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

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APPLE INC., :
Petitioner, : CASE NOS:
V. : IPR2019-00819
MPH TECHNOLOGIES OY, : IPR2019-00820
Patent Owner, :
-----x

PETITIONER'S MOTION TO STRIKE
Conducted Virtually
Wednesday, May 27, 2020
12:30 p.m. PST

Reported By: Patrick J. Heard
Job No.: 300751
Pages: 1 - 18

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PLANET DEPOS

1 JUDGE HAMANN: Good afternoon.

2 This call is in IPR2019-00819 and -00820,
3 Apple Inc. v MPH Technologies Oy.

4 I'm Judge Hamann.

5 Also on the line are Judges Jivani and
6 Margolies.

7 I'd like to begin by petitioner identifying
8 who is on the line on his behalf.

9 MR. BLOCK: Good afternoon, Your Honor.

10 This is Daniel Block of the law firm of Sterne
11 Kessler on behalf of Apple.

12 With me today on the phone is Michael Specht,
13 also of Sterne Kessler. I'll be doing the argument.

14 JUDGE HAMANN: Anyone else for petitioner?

15 MR. BLOCK: And, Your Honor, one other point.
16 There is a court reporter on the line as well.

17 JUDGE HAMANN: Okay. I'd ask that the parties
18 arrange to have a transcript filed as soon as
19 reasonable.

20 MR. BLOCK: Okay.

21 JUDGE HAMANN: And for the patent owner,
22 please identify who is on the line on the court's

1 behalf.

2 MR. SCHREINER: Good afternoon, Your Honor.

3 This is Steven Schreiner from Carmichael IP on
4 behalf of MPH Technologies.

5 I'm joined by my colleague, James Carmichael,
6 of Carmichael IP, also representing MPH Technologies.

7 JUDGE HAMANN: And forgive me. Schreiner?

8 MR. SCHREINER: I'm sorry. Schreiner,
9 S-c-h-r-e-i-n-e-r.

10 JUDGE HAMANN: Thank you. Sorry about that.

11 So that's everyone for the parties who have
12 been identified?

13 MR. SCHREINER: Correct.

14 MR. BLOCK: Yes, Your Honor, for petitioner.

15 JUDGE HAMANN: Okay. My understanding is
16 we're here at petitioner's request. So let me have
17 petitioner begin.

18 MR. BLOCK: Thank you, Your Honor.

19 And again, Daniel Block for Apple Inc.

20 Your Honor, as I already now mentioned, we're
21 requesting a motion to strike in this case. It's a
22 narrow motion to strike. It's a narrow motion to

1 strike just for a single section of the sur reply,
2 Section 2.

3 And if Your Honors don't feel that's
4 appropriate, in the alternative, we'd ask for an
5 additional sur-sur reply, a short sur-sur reply to
6 address the new arguments that patent owner raised in
7 the sur reply.

8 Your Honors, the Trial Practice Guide says a
9 sur reply should be in the scope of the reply. And it
10 actually gives, I think, a very appropriate example in
11 here, which is on page 81 of the Trial Practice Guide.

12 And it says, "For example, where reply clearly
13 relies on a new theory not included in the prior
14 briefing, striking the portion of the brief containing
15 that theory may be appropriate."

16 And that's precisely the situation that we
17 have here.

18 MPH is raising a brand new theory in their sur
19 reply that a person of ordinary skill in the art would
20 not combine the two references because of some alleged
21 security flaw.

22 And in fact, if you look at the sur reply -- I

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