

IPR2022-00222  
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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SAMSUNG ELECTRONICS CO., LTD. et al,  
Petitioner

v.

MEMORYWEB, LLC  
Patent Owner

Patent No. 10,621,228

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*Inter Partes* Review No. IPR2022-00222

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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 Motion to Terminate (Paper 52) and Exhibits 2062, 2063, 2067, 2068, 2069, 2071, 2072, 2073, 2074, 2077, 2078, 2083, 2084, 2085, 2090 and 2099. Patent Owner submits this Motion to safeguard the confidential information of the relevant parties to this proceeding, pursuant to the Protective Order.<sup>1</sup> *See* Paper 47.

The exhibits that Patent Owner proposes to seal can be divided into three distinct categories. First, Patent Owner seeks to seal its Motion to Terminate and the Transcript of the September 7, 2023 Deposition of Kevin Jakel (Exhibit 2085). Patent Owner will provide a redacted version of the Motion to Terminate and Exhibit 2085 once it has had the opportunity to consult with the relevant parties to determine the extent of the redactions.

Second, Patent Owner requests that the following exhibits be filed under seal in their entirety pursuant to 37 C.F.R. § 42.54: Exhibits 2063, 2067, 2068, 2069, 2072, 2073, 2078, 2083, 2084, and 2099. These exhibits comprise production documents that were served by other parties and designated as confidential pursuant

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

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to the protective order.

Third, Patent Owner submits that the redacted versions of Exhibits 2062, 2071, 2074, and 2090 are already evidence of record in this proceeding or will be submitted concurrently with this Motion. *See* Exs. 2049, 2045, 2086, and 2091, respectively.

As discussed in greater detail below, each of the aforementioned exhibits comprises confidential information, and the forthcoming redacted version of the Motion to Terminate will rely on and discuss the confidential information disclosed in such exhibits. Patent Owner also notes that the Board previously granted Unified's Motion to Seal several of the above-listed exhibits. *See Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413, Paper 26 (PTAB Aug. 29, 2022).

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

## **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>2</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.

First, (1) the forthcoming unredacted portions of the Motion to Terminate and Exhibit 2085, (2) the entirety of Exhibits 2063, 2067, 2068, 2069, 2072, 2073, 2077, 2078, 2083, 2084, and 2099; and (3) portions of Exhibits 2062, 2071, 2074, and 2090 (the redacted versions of these exhibits are Exhibits 2049, 2045, 2086, and 2091, respectively) contain non-public, highly confidential proprietary business information about Unified’s members (e.g., Apple and Samsung) and/or information

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<sup>2</sup> Patent Owner filed an unopposed motion for entry of a Protective Order (Paper 47).

The Board has yet to grant Patent Owner’s motion. All relevant parties have executed the Protective Order.

regarding Unified's business operations that Unified maintains as confidential.

As stated by Unified, “[t]his information includes confidential, sensitive commercial information, including closely held information related to Unified’s core business” and “Unified guards such information closely to protect its members as well as its own business from copying by others.” *See Unified Patents, LLC v. MemoryWeb Inc.*, IPR2021-01413, Paper 26 at 3 (PTAB June 14, 2022). Unified has represented that it has not made, and does not intend to make, this information publicly available and that this information is subject to confidentiality obligations to third parties, including but not limited to Petitioner and Apple. *See id.* Due to the nature of Exhibits 2063, 2067, 2068, 2069, 2072, 2073, 2077, 2078, 2083, 2084, and 2099, Patent Owner and the relevant parties cannot meaningfully provide redacted versions of these documents, and Patent Owner requests that they remain under seal in their entirety.

Second, public disclosure of this information “would expose Unified’s business model and confidential business activities.” *Unified Patents*, IPR2021-01413, Paper 26 at 3. Further, Unified represents that it has a contractual obligation with third parties, including Samsung and Apple, to maintain the confidentiality of the information contained within the relevant exhibits. *Id.* If such information were publicly disclosed, “Unified’s members wishing to remain confidential would be adversely affected.” *Id.* Unified also represents that the public will not be harmed by

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