

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 B2

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

TROCK, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

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Petitioner, Apple, Inc. (“Apple” or “Petitioner”), filed a petition requesting *inter partes* review of claims 1–19 of U.S. Patent No. 10,621,228 B2 (“the ’228 patent”). Paper 1. On May 20, 2022, the Board instituted trial. Paper 12.

In a related proceeding challenging claims 1–7 of the ’228 patent, *Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413 (the “*Unified* proceeding”), the Board entered an Order (Paper 56 (confidential)) on March 8, 2023, identifying Apple as an unnamed Real Party in Interest (“RPI”), and on March 14, 2023, entered a Final Written Decision (Paper 58 (confidential)) finding claims 1–7 unpatentable.

Patent Owner, MemoryWeb, LLC (“MemoryWeb” or “Patent Owner”) seeks leave to file a motion to terminate this proceeding in view of the Board’s Final Written Decision in the *Unified* proceeding. Ex. 3002, 1. Apple opposes Patent Owner’s request, and asserts that MemoryWeb has waived the RPI and estoppel issues in this proceeding. *Id.* at 2.

On May 22, 2023, the Director issued a public version¹ of a Decision Granting Director Review (Paper 76, “Director’s Decision”) in the *Unified* proceeding, vacating-in-part the Final Written Decision (Section I.B) (Paper 58 (confidential) and Paper 67 (public)) and the Board’s Order identifying Apple as an RPI (Paper 56 (confidential)) in that proceeding.

On May 30, 2023, the Board issued an Order directing the parties to confer and submit a proposed joint briefing schedule and discovery plan to address the RPI, estoppel, and waiver issues. Paper 43. The parties

¹ On May 16, 2023, a confidential version of the Director’s Decision Granting Director Review (Paper 74) was issued, but made available only to the parties and the Board.

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submitted their joint proposal to the Board by email on June 9, 2023. Ex. 3005.²

After considering the parties' positions, the procedural history of this case, and the parties' proposed briefing schedule (Ex. 3005, First Phase), it is

ORDERED that by June 30, 2023, the parties shall each file their opening briefs addressing the topics set forth in Exhibit 3005 for Due Date 1, not to exceed 7000 words; and

FURTHER ORDERED that by July 14, 2023,³ the parties shall each file their response briefs addressing the topics set forth in Exhibit 3005 for Due Date 2, not to exceed 3500 words.

² Exhibit 3005 is being entered concurrently with this Order.

³ The Board has shortened the parties' proposed time-period for Due Date 2 from three weeks to two weeks.

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