UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC
Petitioner

v.

JUSTSERVICE.NET LLC
Patent Owner

Case No. IPR2020-01258
U.S. Patent 10,476,868

REDACTED
SUPPLEMENTAL DECLARATION OF KEVIN JAKEL

UNIFIED PATENTS EXHIBIT 1030
Unified Patents, LLC v. JUSTSERVICE NET LLC
IPR2020-01258
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I, Kevin Jakel, make the following Declaration pursuant to 28 U.S.C. § 1746:

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 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. As stated in Exhibit 1026 (at 2-3), Unified is a first-of-its-kind company whose sole purpose is to deter NPE litigation by protecting technology sectors. Unified was built to operate independently to serve its deterrence goals. Thus, Unified has sole and absolute discretion over its decision to contest patents. Companies in a technology sector can become members by subscribing to Unified's technology-specific deterrence "zones." Unified 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.

5. Further, as stated in my original declaration (Exhibit 1026 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.

6. Unified currently has more than 3,000 members, and could not possibly coordinate the conflicting interests of these members even if it wanted to, and instead considers a 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 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. [redacted] And, as mentioned, many members pay no fees. Thus, it would be financially untenable for Unified to file IPRs for all of its individual members.

7. Unified does not solicit additional payments from its members other than its scheduled, annual 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 IPRs, or discuss IPR strategy post-filing.

8. Furthermore, Unified has always acted independently to protect the technology zones. [redacted] Unified also often files against patents not asserted against any member. Further, Unified does not consult with members or any third party about IPR or potential litigation strategies. For this reason, Unified likely takes positions inconsistent with those taken by litigation defendants, including members, such as in claim construction or with respect to motions to amend.

9. Unified often files regardless of whether members are in parallel litigation. Based on public information, for over 90% of the IPRs Unified has filed, there was either no member involved in active litigation or a mix of both members and non-members involved in active litigation. More than half of the time that Unified has filed an IPR, there were no members in active litigation at the time of Unified's filing. Furthermore, almost one-third of the time that Unified has filed an IPR, there is no active litigation involving the challenged patent at the time of Unified's filing.

10. Unified is not a patent aggregator, and Unified has never paid for a license to a patent. Unified sees its IPRs to their conclusion unless a patent owner agrees to a royalty-free license for Unified [redacted] This royalty-free license is in furtherance of Unified's mission to protect a technology zone as a whole, regardless of whether the organizations are members or non-members, by shattering the value of ongoing assertions and refusing to fund an NPE. As set forth on Unified's website (https://www.unifiedpatents.com/faq), "Unified never pays any money to NPEs." Unified implemented this policy in furtherance of its deterrence objective. For example, based on an analysis of public dockets, nearly 60% of the time, when Unified has challenged a patent then settled with the NPE, that patent was never asserted in litigation again.

11. Unified is not aware of any instances, over at least the past five years, [redacted]

12. Unified has conducted a search for any communications leading up to this IPR regarding this patent, IPR, the patent owner or the parallel litigation.[1]

[1] As I understand, JustService never requested specific discovery prior to filing its preliminary response, but Unified would consider (and has) produced such materials

There were no communications with any member of Unified prior to the filing of this proceeding. And, as with other cases, there were no communications with Dropbox about this proceeding, JustService, or JustService's patents other than public announcements regarding Unified's docket activity (e.g., the filing of the IPR petition in this case). For example, Unified sends members a "News Update" identifying the petition of this IPR and posts announcements to the general public regarding its filing on Facebook, LinkedIn, and Twitter. [redacted].

13. [redacted]

14. Dropbox became a member of Unified's cloud zone on August 28, 2013. Dropbox is considered a Unified member in Unified's Cloud Zone and, less relevant, its open source zone by virtue of its participation in Open Invention

in response to any reasonable requests and upon entry of an appropriate protective order.

Network (OIN) (on information and belief—discussed in more detail below). Unified is unaware of any instance where it filed a review proceeding on which Dropbox was time-barred in this time period. Dropbox's membership to Unified is renewed at a regular, set interval (i.e., annual contracts).

15. Open Invention Network LLC ("OIN") is an organization with underlying members and licensees, which constitute over 3,000 entities; the OIN members and licensees are identified on OIN's website https://openinventionnetwork.com/directory-community and https://openinventionnetwork.com/community-alphabetical). On that website, "Dropbox" is listed. OIN became a member of Unified's Open Source Zone on November 19, 2019. Unified does not keep track of when entities begin or end their association with OIN, nor does Unified know how much each member or licensee pays OIN. Indeed, to the best of Unified's knowledge, OIN membership is free, and the vast majority of OIN's members and licensees do not pay anything to OIN (and according to https://openinventionnetwork.com/our-members/community-members, Unified does not believe Dropbox pays OIN anything). OIN is the organization with which Unified has a membership agreement. Unified considers OIN's members and licensees as part of Unified's membership for the Open Source Zone only. OIN's members and licensees have

not themselves entered into membership agreements with Unified (unless separately listed as a member).

16. [redacted]

17. In every Unified proceeding, past and present, including this one, Unified has not coordinated or communicated with members regarding litigation or the substance of an IPR. [redacted] Because Unified does not coordinate with members regarding its filings, it has never needed or attempted to avoid a last-minute statement of coordination.

18. Based on publicly available information and on information and belief, the cases identified by JustService involved entities associated with particularly well-known litigious NPEs—Magnetar Capital (Data Scape), Oso IP (Motion Offense), and Ideahub (Synkloud), and each of those patents were either also or instead asserted against entities other than Dropbox. [redacted]

[redacted]

19. [redacted]

20. Unified also does not communicate with outside counsel about their representation of another party to determine that party's interests or litigation strategies. Such would not only call into question the ethical obligations of Unified's inside and outside counsel, but presumably any other party outside counsel was engaged to represent. [redacted]

21. I declare that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and that these statements were made 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.

Dated: December 7, 2020 By: Kevin Jakel

Kevin Jakel

CEO Unified Patents, LLC