reissue protests, amicus briefing, drafting legal reviews, and post-grant review requests. Unified's deterrent activities allow it to identify patents, perform prior art research, analyze invalidity, and to sometimes file reexaminations or post-grant proceedings against

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some patents, such as *inter partes* reviews ("IPRs"), post grant reviews ("PGRs"), and *ex parte* reexaminations ("EPRs") before the United States Patent and Trademark Office ("USPTO"), or proceedings overseas, such as European Patent Oppositions ("EPOs").

5. As stated in Exhibit 1017 (at ¶¶2-3), Unified is a first-of-its-kind company whose sole purpose is to deter NPE litigation by protecting technology sectors. Unified bolsters patent quality by deterring assertions of invalid patents by non-practicing entities (NPEs) in various technology zones without any coordination with members. Unified was built to operate independently to serve its deterrence goals. Thus, Unified has sole and absolute discretion over its decision to contest patents. Based on its own analysis, Unified determines which patents are worth pursuing in terms of searching for prior art or taking action, including filing a PGR, IPR, or EPR, or foreign opposition in the case of non-U.S. patents. Unified's decisions to file a PGR, IPR, EPR, or foreign opposition are made independently without the input, assistance, or approval of any of Unified's Members. Unified members are unable to participate or exercise any direction or control over Unified's filings, and Unified does not coordinate with members regarding Unified's filings or members' litigation. Should Unified decide to challenge a patent in a post-grant proceeding, Unified controls every aspect of such a challenge, including controlling which patent and claims to challenge, which prior art to apply and the grounds raised

in the challenge, when to bring any challenge, and whether to settle or otherwise end or terminate any challenge.

6. Companies in a technology sector can become members by subscribing to Unified's technology-specific deterrence "zones." Unified's deterrence model is not a litigation solution and has never sought to resolve members' litigations or extricate them from lawsuits, nor does it create an expectation that Unified will file when a member is sued. For example, by challenging weak patents asserted by NPEs, Unified makes it less likely that such weak patents would be asserted in its technology zones in the future. Thus, Unified does not act at the behest of any of its members when it challenges a patent.

7. Further, as stated in my original declaration (Exhibit 1017 at ¶12), Unified is independent and has no attorney-client relationship with its members. Unified is not an extension of any member's in-house legal team.

8. Unified currently has more than 3,000 members, and could not possibly coordinate the potentially conflicting interests of these members (e.g., conflicting claim construction positions, entities desiring lawsuits against their competitors) even if it wanted to, and instead considers various factors in furtherance of its deterrence goals in a given technology zone. As set forth on Unified's website (https://www.unifiedpatents.com/join), companies under $20M in revenue are provided a free membership and larger companies pay standardized levels of annual

membership fees. Such funding allows for Unified to pursue its mission of deterring NPE litigation based on its many activities. These fees are designated to many services and activities in one or more zones, and they are never designated to a particular IPR or patent, or even challenging any patent. Nearly all paying members of Unified pay less than the average cost of a single post-grant proceeding. As of 2019, the average cost to continue an IPR through final written decision was $400,000, and the United States Patent and Trademark Office has increased the initial filing fees. And, as mentioned, many members pay no fees. Thus, it would be financially untenable for Unified to file IPRs or other challenges for all of its individual members.

9. Unified does not solicit additional payments from its members other than its scheduled subscription fee. Nor does it discuss which patents to challenge with members, inform members which patents it intends to challenge, discuss the substance of its PGR, IPR, or EPR, or foreign oppositions, or discuss its strategies post-filing. Unified does not discuss forthcoming challenges, such as IPRs, because it seeks to maintain its independence; it is the sole RPI to its proceedings. Unified does not communicate with members about specific patent litigations in which they might have an interest, communicate regarding validity challenges it will or will not file, or communicate regarding pending validity challenges other than with regard to public information such as with regard to public filings.

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