

Judge Albright Orders Third-Party IPR Petitioner Unified Patents To Produce Member Lists and Communications With Members

NOVEMBER 15, 2022

On November 9, 2022, in *Textile Computer Systems, Inc. v. Broadway National Bank d/b/a Broadway Bank, et al.*, Judge Albright denied non-party Unified Patents' Motion to Quash subpoenas served by Plaintiff Textile Computer Systems, Inc. ("Textile") on Unified Patents, LLC ("Unified Patents").

In 2016, Textile sued three defendants in the Eastern District of Texas for alleged patent infringement of, among others, U.S. Patent No. 8,505,079 ("079 patent"). Subsequently, Unified Patents filed IPR2017-00296 ("296 IPR") against the '079 patent on November 21, 2016; this was ultimately unsuccessful.

Then, on October 12, 2021, Textile sued a number of defendants in the Western District of Texas for alleged infringement of, among others, the '079 patent. During this litigation, Textile sought third-party discovery from Unified Patents to identify real parties in interest to the '296 IPR, alleging that IPR estoppel applied not only to Unified Patents, but also to real parties in interest to the IPR and privies to be discovered through the subpoenas. Unified Patents then filed a Motion to Quash.

Judge Albright ordered Unified Patents to produce the following categories of documents for the dates spanning the original round of lawsuits and the '296 IPR:

- Any communications and any agreements with any named defendant in these actions and with American Express, Discover, Visa, Mastercard, Jack Henry, Fiserv, Apple, Google, and Samsung, limited to the period from July 1, 2016 through July 20, 2018.
- Documents sufficient to identify meetings, and documents used or exchanged during meetings, with defendants, American Express, Discover, Visa, Mastercard, Jack Henry, Fiserv, Apple, Google, and Samsung, limited to the period from July 1, 2016 through July 20, 2018.
- A list of all Unified Patents members with membership agreements active between July 1, 2016 and July 20, 2018.
- A list of Unified Patents members in each of the content, cloud, transactions, retail, mobile, cybersecurity, open source, and networking zones with membership agreements active between July 1, 2016 and July 20, 2018.
- External communications and external documents that mention or relate to Textile, Gopal Nandakumar, any related patent or patent application owned by Textile or for which Mr. Nandakumar is a named inventor, or the *inter partes*

review of U.S. Patent No. 8,505,079, limited to the period from July 1, 2016 through July 20, 2018.

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