

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

APPLE, INC.,  
Petitioner,

v.

MEMORYWEB, LLC,  
Patent Owner.

---

IPR2022-00031 Patent 10,621,228  
IPR2022-00032 Patent 9,552,376  
IPR2022-00033 Patent 10,423,658  
PGR2022-00006 Patent 11,017,020

---

Record of Oral Hearing  
Held: March 14, 2023

---

Before LYNNE H. BROWNE, NORMAN H. BEAMER,  
KEVIN C. TROCK, and JASON M. REPKO, *Administrative Patent Judges*.

IPR2022-00031 Patent 10,621,228  
IPR2022-00032 Patent 9,552,376  
IPR2022-00033 Patent 10,423,658  
PGR2022-00006 Patent 11,017,020

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JEFFREY P. KUSHAN, ESQ.  
Sidley Austin, LLP  
1501 K Street, N.W.  
Suite 600  
Washington, D.C. 20005

ON BEHALF OF THE PATENT OWNER:

DAN SCHWARTZ, ESQ.  
Nixon Peabody, LLP  
70 W. Madison Avenue  
Suite 5200  
Chicago, IL 60661

JENNIFER HAYES, ESQ.  
Nixon Peabody, LLP  
300 South Grand Avenue  
Suite 4100  
Los Angeles, CA 90071

The above-entitled matter came on for hearing, by video, on Tuesday, March 14, 2023, commencing at 1:00 p.m., EDT, at the U.S. Patent and Trademark Office.

IPR2022-00031 Patent 10,621,228  
IPR2022-00032 Patent 9,552,376  
IPR2022-00033 Patent 10,423,658  
PGR2022-00006 Patent 11,017,020

PROCEEDINGS

1 - - - - -

2 JUDGE REPKO: Good afternoon. This is a consolidated oral hearing  
3 for IPR 2022-00031, 32, 33 and PGR 2022-00006. I am Judge Repko joined  
4 by Judges Brown, Beamer and Trock. Our primary concern is your right to  
5 be heard so if at any time you have technical problems with this video  
6 hearing, and you feel like it would undermine your ability to represent your  
7 client any way please let us know immediately. As soon as we're aware that  
8 someone disconnected, we'll pause the hearing while they reconnect.

9 When you're not speaking, please mute yourself. When you do speak  
10 please identify yourself at the start of your remarks so our court reporter can  
11 get an accurate transcript. At the end of the hearing, please remain on the  
12 line in case the court reporter has any questions for you. Feel free to present  
13 yourself however you are comfortable. That means it's okay to stand. There  
14 are members of the public listening to the oral hearing today, so if there's  
15 any confidential information, I don't think there is, but if there is, you need  
16 to let us know so they can make sure we don't violate confidentiality.

17 At this time, we'd like counsel to introduce themselves and anyone  
18 with them, and I'll begin with the Petitioner's counsel.

19 MR. KUSHAN: Good afternoon, Your Honor. My name is Jeff  
20 Kushan with Sidley Austin here for Petitioner. With me is Christine Reid.

21 JUDGE REPKO: Will you be presenting your arguments fully or will  
22 you be handing it off?

23 MR. KUSHAN: I'll be handling all of the argument.

24 JUDGE REPKO: Thank you. Patent Owner's counsel, can you

IPR2022-00031 Patent 10,621,228  
IPR2022-00032 Patent 9,552,376  
IPR2022-00033 Patent 10,423,658  
PGR2022-00006 Patent 11,017,020

1 please introduce yourself and anyone with you. Are you muted?

2 MR. SCHWARTZ: Can you hear me? Sorry about that. Apologies,  
3 Your Honors. This is Dan Schwartz on behalf of Patent Owner  
4 Memoryweb. With me today is Jennifer Hayes. I will be presenting most of  
5 the argument and she will also be presenting a percentage of the argument as  
6 well.

7 JUDGE REPKO: Thank you. Thank you. So our Hearing Order  
8 gave each party 90 minutes to present their arguments and since we don't  
9 have a clock for everyone to look at, I will time you and try to give you a  
10 warning when you have about five minutes remaining. Petitioner's counsel  
11 will begin followed by Patent Owner's. Both parties may reserve some  
12 rebuttal time, but unless there's some special circumstances, you may not  
13 reserve more than half your total time. If you have objections, please raise  
14 them during your rebuttal. So with that, I'm going to invite Petitioner's  
15 counsel to begin. I need to know how much time you would like to reserve  
16 for rebuttal.

17 MR. KUSHAN: I'd like to reserve approximately 30 minutes for  
18 rebuttal.

19 JUDGE REPKO: Okay. Thank you. You may begin.

20 MR. KUSHAN: Good afternoon. As you know, there are four  
21 patents. There's a somewhat complex record to navigate, so I'll do my best  
22 to make sure I cite to the right papers as I go through the issues.

23 I'd like to start with a prior art dispute that has been engaged and for  
24 those I'm going to be referring to the papers in the '228 proceeding for  
25 simplicity and I will also attempt to show my slides here. Can you see my

IPR2022-00031 Patent 10,621,228  
IPR2022-00032 Patent 9,552,376  
IPR2022-00033 Patent 10,423,658  
PGR2022-00006 Patent 11,017,020

1 slides? Great.

2 So we explained that the primary reference in the four proceedings is  
3 the reference Exhibit 1005, which is the Aperture 3 User Manual from  
4 February of 2010. It was distributed as an HTML set. That's encoding the  
5 User Manual and it was distributed on an installer DVD. The version 3.0  
6 Aperture Installer DVD was also distributed on Apple's website. One of our  
7 experts, Dr. Terveen, explained that the HTML file set is on the aperture 3.0  
8 version installation DVD. It's in a folder called the User Manual within the  
9 resources folder inside the Aperture 3 application bundle. The application  
10 bundle is actually just a directory structure so you can navigate into it and  
11 that's where the Apple developer guidelines say it should be.

12 On slide 29 is a quote from one of those guidelines that indicates that  
13 Apple, in the Apple environment, the help files are typically an HTML  
14 format and are stored in the resources folder of the application bundle and  
15 you can copy the files from the DVD. Dr. Terveen, this is slide 11, Dr.  
16 Terveen showed you could do this. He copied it from the DVD to the local  
17 storage and so did their expert, Dr. Surati, that's on slide 17. He replicated  
18 the steps that Dr. Terveen took to get it off the DVD on to local storage.

19 Now, the DVD, the files that are on the DVD, is also copied to your  
20 hard drive when you run the installer and that is illustrated also by Dr.  
21 Terveen. That's on slide 15, and he went through the process of installing it.  
22 He also confirmed that the copy from the DVD to the hard drive was  
23 identical.

24 Now, another important point is that the files on the DVD existed in  
25 February, 2010. If you look at slide 18, Dr. Surati, their expert, confirmed

# 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.