

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

MEMORYWEB, LLC,
Patent Owner.

IPR2022-00031 (Patent 10,621,228 B2)
IPR2022-00032 (Patent 9,552,376 B2)
IPR2022-00033 (Patent 10,423,658 B2)
IPR2022-00111 (Patent 11,017,020 B2)
PGR2022-00006 (Patent 11,017,020 B2)¹

Before LYNNE H. BROWNE, NORMAN H. BEAMER,
KEVIN C. TROCK, and JASON M. REPKO,
*Administrative Patent Judges.*²

TROCK, *Administrative Patent Judge.*

ORDER
Authorizing Reply and Sur-reply
37 C.F.R. § 42.5(a)

¹ We exercise our discretion to issue one Order to be filed in each of the five cases.

² This is not an expanded panel, but rather a combined list of the judges sitting on the panels of the five cases.

IPR2022-00031 (Patent 10,621,228 B2)
IPR2022-00032 (Patent 9,552,376 B2)
IPR2022-00033 (Patent 10,423,658 B2)
IPR2022-00111 (Patent 11,017,020 B2)
PGR2022-00006 (Patent 11,017,020 B2)

Apple Inc. (“Petitioner”) filed petitions in IPR2022-00031; IPR2022-00032; IPR2022-00033; IPR2022-00111; and PGR2022-00006 to institute review of U.S. Patents 10,621,228 B2; 9,552,376 B2; 10,423,658 B2; and 11,017,020 B2 owned by MemoryWeb, LLC (“Patent Owner”). IPR2022-00031, Paper 1.³

Petitioner asked for a conference call with the Board to request supplemental briefing to address certain arguments raised by Patent Owner in its Preliminary Response concerning whether the Aperture 3 User Manual (A3UM) (Ex. 1005) qualifies as a printed publication under 35 U.S.C. § 102. A conference call with counsel for the parties was held on March 31, 2022, to discuss the parties’ positions on this issue and to consider whether supplemental briefing was warranted.

35 U.S.C. § 42.108(c) (2020) provides that “[a] petitioner may seek leave to file a reply to the preliminary response in accordance with §§ 42.23 and 42.24(c). Any such request must make a showing of good cause.” After considering the positions and arguments of the parties on this issue, as well as the evidence of record, we determine that Petitioner has established good cause and that supplemental briefing is warranted.

Good cause having been shown, it is

ORDERED that Petitioner may file a reply brief of no more than 5 pages by April 18, 2022, limited solely to addressing Patent Owner’s arguments and evidence presented in the Patent Owner Preliminary

³ Unless otherwise noted, all citations are to IPR2022-00031.

IPR2022-00031 (Patent 10,621,228 B2)

IPR2022-00032 (Patent 9,552,376 B2)

IPR2022-00033 (Patent 10,423,658 B2)

IPR2022-00111 (Patent 11,017,020 B2)

PGR2022-00006 (Patent 11,017,020 B2)

Response concerning whether the Aperture 3 User Manual (A3UM) (Ex.

1005) qualifies as a printed publication under 35 U.S.C. § 102; and

FURTHER ORDERED that Patent Owner may file a sur-reply brief of no more than 5 pages by April 25, 2022, limited solely to addressing Petitioner's arguments and evidence presented in the reply brief concerning whether the Aperture 3 User Manual (A3UM) (Ex. 1005) qualifies as a printed publication under 35 U.S.C. § 102.

IPR2022-00031 (Patent 10,621,228 B2)
IPR2022-00032 (Patent 9,552,376 B2)
IPR2022-00033 (Patent 10,423,658 B2)
IPR2022-00111 (Patent 11,017,020 B2)
PGR2022-00006 (Patent 11,017,020 B2)

For PETITIONER:

Jeffrey Kushan
SIDLEY AUSTIN LLP
jkushan@sidley.com

For PATENT OWNER:

Jennifer Hayes
George Dandalides
NIXON PEABODY LLP
jenhayes@nixonpeabody.com
gdandalides@nixonpeabody.com