

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CHESTNUT HILL SOUND INC.,
Patent Owner.

Case IPR2016-00794
Patent 8,090,309 B2

Held: April 20, 2017

BEFORE: RAMA G. ELLURU, DAVID C. McKONE, and
JOHN F. HORVATH, Administrative Patent Judges.

The above-entitled matter came on for hearing on Thursday,
April 20, 2017, commencing at 1:03 p.m., at the U.S. Patent and
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2016-00794
Patent 8,090,309 B2

APPEARANCES:

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1 PROCEEDINGS

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3 JUDGE ELLURU: Good afternoon. We're here for the
4 final hearing in IPR2016-00794, Apple Inc., against Chestnut Hill
5 Sound Inc. I'm Judge Elluru and appearing remotely today are
6 Judge McKone and Judge Horvath.

7 Let's, please, begin with appearances of counsel starting
8 with Petitioner.

9 MR. GRISWOLD: Thank you, Your Honor. I'm Josh
10 Griswold and I have with me my colleagues, Dan Smith and Karl
11 Renner, and I'm pleased to also have in-house counsel for Apple
12 in the gallery. This is Jennifer Yokoyama.

13 JUDGE ELLURU: Thank you.
14 And for Patent Owner?

15 MS. MOSSER: Good afternoon, Your Honors. I'm
16 Alexis Mosser. I have with me Jason Cassady. We're from
17 Caldwell Cassady & Curry and Mr. Robert Friedman is here on
18 behalf of Chestnut Hill Sound, Inc. Thank you.

19 JUDGE ELLURU: Thank you.

20 I'd like to go over how we'll proceed today. Each side
21 will have 60 minutes of time to present its arguments. Please
22 keep in mind that we have two panel members appearing
23 remotely today. They can see you but not the screens in the
24 hearing room. So if you're using demonstratives, please be sure

1 to identify slide numbers for their benefit as well as the benefit of
2 the transcript.

3 Petitioner has the burden to show that the challenged
4 claims are unpatentable and on its Motion to Exclude and, thus,
5 will proceed, present its case first. Patent Owner will then argue
6 its opposition to Petitioner's case. If Petitioner so chooses, it can
7 reserve any time -- reserve time for rebuttal. I'll give you a
8 warning when you're reaching the end of your argument time.

9 And I was wondering if counsel has any questions
10 starting with Petitioner.

11 MR. GRISWOLD: No questions, Your Honor.

12 JUDGE ELLURU: Thank you.

13 Ms. Mosser?

14 MS. MOSSER: No, Your Honor. Thank you.

15 JUDGE ELLURU: Thank you.

16 Mr. Griswold, you may begin when you're ready.

17 MR. GRISWOLD: Thank you, Your Honor. We'd like
18 to reserve 25 minutes for our rebuttal, please.

19 And if you're ready, Your Honors.

20 JUDGE ELLURU: Yes.

21 MR. GRISWOLD: Thank you, Your Honors.

22 So as I said, I'm Josh Griswold and I have my
23 colleagues, Dan Smith and Karl Renner, with me and we have
24 Jennifer Yokoyama with Apple in the gallery. Mr. Smith, Mr.
25 Renner and I will be arguing today.

1 Just as an aside, you've heard of the Next Gen
2 movement in the District Courts. It's where they encourage
3 younger attorneys to be given time to argue. At Fish this is an
4 important movement for us. We really strongly encourage it.
5 We'd like to encourage it at the PTAB. So to that end, I'm
6 pleased to offer up Mr. Smith. He's a young and upcoming
7 associate at our firm and this is his first argument at an oral
8 hearing.

9 JUDGE ELLURU: Welcome.

10 MR. SMITH: Thank you.

11 MR. GRISWOLD: I'm sure he'll do a great job.

12 So you'll recall that we filed a Motion to Exclude on
13 much of the evidence that Patent Owner is offering for secondary
14 considerations. In a bit Mr. Smith will address the Motion to
15 Exclude. Mr. Renner and I will address the remainder of the
16 argument and I'll begin.

17 JUDGE ELLURU: Thank you.

18 MR. GRISWOLD: So slide 4 please, Dan.

19 So I want to start off and just put things kind of in
20 perspective here. The '309 patent is fairly recent. It's CIP filed in
21 2007 and I have a car older than 2007. I remember 2007. It
22 wasn't that long ago. And at best it claims priority back to 2004,
23 which isn't that much further back.

24 One of the primary references that we rely on,
25 Baumgartner, is a set top box with a DVR and I think we can all

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