

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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APPLE INC.,  
Petitioner,

v.

MEMORYWEB, LLC,  
Patent Owner.

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

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**PETITIONER'S OPPOSITION TO PATENT OWNER'S  
MOTION TO TERMINATE**

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## I. INTRODUCTION

MemoryWeb identifies no basis to terminate this proceeding, which has already advanced through institution, briefing, and final hearing. The Board thus should issue a final written decision (“FWD”) addressing each claim of U.S. Patent 10,621,228 (“228”).

*First*, MemoryWeb has not met its burden of establishing that Unified Patents (“Unified”) could have reasonably raised and defended grounds based on A3UM (EX1005) in IPR2021-01413 (“*Unified*”). Remarkably, after vigorously disputing that A3UM (EX1005) could have been found by *a skilled artisan*, MemoryWeb reverses course and now claims a “*skilled searcher*” could have found it. But MemoryWeb’s own evidence shows otherwise: its “skilled searcher” (Mr. Lyhmn) pursued a hindsight-driven, scorched-earth campaign that ultimately *failed to locate EX1005* (*i.e.*, the user manual for v3.0.0 of the Aperture 3 product on which Apple’s challenge is based). MemoryWeb also claimed Apple had not proven A3UM was adequately disseminated to the public. The Board found it was by relying on *evidence inaccessible to Unified* about how A3UM was disseminated, particularly testimony of an Apple employee. Each point independently shows Unified could not have reasonably raised grounds based on A3UM (EX1005) in IPR2021-01413. Because 35 U.S.C. §315(e)(1) does not apply, MemoryWeb’s real-party-in-interest (“RPI”) arguments are moot.

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