

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner.

IPR 2020-01713 (Patent 10,624,564 B1)
IPR 2020-01716 (Patent 10,702,194 B1)
IPR 2020-01733 (Patent 10,702,195 B1)
IPR 2020-01737 (Patent 10,709,366 B1)

Record of Oral Hearing
Held: February 9, 2022

Before JOSIAH C. COCKS, ROBERT L. KINDER, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

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IPR 2020-01716 (Patent 10,702,194 B1)
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APPEARANCES:

ON BEHALF OF THE PETITIONER:

WALTER KARL RENNER, ESQUIRE
ANDREW PATRICK, ESQUIRE
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ON BEHALF OF PATENT OWNER:

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ALSO PRESENT, OBSERVING:

USMAN KHAN
DAN SMITH
Fish & Richardson

The above-entitled matter came on for hearing on Wednesday, February 9, 2022, commencing at 10:00 a.m., EDT, at the U.S. Patent and Trademark Office, by video/by telephone, before Julie Souza, Notary Public.

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PROCEEDINGS

1 JUDGE KINDER: Good morning everyone. I'm Judge Kinder and
2 we're today for oral argument in four consolidated proceedings. The cases
3 involve Apple, Inc., as Petitioner and Masimo Corporation as the Patent
4 Owner. The consolidated hearing will be for IPR 2020-1713, 1716, 1733
5 and 1737. With me today with the Board are Judges Cocks and Wieker and
6 if we could initially get a roll call for Petitioner who will be presenting today
7 and who's appearing.

8 MR. RENNER: Thank you, Your Honor. This is Karl Renner for
9 Petitioner and I am -- I'll start us off but I'll be joined in short order by Hyun
10 Jin In and also by Andrew Patrick. In the room as well are Usman Khan and
11 Dan Smith is on the line too.

12 JUDGE KINDER: All right. Thank you, Mr. Renner. And then for
13 the Patent Owner can you tell me who's present today and who'll be
14 presenting.

15 MR. JENSEN: Yes. This is Steve Jensen from Knobbe, Martens for
16 Patent Owner and I will be presenting the entirety of the argument --

17 JUDGE KINDER: All right, Mr. Jensen. I appreciate that.

18 MR. JENSEN: -- for the first four cases. In the second group it's a
19 different lawyer, Mr. Grover.

20 JUDGE KINDER: Okay. Very good. And getting into that, these
21 four cases are consolidated so we're going to have a single transcript. The
22 afternoon case will be a completely separate proceeding with a separate
23 transcript and we'll kind of do a restart for that one.

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1 In these four consolidated cases we're going to have two hours per
2 side and I think you are aware of that and hopefully have planned your time.
3 You don't need to take all two hours but certainly it's there. As I mentioned,
4 we're going to share a single transcript for these four proceedings so
5 statements that you make in one will be applicable to each of the
6 proceedings unless you explicitly state that these statements or arguments
7 only apply to a specific proceeding and please make that clear.

8 So one thing we want to do every time somebody starts talking
9 initially, please introduce yourself so our court reporter can understand who's
10 presenting. Sometimes it gets difficult with so many people on a hearing.
11 The Petitioner is going to open up and present its case for unpatentability of
12 the challenged patents. The Patent Owner then will respond. Petitioner, you
13 can reserve time for rebuttal. Do you know how much time you want for
14 rebuttal yet?

15 MR. RENNER: Yes, Your Honor. We'll just reserve half of the time,
16 please.

17 JUDGE KINDER: So that would be one hour reserved; is that right?

18 MR. RENNER: Correct, Your Honor. Thank you.

19 JUDGE KINDER: Okay. Sure. All right. And then Patent Owner,
20 after their rebuttal you will have, Mr. Jensen, you'll have time as well. How
21 much time would you like to reserve for yours?

22 MR. JENSEN: I would suspect 40 minutes, 45.

23 JUDGE KINDER: Forty-five minutes.

24 MR. JENSEN: I'm not going to use it all.

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1 JUDGE KINDER: Okay. So we are on a video hearing here so be
2 respectful of everyone in that sometimes, Judges we forget as well, but only
3 unmute when it's your turn to speak and I did mention this is important,
4 identify yourself when you start talking and sometimes, Judges, we forget to
5 do that as well. When you introduce a slide or talk about a paper or exhibit
6 please be clear in identifying that slide or exhibit and then if you could as a
7 courtesy give us a few seconds to flip to that. The Judges have all the
8 materials before us so we should be able to get to it but sometimes we have
9 to flip a few pages on our screens to find where you're at. Again, sometimes
10 there is an audio lag when we're doing virtual hearing. The audio seems to
11 be pretty good today but if, you know, sometimes if it starts lagging try to
12 pause a second before you start so we don't speak over each other. It rarely
13 happens but sometimes we do have interruptions with the video or
14 connections, somebody loses a connection. We will pause the hearing and
15 we won't cut that into your time obviously and just let us know as soon as
16 possible what the issues are, how you can cut out. If we lose video we can
17 easily just transfer into an audio link or other means, we have back-up
18 available. So that should go well if anything happens, hopefully it won't,
19 and I think I've gotten all the preliminary instructions. Mr. Renner, do you
20 have any questions?

21 MR. RENNER: I do not. Thank you, Your Honor.

22 JUDGE KINDER: All right. Mr. Jensen, do you have any questions
23 before we begin?

24 MR. JENSEN: No, Your Honor.

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