

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Case IPR2017-00210; Case IPR2017-00219
(Patent 7,116,710 B1)
Case IPR2017-00297 (Patent 7,916,781 B2)

Record of Oral Hearing
Held: April 19, 2018

Before KEN B. BARRETT, TREVOR M. JEFFERSON and
JOHN A. HUDALLA, *Administrative Patent Judges*.

Cases IPR2017-00210; IPR2017-00219 (Patent 7,116,710 B1)

Case IPR2017-00297 (Patent 7,916,781 B2)

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The above-entitled matter came on for hearing on Thursday, April 19, 2018, at 9:30 a.m., at the U.S. Patent and Trademark Office, Madison Building East, 600 Delany Street, Alexandria, Virginia, before Walter Murphy, Notary Public.

P R O C E E D I N G S

1 JUDGE JEFFERSON: Good morning. You can be seated. Good
2 morning, I am Judge Jefferson and with me are Judge Hudalla and Judge
3 Barrett. This is a trial in hearing IPR2017-00210, 00219 and 00297 which
4 has been consolidated with 2017-00423. At the outset we received the
5 jointly filed objections and that's paper 58 in the 297 case, paper 66 in the
6 210 case and paper 65 in the 219 case. Those were objections against the
7 demonstrative exhibits and we overruled those objections, they're denied.
8 Demonstratives are not evidence as we've said repeatedly. Other cases we
9 are capable of certainly distinguishing evidence in the record from
10 demonstrative exhibits and arguments, and we're capable of distinguishing
11 arguments that are newly presented, both at oral argument or in the papers
12 that have come before us and our final decisions will take that into account.
13 You are certainly free to argue those things before us today.

14 So we'll get started. Our first, we'll have a consolidated hearing. This
15 record will be filed in all three cases. The first two we will hear will be
16 IPR2017-00210 and IPR2017-00219. They both concern U.S. patent No.
17 7,116,710 which is owned by California Institute of Technology and of
18 course Petitioner in this case is Apple, Inc.

19 Depending on the timing of when these cases finish we will take a
20 break and then move after that break we'll move into the last hour with
21 respect to the 297. At this time I'm going to ask counsel to introduce
22 yourselves at the lectern since that's where the microphones are and please
23 introduce whoever's with you at counsel's table and of course anyone who's
24 in the gallery. Start with Petitioner.

Cases IPR2017-00210; IPR2017-00219 (Patent 7,116,710 B1)
Case IPR2017-00297 (Patent 7,916,781 B2)

1 MR. GOLDENBERG: Good morning, Your Honor. Richard
2 Goldenberg, lead counsel for Petitioner Apple. With me here is Michael
3 Smith, back-up counsel. We also have James Dowd, back-up counsel,
4 Kevin Chan, back-up counsel, David Cavanaugh, also from Wilmer Hale,
5 and then from Broadcom, Mark Blake, one of the real parties of interest.

6 JUDGE JEFFERSON: Thank you, sir. And from the Patent Owner
7 please.

8 MR. ROSATO: Good morning, Your Honor. Mike Rosato on behalf
9 of CalTech, Patent Owner. I have with me at counsel table Quincy Lu from
10 my law firm, Matt Argenti, Rick Torczon, and Todd Briggs. Thank you.

11 JUDGE JEFFERSON: Nice to put faces with names we've heard on
12 more than a few calls. Before we begin we remind the parties that this
13 hearing is open to the public and a full transcript that will become part of the
14 record. We don't have open motions to seal so if you're going to get into
15 anything that you consider to be protected information put the onus on both
16 parties and that also includes whether your opposing counsel is talking to let
17 us know so we can handle the record appropriately.

18 As you know from the trial order, each party has 30 minutes to present
19 their argument in each case. The Petitioner has the burden to show
20 unpatentability so we'll start with you, then move to the Patent Owner, and
21 Petitioner may reserve rebuttal time. In order to keep this hearing focused
22 on the merits, I think you've both been with us before, there'll be no
23 objections or speaking objections during the presentation. You'll certainly
24 have time to respond during your speaking time. Petitioner, you have 30
25 minutes. Would you like to reserve some time for rebuttal?

1 MR. GOLDENBERG: Yes, Your Honor. I'll probably make a
2 decision exactly how much to reserve on the fly, but on the order of eight
3 minutes is what I'd like to reserve.

4 JUDGE JEFFERSON: Certainly. We'll try to give you some
5 warning. The light should work but if not, I have a timer as well and we will
6 get started that way. Just a brief warning, as you can hear my voice is a little
7 weak. To the extent you can't hear me or something we have able judges
8 who can take over if they need to but please feel free to tell me if you don't
9 understand what I'm saying. So Petitioner you may begin when you're
10 ready.

11 MR. GOLDENBERG: Thank you, Your Honor. Again, my name is
12 Richard Goldenberg and I'm pleased to be here to present Petitioner's oral
13 argument. We're here today to try and answer any questions that the Board
14 may have over any of the remaining issues in this IPR. Over the course of
15 this IPR many issues have prompted phone calls with the Board and we
16 appreciate the attention that the Board has provided in those calls and the
17 guidance that we've received, those calls have resolved many of the issues
18 but of course there are still live issues and we'd like to have the opportunity
19 to answer any questions that may remain.

20 On slide 2, we have a brief roadmap of the order that I plan to address
21 the issues, but if the Board would prefer to hear things in a different order or
22 different issues that are not addressed in the slide, I'm happy to try and
23 address that. Just let me know. But if there are no questions at this time I'll
24 proceed with a brief overview of the invalidity of these claims, and we can
25 move to slide 4.

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