

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,
v.
VALENCELL, INC.,
Patent Owner

PTAB Proceeding No.

IPR2017-00315	Patent no. 8,929,965
IPR2017-00317	Patent no. 8,989,830
IPR2017-00318	Patent no. 8,886,269
IPR2017-00319	Patent no. 8,923,941
IPR2017-00321	Patent no. 8,923,941

CONFERENCE CALL

October 13, 2017

BEFORE:

BRIAN J. McNAMARA, Administrative Patent Judge
JAMES B. ARPIN, Administrative Patent Judge
SHEILA F. McSHANE, Administrative Patent Judge

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Apple 1069
Apple v. Valencell
IPR2017-00321

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APPLE v. VALENCELL

A P P E A R A N C E S:

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1 APPLE v. VALENCELL

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

3 JUDGE McNAMARA: This is Judge

4 McNamara.

5 MS. HOLOUBEK: Good morning.

6 JUDGE McNAMARA: Judge McShane is

7 on the line and Judge Arpin is here with

8 me as well.

9 Can I have the parties, starting

10 with the Petitioner, tell me who's on the

11 line.

12 MS. HOLOUBEK: Good morning, Your

13 Honor.

14 This is Michelle Holoubek and Mike

15 Specht, Sterne Kessler for Petitioner,

16 Apple, and I wanted to let you know we

17 also have a court reporter on the line.

18 JUDGE McNAMARA: Okay, great I'm

19 glad to hear that.

20 And for the Patent Owner?

21 MR. KIMBLE: This is Justin

22 Kimble for the Patent Owner. In the

1 room with me is also Bill Kennedy and I

2 believe the Patent Owner may have a

3 APPLE v. VALENCELL

4 couple of other attorneys that have

5 dialed in from a separate location.

6 JUDGE McNAMARA: All right.

7 Well, the purpose of this call was

8 actually initiated by us, we wanted to

9 discuss the scheduling order and the

10 possibility of whether or not the Patent

11 Owner is going to want to provide a brief

12 and response -- sorry, the Petitioner is

13 going to want to provide a brief in

14 response to the Patent Owner reply, which

15 is not provided for in the scheduling

16 order right now.

17 As you probably are aware, the

18 Federal Circuit has issued its decision in

19 the Aqua Products case, Aqua Products

20 versus Matal.

21 In our original conference we had

22 told you that the burden of persuasion

1 with respect to the motion to amend was on
2 the Patent Owner.

3 We are now getting guidance by the
4 Federal Circuit that the burden of
5 persuasion, that we have to assess the

6 APPLE v. VALENCELL
7 burden of persuasion without -- we have to
8 assess the motion to amend without putting
9 the burden of persuasion on the Patent
10 Owner.

11 So the question is really directed
12 to the Petitioner.

13 Right now we have scheduled -- the
14 motion to amend has already been filed,
15 there is an opposition to the motion to
16 amend that is yet to be filed, there is a
17 reply to that opposition, but the question
18 to the Petitioner is whether or not you
19 want to incorporate into the schedule a
20 surreply to that -- to the reply?

21 MS. HOLOUBEK: Your Honor, this
22 is counsel for Petitioner.

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