

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 Unopposed Motion to Seal (“Motion”) the Board’s Final Written Decision (Paper 63). MemoryWeb submits this Motion to safeguard information designated confidential by third party Unified, Petitioner, and MemoryWeb pursuant to the Protective Order.<sup>1</sup> *See* Paper 47. A redacted version of the Final Written Decision is provided herewith.

As discussed below, the Final Written Decision relies on and discusses the confidential information disclosed in briefing and exhibits previously filed under seal. *See* Paper 51; Paper 54; Paper 56; Paper 60.<sup>2</sup>

## **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

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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 granted 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), Patent Owner’s Motion to Seal its Reply in Support of its Motion to Terminate (Paper 56), and the parties’ Joint Motion to Seal Demonstrative Exhibits (Paper 60). *See* Paper 63 at 93-94.

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 Final Written Decision contains non-public, highly confidential proprietary business information pertaining to Petitioner’s 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. Patent Owner also understands that this information was produced

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<sup>3</sup> The Board has also granted Patent Owner’s the unopposed motion for entry of a Protective Order (Paper 47). See Paper 63 at 93.

pursuant to the Protective Order. As discussed above, a redacted version of the Final Written Decision is submitted herewith.

Second, public disclosure of this information would expose the relevant parties' confidential business activities. The Final Written Decision contains information that the relevant parties maintain as confidential. Patent Owner believes that the public will not be harmed by sealing the confidential business information.

Third, the portions of the Final Written Decision that are the subject of this Motion discuss whether Samsung is a real party in interest ("RPI") to Unified's IPR. *See Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413. The Board relied on confidential information in its determination of Samsung's RPI status in the 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 Final Written Decision should be sealed. Patent Owner respectfully requests 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 Final Written Decision relies on 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 Final Written Decision contains sensitive business information that was previously filed under seal in this proceeding. Unified, Samsung, and MemoryWeb assert that this sensitive business information has not been published or otherwise made publicly available. The Final Written Decision relies on and discusses the confidential aspects of briefing and exhibits previously filed under seal. *See* Paper 51; Paper 54; Paper 56; Paper 60. A redacted version of the Final Written Decision is submitted herewith.

The balance favors protecting the relevant parties’ confidential information. The information sought to be sealed in the Final Written Decision 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 Petitioner is 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.

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