

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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**JOINT MOTION TO SEAL**

Patent Owner MemoryWeb, LLC (“MemoryWeb”) and Petitioner Samsung Electronics Co., Ltd. (“Samsung”) jointly submit this Motion to Seal (“Motion”) Patent Owner’s Demonstrative Exhibit in support of its Motion to Terminate (“Patent Owner’s Demonstrative”) (Exhibit 2116) and Petitioner’s Demonstrative Exhibit (“Petitioner’s Demonstrative”) (Exhibit 1047) (collectively, “Demonstratives”). The parties jointly submit this Motion to safeguard information designated confidential by third party Unified, Samsung, and MemoryWeb pursuant to the Protective Order.<sup>1</sup> *See* Paper 47. The parties will provide redacted versions of the Demonstratives once they have had the opportunity to consult with the relevant parties to determine the extent of the redactions.

As discussed below, the Demonstratives rely on and discuss the confidential information disclosed in exhibits previously filed under seal. *See* Paper 51; Paper 54; Paper 56.<sup>2</sup>

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

<sup>2</sup> The Board has yet to grant Patent Owner’s Motion to Seal its Motion to Terminate (Paper 51), Petitioner’s Motion to Seal its Response to the Motion to Terminate (Paper 54), and Patent Owner’s Motion to Seal its Reply in Support of its Motion to Terminate (Paper 56).

## 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>3</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, the Demonstratives and the exhibits cited therein contain non-public, highly confidential proprietary business information pertaining to Petitioner’s

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<sup>3</sup> Patent Owner filed an unopposed motion for entry of a Protective Order (Paper 47) which the Board has yet to grant. All relevant parties have executed the Protective Order.

contractual relationship with Unified 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. The parties also understand that this information was produced pursuant to the Protective Order. As discussed above, redacted versions of the Demonstratives are forthcoming.

Second, public disclosure of this information would expose the relevant parties' confidential business activities. The Demonstratives and the exhibits cited therein contain information that the relevant parties maintain as confidential. The parties believe that the public will not be harmed by sealing the confidential business information.

Third, the Demonstratives are directly relevant to whether Samsung is a real party in interest ("RPI") to Unified's IPR and will be used in support of the parties' arguments at the oral hearing. *See Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413. The parties must rely on confidential information to present arguments related to whether Samsung 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 Demonstratives (which are forthcoming) should be sealed. The parties respectfully request 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 Demonstratives contain screenshots of exhibits and other information that have been marked “Confidential” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Protective Order in this case. As such, the Demonstratives contain sensitive business information that was previously filed under seal in this proceeding. The parties and the other relevant parties assert that this sensitive business information has not been published or otherwise made publicly available. The Demonstratives rely on and discuss the confidential aspects of exhibits previously filed under seal. Redacted versions of the Demonstratives are forthcoming.

The balance favors protecting the relevant parties’ confidential information. The information in the Demonstratives 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 information sought to be sealed relates to whether

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