

IPR2022-00031
Patent No. 10,621,228

Paper No. ____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.
Petitioner

v.

MEMORYWEB, LLC
Patent Owner

Patent No. 10,621,228

Inter Partes Review No. IPR2022-00031

PATENT OWNER'S UNOPPOSED MOTION TO SEAL

Patent Owner MemoryWeb, LLC (“MemoryWeb”) submits this Motion to Seal (“Motion”) Patent Owner’s Motion to Terminate (Paper 57) and Exhibits 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2077, 2078, 2079, 2080, 2081, 2083, 2084, 2085, 2086, 2088, 2089, 2089, 2090, 2091, and 2096. Patent Owner submits this Motion to safeguard the confidential information of the relevant parties to this proceeding, pursuant to the Protective Order.¹ *See* Paper 52.

The exhibits that Patent Owner proposes to seal can be divided into three distinct categories. First, Patent Owner seeks to seal its Motion to Terminate and the Transcript of the September 7, 2023 Deposition of Kevin Jakel (Exhibit 2091). Patent Owner will provide a redacted version of the Motion to Terminate and Exhibit 2091 once it has had the opportunity to consult with the relevant parties to determine the extent of the redactions. Second, Patent Owner requests that the following exhibits be filed under seal in their entirety pursuant to 37 C.F.R. § 42.54: Exhibits 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2078, 2079, 2081, 2083, 2084, 2085, 2086, 2088, 2089, and 2090. These exhibits comprise production documents served by Petitioner or third party Unified Patents, LLC designated as confidential pursuant

¹ The relevant parties with respect to this Motion are Apple, Inc. (“Apple” or “Petitioner”), Samsung Electronics Co., Ltd. (“Samsung”), and Unified Patents, LLC (“Unified”).

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to the protective order. Third, Patent Owner submits that the redacted versions of Exhibits 2068, 2077, 2080, and 2096 are already evidence of record in this proceeding or will be submitted concurrently with this Motion. *See* Exs. 2055, 2051, 2092, and 2097, respectively.

As discussed in greater detail below, each of the aforementioned exhibits comprises confidential information, and the forthcoming redacted version of the Motion to Terminate will rely on and discuss the confidential information disclosed in such exhibits. Patent Owner also notes that the Board previously granted Unified's Motion to Seal several of the above-listed exhibits. *See Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413, Paper 26 (PTAB Aug. 29, 2022).

Patent Owner certifies that it has conferred with all relevant parties through counsel, and Petitioner does not oppose this Motion to seal.

I. MOTION TO SEAL

In an *inter parties* review, it is the default rule that all filings are publicly available. 35 U.S.C. § 326(a)(1); 37 C.F.R. § 42.14. Where an exhibit contains confidential information, a party may file “a motion to seal with a proposed

protective order as to the confidential information.”² See 37 C.F.R. § 42.55; see also 35 U.S.C. § 326(a)(1). A motion to seal will only be granted if the movant demonstrates “good cause.” 37 C.F.R. § 42.54(a). Good cause exists if the movant “demonstrate[s] adequately that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining the confidentiality outweighs the strong public interest in having an open record.” *Argentum Pharm. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 4 (PTAB Jan. 19, 2018) (citing 37 C.F.R. § 42.54(a)). All four prongs are satisfied here.

First, (1) the forthcoming redacted portions of the Motion to Terminate and Exhibit 2091, (2) the entirety of Exhibits 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2078, 2079, 2081, 2083, 2084, 2085, 2086, 2088, 2089, and 2090; and (3) the portions of Exhibits 2068, 2077, 2080, and 2096 (the redacted versions of these exhibits are Exhibits 2055, 2051, 2092, and 2097, respectively) contain non-public, highly confidential proprietary business information about Unified’s members (e.g.,

² Patent Owner filed an unopposed motion for entry of a Protective Order (Paper 52) and the Board granted Patent Owner’s motion (Paper 55). All relevant parties have executed the Protective Order.

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Apple and Samsung) and information regarding Unified's business operations that Unified maintains as confidential. As stated by Unified, "[t]his information includes confidential, sensitive commercial information, including closely held information related to Unified's core business" and "Unified guards such information closely to protect its members as well as its own business from copying by others." *See Unified Patents, LLC v. MemoryWeb Inc.*, IPR2021-01413, Paper 26 at 3 (PTAB June 14, 2022). Unified has represented that it has not made, and does not intend to make, this information publicly available and that this information is subject to confidentiality obligations to third parties, including but not limited to Petitioner and Samsung. *See id.* Due to the nature of Exhibits 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2078, 2079, 2081, 2083, 2084, 2085, 2086, 2088, 2089, and 2090, Patent Owner and the relevant parties cannot meaningfully provide redacted versions of these documents, and Patent Owner requests that they remain under seal in their entirety.

Second, public disclosure of this information "would expose Unified's business model and confidential business activities." *Unified Patents*, IPR2021-01413, Paper 26 at 3. Further, Unified represents that it has a contractual obligation with third parties, including Petitioner and Samsung, to maintain the confidentiality of the information contained within the relevant exhibits. *Id.* If such information were publicly disclosed, "Unified's members wishing to remain confidential would

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