

IPR2022-00031  
Patent No. 10,621,228

Paper No. \_\_\_\_

**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

Patent No. 10,621,228

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*Inter Partes* Review No. IPR2022-00031

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**JOINT MOTION TO SEAL**

Patent Owner MemoryWeb, LLC (“MemoryWeb”) and Petitioner Apple, Inc. (“Apple”) submit this Motion to Seal (“Motion”) Patent Owner’s Demonstrative Exhibit in support of its Motion to Terminate (“Patent Owner’s Demonstrative”) (Exhibit 2125) and Petitioner’s Demonstrative Exhibit in support of its Motion to Terminate (“Petitioner’s Demonstrative”) (Exhibit 1119) (collectively, “Demonstratives”). The parties jointly submit this Motion to safeguard Unified, Apple, Samsung and MemoryWeb’s confidential information, pursuant to the Protective Order.<sup>1</sup> *See* Paper 52. The parties will provide redacted versions of the Demonstratives once they have had the opportunity to consult with the relevant parties to determine the extent of the redactions.

As discussed in greater detail below, the forthcoming redacted version of the Demonstratives will rely on and discuss the confidential information disclosed in exhibits previously filed under seal. *See* Paper 72; *see also* Paper 70.<sup>2</sup>

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

<sup>2</sup> The Board has yet to grant Patent Owner’s Motion to Seal portions of Patent Owner’s Reply in support of its Motion to Terminate (“Reply”) and the exhibits cited

## 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.”<sup>3</sup> 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.

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therein, and the Motion to Seal portions of Petitioner’s Opposition to the Motion to Terminate and certain of the exhibits thereto.

<sup>3</sup> 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.

First, the Demonstratives and the exhibits cited therein contain non-public, highly confidential proprietary business information pertaining to Petitioner's and Samsung's contractual relationship with Unified and confidential communications between MemoryWeb and Unified. This information includes confidential commercial information that Unified, Apple, Samsung and MemoryWeb have not made, and do not intend to make, publicly available. The parties also understand that this information was produced pursuant to the Protective Order. As discussed above, a redacted version of the Demonstratives is forthcoming.

Second, public disclosure of this information would expose the relevant parties' confidential business activities. The Demonstratives and the exhibits cited therein contain information that the relevant parties maintain as confidential. The parties believe that the public will not be harmed by sealing the confidential business information.

Third, the Demonstratives are directly relevant to whether Apple is a real party in interest ("RPI") to Unified's IPR and will be used in support of the parties arguments at the oral hearing. *See Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413. The parties must rely on confidential information to present arguments related to whether Apple is an RPI to Unified's IPR.

Fourth, on balance, the interest in maintaining confidentiality outweighs the public interest in having an open record. Accordingly, the redacted portions of the

Demonstratives (redactions forthcoming) should be sealed. The parties respectfully request that the Board grant this Motion.

## **II. GOOD CAUSE EXISTS FOR SEALING THE MOTION TO TERMINATE AND THE RELEVANT EXHIBITS**

In deciding whether to seal exhibits, the Board must find “good cause” and must “strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 36 at 4 (PTAB Apr. 5, 2013).

The Demonstratives contains screenshots of exhibits and other information that have been marked “Confidential” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Protective Order in this case. As such, the Demonstratives contains sensitive business information that was previously filed under seal in this proceeding. The parties and the other relevant parties assert that this sensitive business information has not been published or otherwise made publicly available. The Demonstratives rely on and discusses the confidential aspects of exhibits previously filed under seal. Redacted versions of the Demonstratives are forthcoming.

The balance favors protecting the relevant parties’ confidential information.

The information in the Demonstratives is not related to patentability, the scope of

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