

IPR2022-00222
Patent No. 10,621,228

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.
Petitioner

v.

MEMORYWEB, LLC
Patent Owner

Patent No. 10,621,228

Inter Partes Review No. IPR2022-00222

**PATENT OWNER'S RESPONSE BRIEF ADDRESSING ALLEGED
WAIVER AND/OR FORFEITURE**

TABLE OF CONTENTS

	Page(s)
I. INTRODUCTION	1
II. FACTUAL BACKGROUND	2
A. Unified's IPR	2
B. Samsung's IPR.....	2
1. MemoryWeb's Preliminary Response	3
2. MemoryWeb's Response and Sur-Reply.....	3
III. ARGUMENT.....	3
A. Samsung's "Gamesmanship" Accusations Are Baseless	3
B. Samsung Misunderstands or Mischaracterizes the RPI Issue	5
C. MemoryWeb Did Not Forfeit or Waive the Relief Sought in its Contemplated Motion to Terminate	6
1. MemoryWeb's Motion to Terminate is Not Untimely	7
2. <i>SharkNinja</i> Does Not Support Samsung's Forfeiture and Waiver Arguments	11
D. To the Extent Necessary, Good Cause Exists to Proceed with Limited Discovery and MemoryWeb's Motion to Terminate	14
IV. CONCLUSION.....	16

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Abbott Lab'ys v. Cordis Corp.</i> , 710 F.3d 1318 (Fed. Cir. 2013)	4
<i>Apple Inc. v. MPH Techs. Oy</i> , No. 2021-1355, 2022 WL 4103286 (Fed. Cir. Sept. 8, 2022).....	4
<i>Belden Inc. v. Berk-Tek LLC</i> , 805 F.3d 1064 (Fed. Cir. 2015)	4
<i>Facebook, Inc. v. Windy City Innovations, LLC</i> , 973 F.3d 1321 (Fed. Cir. 2020)	11
<i>Glob. Shade Corp. v. with-U E-Com. (Shanghai) Co., Ltd.</i> , IPR2021-00365, Paper 36 (PTAB July 25, 2022)	16
<i>Google LLC v. Uniloc 2017 LLC</i> , IPR2020-00447, Paper 24 (PTAB May 11, 2021)	10
<i>In re Nuvasive, Inc.</i> , 842 F.3d 1376 (Fed. Cir. 2016)	10
<i>Kofax, Inc. v. Uniloc USA, Inc. et al.</i> , IPR2015-01207, Paper 22 (PTAB June 2, 2016)	10
<i>Kofax, Inc. v. Uniloc USA, Inc. et al.</i> , IPR2015-01207, Paper 24 (PTAB July 20, 2016).....	10
<i>SharkNinja Operating LLC v. iRobot Corp.</i> , IPR2020-00734, Paper 11 (PTAB Oct. 6, 2020).....	12
<i>Telefonaktiebolaget LM Ericsson v. TCL Corp.</i> , 941 F.3d 1341 (Fed. Cir. 2019)	15
<i>United States v. Olano</i> , 507 U.S. 725 (1993).....	6

Statutes

35 U.S.C. § 314(a)3
35 U.S.C. § 315(c)11
35 U.S.C. § 315(d)11
35 U.S.C. § 315(e)(1).....1, 7, 8, 11

Regulations

37 C.F.R. § 42.122(b)11
37 C.F.R. § 42.25(b)7
37 C.F.R. § 42.5(a).....9
37 C.F.R. § 42.5(c)(3).....7, 14

LISTING OF EXHIBITS

Exhibit No.	Description
2001	Withdrawn
2002	Japanese Unexamined Patent Application Publication No. 2001-160058 and Certified English Translation (“Fujiwara”)
2003	Withdrawn
2004	U.S. Patent No. 6,714,215 (“Flora”)
2005	Supplemental Declaration of Kevin Jakel, <i>Unified Patents, LLC v. MemoryWeb, LLC</i> , IPR2021-01413 (Dec. 30, 2021) (redacted version)
2006	3 Questions for Unified Patents CEO Post-Oil States (Part II)
2007	Petition for <i>Inter Partes</i> Review, <i>Apple Inc. v. MemoryWeb, LLC</i> , IPR2022-00031, Paper 1 (PTAB Oct. 30, 2021)
2008	Brief of Amicus Curiae Unified Patents Inc. in <i>Cuozzo Speed Technologies, LLC v. Michelle K. Lee et al.</i>
2009	Unified Patents September 3, 2021 Press Release regarding MemoryWeb IPR
2010	Unified Patents September 9, 2021 email regarding MemoryWeb IPR
2011	Unified Patent’s website link (FAQs) (https://www.unifiedpatents.com/faq)
2012	Case Readiness Status Report, <i>MemoryWeb, LLC v. Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.</i> , Case No. 21-cv-411 (W.D. Tex.) (Sept. 3, 2021)
2013	Amended Complaint, <i>MemoryWeb, LLC v. Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.</i> , Case No. 21-cv-411

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