

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

MEMORYWEB, LLC,
Patent Owner.

Case No. IPR2022-00031
U.S. Patent No. 10,621,228

PETITIONER'S UNOPPOSED MOTION TO SEAL

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I. Introduction

Petitioner Apple Inc. (“Apple”) respectfully submits this unopposed Motion to Seal Petitioner’s Opposition to Patent Owner’s Motion to Terminate as well as Exhibits 1095, 1096, 1097, 1098, 1099, 1100, 1117, and 1118. Petitioner submits this Motion to Seal (“Motion”) to safeguard the confidential information of the relevant parties to this proceeding, pursuant to the Protective Order.¹ *See* Paper 52.

Petitioner proposes to seal documents in two categories: First, Petitioner proposes to seal its Opposition to Patent Owner’s Motion to Terminate. Petitioner will provide a redacted version of its Opposition to Patent Owner’s Motion to Terminate once Petitioner has had the opportunity to consult with the relevant parties to determine the required redactions. Second, Petitioner proposes to seal exhibits that contain confidential information and have been designated as confidential pursuant to the Protective Order (Paper 52). These include Exhibits 1095, 1096, 1097, 1098, 1099, 1100, 1117, and 1118.

¹ The relevant parties include Apple Inc. (“Petitioner” or “Apple”), MemoryWeb, LLC (“Patent Owner” or “MemoryWeb”), Samsung Electronics Co., Ltd. (“Samsung”), and Unified Patents, LLC (“Unified”).

Petitioner's Opposition to Patent Owner's Motion to Terminate and the aforementioned exhibits comprise confidential information, as described below.

Further, Petitioner certifies that is has conferred with Patent Owner who does not oppose this Motion to Seal.

II. Governing Rules and PTAB Guidance

Pursuant to 35 U.S.C. § 316(a)(1) and 37 C.F.R. § 42.14, a party may file a document with the intent that it remain under seal by filing a concurrent motion to seal, and if accompanied with a motion to seal, the document shall be provisionally sealed pending the outcome of the motion. *See* also 35 U.S.C. § 316(a)(7) (“The Director shall prescribe regulations . . . providing for protective orders governing the exchange and submission of confidential information”). The Trial Practice Guide provides that “[t]he rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information. 37 C.F.R. § 42.54.” Trial Practice Guide at 19.

Under 37 C.F.R. 42.54, the Board may grant a motion to seal “for good cause.” The moving party has the burden of proof under 37 C.F.R. § 42.20(c).

III. There Is Good Cause to Grant Petitioner's Motion to Seal Confidential Information from a Third Party

There is good cause for the Board to grant this Motion to Seal. Good cause exists if the movant “(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 confidentiality outweighs the strong public interest in having an open record.” *See Argentum Pharm. LLC v. Alcon Research, Ltd.*, No. IPR2017-01053, Paper 27 at 4 (PTAB Jan. 19, 2018) (citing 37 C.F.R. § 42.54(a)).

The four requirements for good cause are met here. First, Petitioner's Opposition to Patent Owner's Motion to Terminate and Exhibits 1095, 1096, 1097, 1098, 1099, 1100, 1117, and 1118 contain either “non-public, highly confidential proprietary business information []about Unified's members and information regarding Unified's business operations—that [Unified] maintains as confidential trade secrets,” or correspondingly non-public, highly confidential proprietary business information about Apple. *See Unified Patents, LLC v. MemoryWeb Inc.*, No. IPR2021-01413, Paper 24 at 2-3; *see also id.*, Paper 26 at 3 (PTAB June 14, 2022) (granting Unified's Motion to Seal). Unified has also represented that these documents contain “confidential, sensitive commercial information, including

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