

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 Reply In Support of its Motion to Terminate (“Reply”) (Paper 57). Patent Owner submits this Motion to safeguard Unified Patents, LLC (“Unified”), Petitioner, and Patent Owner’s confidential information, pursuant to the Protective Order. *See* Paper 47. Patent Owner will provide a redacted version of the Reply once it has had the opportunity to consult with the Unified and Samsung to determine the extent of the redactions.

As discussed in greater detail below, the forthcoming redacted version of the Reply will rely on and discuss the confidential information disclosed in exhibits previously filed under seal.

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*

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<sup>1</sup> Patent Owner filed an unopposed motion for entry of a Protective Order (Paper 47).

All relevant parties have executed the Protective Order.

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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, the Reply contains non-public, highly confidential proprietary business information pertaining to Petitioner’s contractual relationship with Unified Patents LLC and confidential communications between MemoryWeb and Unified. This information includes confidential commercial information that Unified, Samsung and MemoryWeb have not made, and do not intend to make, publicly available. This information was produced pursuant to the Protective Order.

Second, public disclosure of this information would expose Petitioner’s confidential business activities. The Reply contains information the parties maintain as confidential. Patent Owner believes that the public will not be harmed by sealing this confidential business information.

Third, the Reply is directly relevant to whether Petitioner is a real party in

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interest (“RPI”) to Unified’s IPR. *See Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413. Patent Owner must rely on 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 Reply should be sealed. Patent Owner respectfully requests that the Board grant this Motion.

## **II. GOOD CAUSE EXISTS FOR SEALING THE REPLY**

Patent Owner’s Reply relies on and discusses the confidential aspects of exhibits previously filed under seal. A redacted version of the Reply is forthcoming.

The balance favors protecting the relevant parties’ confidential information. The information cited in the Reply is not related to patentability, the scope of the ’228 patent, or any matter generally impacting the public interest in evaluating the ’228 patent. Rather, the portions of the Reply 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 information also relates to Unified’s confidential dealings with MemoryWeb.

The relevant exhibits cited and discussed in the Reply were provided with the

expectation that they would remain confidential, pursuant to the Protective Order. The Board should seal this information so that Patent Owner can rely on these exhibits in its Reply without the chance of incidental public exposure of confidential business information. The public interest is well-served in keeping this information confidential.

### **III. NON-CONFIDENTIAL VERSION**

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 Reply is forthcoming. Patent Owner will submit a redacted version after the relevant parties have had the opportunity to review following submission of the 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 seal and protect the relevant parties' confidential information in the unredacted version of the Reply.

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