

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.

MOTION OFFENSE, LLC,  
Patent Owner.

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Case No. IPR2020-00705  
U.S. Patent 10,013,158

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**PETITIONER'S VOLUNTARY INTERROGATORY RESPONSES**

Petitioner, Unified Patents, LLC, provides the following voluntary interrogatory responses.

### **DEFINITIONS**

- A. PATENT-AT-ISSUE means U.S. Patent 10,013,158.
- B. PATENT OWNER means Motion Offense, LLC.
- C. COMMUNICATIONS means the transmission or receipt of information of any kind through any means (*e.g.*, e-mail, text message, voicemail, audio, computer readable media, or orally).
- D. MEMBER means any company that participates or enters into an agreement for one or more of UNIFIED's non-practicing entity (NPE) Zones and MEMBERS means all such companies.
- E. IPR means *inter partes* review.
- F. THE INSTANT IPR means this proceeding.
- G. PETITION means the petition, including the exhibits thereto, for THE INSTANT IPR.
- H. UNIFIED means Unified Patents, LLC.
- I. USPTO means the United States Patent and Trademark Office.

## **RESPONSES TO VOLUNTARY INTERROGATORIES**

### **VOLUNTARY INTERROGATORY NO. 1:**

Identify any COMMUNICATIONS between UNIFIED and any entity other than its counsel relating to the financing, preparation, editing, prior review, or approval of the PETITION.

### **VOLUNTARY RESPONSE NO. 1:**

UNIFIED states that no such communications exist.

UNIFIED states that it was founded by intellectual property professionals over concerns with the increasing risk of non-practicing entities (NPEs) asserting patents of poor quality against strategic technologies and industries. The founders thus created a first-of-its-kind company whose sole purpose is to deter NPE litigation by protecting technology sectors. Companies in a technology sector subscribe to UNIFIED's technology-specific deterrence. UNIFIED performs many NPE-deterrent activities, including data analytics, analyzing the technology sector and monitoring patent activity (including patent ownership and sales, NPE demand letters and litigation, and industry companies), prior art searching, prior art contests, validity and patentability analyses, reissue protests, amicus briefing, and post-grant review requests. UNIFIED's NPE-deterrent activities allow it to identify patents, perform prior art research, analyze invalidity, and to sometimes file reexaminations or IPRs against some patents.

UNIFIED states that it has sole and absolute discretion over its decision to contest patents through the USPTO's post-grant proceedings. Based on its own analysis, UNIFIED determines which patents are worth pursuing in terms of searching for prior art or taking action, including filing an IPR. UNIFIED's decisions to file an IPR are made independently without the input, assistance, or approval of its MEMBERS. Should UNIFIED decide to challenge a patent in a post-grant proceeding, UNIFIED controls every aspect of such a challenge, including controlling which patent and claims to challenge, which prior art to apply and the grounds raised in the challenge, when to bring any challenge, and whether to settle or otherwise end any challenge. UNIFIED does not discuss the preparation of any patentability challenge with MEMBERS, including whether UNIFIED will or will not file a petition or whether any MEMBER desires that UNIFIED file a petition. Unified does not send to, or solicit or consider from, MEMBERS any communications directing which patent or group of patents are to be considered for an IPR. Further, UNIFIED does not send to, or solicit or consider from, any MEMBER's preferences, suggestions, or desires as to the selection of a patent or group of patents for an IPR. UNIFIED identifies potential patents to challenge based on publicly available information obtained solely through UNIFIED's own independent search of publicly available legal databases and information.

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

MEMBERS receive no prior notice of UNIFIED's patent challenges. After filing a post-grant proceeding, UNIFIED retains sole and absolute discretion and control over all strategy decisions (including any decision to continue or terminate UNIFIED's participation). UNIFIED is also solely responsible for paying for the preparation, filing, and prosecution of any post-grant proceeding, including any expenses associated with the proceeding.

In THE INSTANT IPR, UNIFIED exercised its sole discretion and control in deciding to file this PETITION against the PATENT-AT-ISSUE, including paying for all fees and expenses. No MEMBER had any involvement in the preparation of, payment for, or decision to file this PETITION. UNIFIED also had no discussions with any MEMBER regarding whether any MEMBER desired UNIFIED to challenge the PATENT-AT-ISSUE. Further, UNIFIED did not send to, or solicit or

consider from, a MEMBER any directions identifying (a) a patent or group or patents to be considered for THE INSTANT IPR or (b) any MEMBER's requests, instructions, preferences, suggestions, or desires regarding the selection of a patent or group of patents for THE INSTANT IPR. UNIFIED shall exercise sole and absolute control and discretion of the continued prosecution of THE INSTANT IPR (including any decision to terminate UNIFIED's participation) and shall bear all costs related to THE INSTANT IPR.

**VOLUNTARY INTERROGATORY NO. 2:**

Identify any individuals acting for or on behalf of any entity other than UNIFIED's counsel that participated or assisted in any way with the financing, preparation, editing, prior review, approval, or filing of the PETITION.

**VOLUNTARY RESPONSE NO. 2:**

UNIFIED states that no such individuals exist. UNIFIED further states that no individuals other than UNIFIED's employees and its counsel had any prior knowledge of the filing of THE INSTANT IPR.

As stated in response to Interrogatory No. 1, in THE INSTANT IPR, UNIFIED exercised its sole discretion and control in deciding to file the PETITION against the PATENT-AT-ISSUE, including paying for all fees and expenses. UNIFIED shall exercise sole and absolute control and discretion of the continued prosecution of THE INSTANT IPR (including any decision to terminate UNIFIED's participation) and shall bear all subsequent costs related to THE INSTANT IPR.

UNIFIED further states that its MEMBERS do not get to participate in any way in UNIFIED's deterrent activities. UNIFIED does not give MEMBERS an opportunity to participate in or an opportunity to even know that UNIFIED is contemplating filing an IPR before the IPR is filed. In THE INSTANT IPR, none of UNIFIED's MEMBERS had any prior knowledge of, or involvement in, the preparation and filing of THE PETITION or THE INSTANT IPR.

**VOLUNTARY INTERROGATORY NO. 3:**

Identify payments by any entity to UNIFIED in connection with (1) THE PETITION and/or (2) any other IPRs and/or patent infringement proceedings in which PATENT OWNER is a party and the PATENT-AT-ISSUE was asserted.

**VOLUNTARY RESPONSE NO. 3:**

UNIFIED states that no such payments exist.

UNIFIED states that its MEMBERS pay only a yearly subscription fee to a specific technology zone based generally on when each MEMBER subscribes. UNIFIED performs its many NPE-deterrent activities, including data analytics, prior art searching, validity and patentability analyses, and post-grant review requests. UNIFIED's MEMBERS do not pay any fees designated for IPRs, let alone for IPRs against specific patents. It is UNIFIED and UNIFIED alone that determines how to spend its money. UNIFIED independently selects which patents to target based on the perceived deterrent value to a technology zone and not on behalf of any specific member(s) to resolve their litigation. Based on its own analysis, UNIFIED determines which patents are worth pursuing in terms of filing an IPR, or performing some other activity. UNIFIED's decisions to file a an IPR, are made independently without the input, assistance, or approval of its MEMBERS.



UNIFIED states that there are no explicit or implicit agreements with its MEMBERS about UNIFIED performing any particular deterrent strategy, including THE INSTANT IPR.

**VOLUNTARY INTERROGATORY NO. 4:**

Identify any other entities or individuals who control UNIFIED; and any Board Members who participate on any boards of directors for any of UNIFIED's MEMBERS.

**VOLUNTARY RESPONSE NO. 4:**

UNIFIED states that no other entity or individual outside of UNIFIED controls UNIFIED. There are no board members of UNIFIED that participate on any boards of directors for any of UNIFIED's MEMBERS.

**VOLUNTARY INTERROGATORY NO. 5:**

Identify whether UNIFIED has or has ever had an attorney-client relationship with any of its MEMBERS.

**VOLUNTARY RESPONSE NO. 5:**

UNIFIED states that no such relationship exists. As stated on UNIFIED's website for at least multiple years (<https://www.unifiedpatents.com/faq/>), UNIFIED acts independent of its members or any other company. UNIFIED is not a law firm, and does not have an attorney-client relationship with members.

**Unified Patents, LLC**

By: /David M. Tennant/

David M. Tennant (Reg. No. 48,362)  
*Lead Counsel for Unified Patents, LLC*

## **VERIFICATION**

I, Kevin Jakel, state that I am CEO of Unified Patents, LLC, and that I am authorized to make this verification for and on its behalf. I certify that I have read the foregoing Interrogatory responses, and that the responses are true and accurate to the best of my own knowledge, information, and belief. Further, I make this verification with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the results of these proceedings.

I declare under penalty of perjury that the foregoing is true and correct.

By: Kevin Jakel  
Kevin Jakel