

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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**PATENT OWNER'S UNOPPOSED MOTION TO SEAL**

Patent Owner MemoryWeb, LLC (“MemoryWeb”) submits this Motion to Seal (“Motion”) Patent Owner’s Updated Exhibit List (Paper 81). Patent Owner submits this Motion to safeguard Petitioner’s and Unified Patents, LLC’s (“Unified”) confidential information, pursuant to the Protective Order. *See* Paper 52. Patent Owner provides redacted versions of its Updated Exhibit List concurrently with this Motion.

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

## **I. MOTION TO SEAL**

In an *inter partes* 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>1</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

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<sup>1</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.

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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, the Updated Exhibit List contains non-public, confidential proprietary business information pertaining to Unified. Patent Owner understands that this information includes confidential commercial information that Unified has not made, and does not intend to make, publicly available. Patent Owner also understands that this information was produced pursuant to the Protective Order.

Second, Patent Owner understands from Unified that public disclosure of this information would expose Unified’s confidential business activities. Patent Owner understands the Updated Exhibit List contains information Petitioner and/or Unified maintains as confidential. Patent Owner believes that the public will not be harmed by sealing Unified’s confidential business information.

Third, the information in the Updated Exhibit List concerns exhibits that are directly relevant to whether Petitioner is a real party in interest (“RPI”) to Unified’s IPR. *See Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413. Patent Owner must rely on Unified’s confidential information to prove that Petitioner 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 Updated Exhibit List should be sealed. Patent Owner respectfully requests 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 Updated Exhibit List discloses the exhibits Patent Owner relied on in support of its Motion to Terminate and its Reply in Support of the Motion to Terminate. The exhibits disclosed in the Updated Exhibit List were produced pursuant to the Protective Order in this case. Thus, the Updated Exhibit List contains sensitive business information that Petitioner and Unified assert has not been published or otherwise made publicly available.

The balance favors protecting Petitioner’s and Unified’s confidential information. The information in the Updated Exhibit List is not related to

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patentability, the scope of the '228 patent, or any matter generally impacting the public interest in evaluating the '228 patent. Rather, the information sought to be sealed relates to Petitioner's status as an RPI to the Unified IPR. The information relates to business dealings between Unified and its members, including Petitioner. Unified has represented this information is not known to the public. *See e.g., Unified Patents*, IPR2021-01413, Paper 24 at 7.

The Board should seal this information to prevent the incidental public exposure of confidential business information. The public interest is well-served in keeping this information confidential.

### **III. NON-CONFIDENTIAL VERSIONS**

As required by the Board's Trial Practice Guide, the Default Protective Order, and the agreed-upon Protective Order, a non-confidential redacted version of the Updated Exhibit List is being filed concurrently with this Motion. The redactions are minimal and limited in nature and scope to the confidential information.

### **IV. REQUEST FOR CONFERENCE CALL WITH THE BOARD**

Should the Board not be inclined to grant the present Motion, the Patent Owner and the relevant parties hereby request a conference call with the Board to discuss any concerns prior to the Board issuing a decision on the Motion.

### **V. CONCLUSION**

For the foregoing reasons, Patent Owner respectfully requests that the Board

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