

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3 - - - - -)
4 APPLE, INC. and)
5 LG ELECTRONICS, INC.,)
6 Petitioners,) Case No.
7 v.) IPR2016-01203
8 FASTVDO, LLC,)
9 Patent Owner.)
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Friday, July 14, 2017

Telephone Conference before Judge Jeffrey
S. Smith, Judge Patrick M. Boucher, and Judge Karl
D. Easthorn in the above-entitled matter, commencing
at 1:30 p.m., the proceedings taken down by
stenotype by ANN L. BLAZEJEWSKI, RMR, CRR, and
transcribed under her direction.



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1 P R O C E E D I N G S

2 JUDGE SMITH: Good afternoon, this is
3 Judge Smith of the Patent Trial and Appeal Board.
4 With me on the line are Judges Easthorn and Boucher.
5 We are here for a conference call in IPR2016-01203,
6 Apple versus FastVDO.

7 Would counsel for Petitioner please state
8 your appearance.

9 MR. MALLOY: Hello, this is Ryan Malloy
10 from Morrison & Foerster.

11 JUDGE SMITH: Thank you, Mr. Malloy. Is
12 there anyone else on the line for Petitioner?

13 MR. MALLOY: I will be the only one
14 speaking. I believe I will be joined by a partner
15 at Morrison & Foerster, Mehran Arjomand, who is not
16 counsel of record.

17 JUDGE SMITH: Thank you. Would counsel
18 for Patent Owner please state your appearance.

19 MR. HELGE: Good afternoon, Your Honor.
20 This is Wayne Helge for Patent Owner FastVDO.

21 JUDGE SMITH: Thank you, Mr. Helge. Is
22 there anyone else on the line for Patent Owner?

1 MR. HELGE: No, Your Honor, I will be the
2 only one speaking. The only other person that we
3 have on the line, Your Honor, is a court reporter
4 that we have coordinated for this call.

5 JUDGE SMITH: Oh, good. And you'll
6 submit a transcript of this call?

7 MR. HELGE: Yes, Your Honor. I believe
8 the standard turnaround is around 2 weeks, Your
9 Honor, so I think, you know, around July 28th we'll
10 have a copy of that. Certainly in advance of the
11 oral hearing.

12 JUDGE SMITH: Okay, thank you. Okay. So
13 Patent Owner requested this call to discuss what it
14 contends are new issues in evidence raised in
15 Petitioner's reply. The parties have conferred, and
16 Petitioner intends to oppose Patent Owner's request.
17 Patent Owner, you've requested this call.
18 Please proceed with your position on the issue.

19 MR. HELGE: Thank you, Your Honor. Thank
20 Your Honors for taking some time to talk about this.
21 As we've noted in our request, our email request
22 seeking this call, we believe that the Petitioner's

1 reply raises new theories of obviousness, really one
2 specific new theory of obviousness, and the
3 sentences that we wanted to bring the Board's
4 attention to occur on page 11 and page 12 of the
5 reply, and these really, these sentences bookend, I
6 believe, what I would call the new theory of
7 obviousness.

8 On page 11, the sentence reads
9 specifically: Furthermore, Kato, K-a-t-o, indicates
10 that storage of data in the hard drive is an
11 alternative to transmitting the data. And then
12 concluding that point on the top of page 12,
13 Petitioner concludes that paragraph by stating:
14 Thus, the hard drive replacing the transmitter would
15 contain data encoded with unequal error protection,
16 satisfying the storage claims.

17 Your Honors, we believe this is a new
18 theory of obviousness. We do not disagree that
19 Petitioners cited to column 33, lines 2-7, as they
20 stated in their position in the email. There's a
21 few places, page 20 of the petition, page 32, pages
22 47-48, and they also refer to paragraph 80 of Dr.

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