

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Case IPR2017-00700 (Patent 7,421,032 B2)

Case IPR2017-00701 (Patent 7,421,032 B2)

Case IPR2017-00728 (Patent 7,421,032 B2)

Record of Oral Hearing
Held: May 8, 2018

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

Case IPR2017-00700 (Patent 7,421,032 B2)
Case IPR2017-00701 (Patent 7,421,032 B2)
Case IPR2017-00728 (Patent 7,421,032 B2)

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The above-entitled matter came on for hearing on Tuesday, May 8, 2018, commencing at 9:01 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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1 PROCEEDINGS

2 JUDGE BARRETT: You may be seated. Good morning, everyone.
3 We are on the record in IPR 2017-00700, IPR 2017-00701 and IPR 2017-
4 00728, Apple Incorporated v. California Institute of Technology. Is that
5 correct?

6 MR. GOLDENBERG: Yes, Your Honor.

7 JUDGE BARRETT: Thank you. If we can have the attorneys'
8 appearances, please, Petitioner?

9 MR. GOLDENBERG: Good morning, Your Honor. My name is
10 Richard Goldenberg, I am Lead Counsel for Apple Incorporated, and with
11 me at the counsel table is Michael Smith, my Co-Counsel.

12 MR. SMITH: Hi.

13 MR. GOLDENBERG: And with me right across the table is Jim
14 Dowd, also my Co-Counsel.

15 JUDGE BARRETT: Good morning. Welcome. Patent Owner?

16 MR. ROSATO: Good morning, Your Honor. Mike Rosato for Cal
17 Tech; I have Quincy Lu who is at the counsel table with me, Matthew
18 Argenti behind me, and Todd Briggs. Thank you.

19 JUDGE BARRETT: Welcome. If you are prepared to discuss, a
20 preliminary matter, the Supreme Court's decision in SAS. I know you had a
21 chance to meet and confer, and I want to commend you for that. What are
22 your thoughts on how should we proceed; Petitioner?

23 MR. GOLDENBERG: Yes, Your Honor. So, we did reach an
24 agreement outside before the hearing this morning, and so we have
25 agreement --

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1 JUDGE JEFFERSON: I'm sorry to interrupt you. Why don't you step
2 to that podium, just in case the recording device doesn't pick you up there?

3 MR. GOLDENBERG: Thank you, Your Honor. Yes. Mr. Rosato
4 and I spoke outside the hearing this morning, before the hearing, and we do
5 have an agreement on a joint proposal to request that the Board dismiss or
6 withdraw all the claims that were originally not instituted, in these IPRs as
7 well as the IPRs that were argued a few weeks ago, 210, 219 and --

8 MR. ROSATO: 297.

9 MR. GOLDENBERG: 297. So, as long as the Board would agree to
10 withdraw those claims such that there's no final written decision on them,
11 then we would jointly request that the Board dismiss that.

12 JUDGE BARRETT: All right. I tell you what I will do, after the
13 hearing today or tomorrow, I will issue an order authorizing a joint motion,
14 and we'll go from there.

15 MR. GOLDENBERG: Thank you.

16 JUDGE BARRETT: Thank you, both of you. All right then, on to
17 the hearings. We set forth the procedure in the hearings order, but we do
18 have some flexibility here. We set aside 30 minutes per side, per case. I
19 suspect it won't take that long. We will have one continuous transcript for
20 all three proceedings. There is no need to repeat arguments. I believe most
21 of the arguments in these cases the issues are the same across all three. So,
22 no need to repeat.

23 The working assumption is, we will handle these sequentially. Is that
24 still how you want -- the parties want to handle it?

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1 MR. GOLDENBERG: For Petitioner, yes, Your Honor. We agree
2 that second and third hearings may be substantially shorter than the first, but
3 we had planned to address them sequentially.

4 MR. ROSATO: That's fine with us, Your Honor.

5 JUDGE BARRETT: All right. Wonderful! As always, for clarity of
6 the transcript when you refer to an exhibit on the screen, please state for the
7 record the exhibit and the page number, or the demonstrative page, so we'll
8 be able to understand that later.

9 So, we are going to handle these sequentially. Petitioner, you'll go
10 first. You can reserve time for rebuttal, and Patent Owner then will present
11 its response, and then you can use your rebuttal time, Petitioner. And I'll
12 give each -- I'm going to use the clock, and I'll give each Counsel a warning
13 when you're reaching the end. Any questions?

14 MR. GOLDENBERG: I'd like to reserve about 10 minutes for
15 rebuttal, if I can, if Mr. Smith can give me a warning when I'm getting near
16 20 minutes.

17 MR. SMITH: Okay.

18 JUDGE BARRETT: With that then, Petitioner, you may begin.

19 MR. GOLDENBERG: Good morning, Your Honor. So, if we can
20 turn to slide 2 for the 700 slides, I plan to follow a similar roadmap that we
21 did in the prior hearings, but as always, if the Court has questions or would
22 like to hear things in a different order, just let me know, I'm happy to
23 address the Board's questions at any time.

24 But turning to the first point on slide 4, and this is an overview of the
25 invalidity of the challenged claims, here, on slide 4 we are showing the two

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