

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

-----x

APPLE, INC., Case IPR2020-01520
U.S. Patent 10,258,265

Petitioner,

Case IPR2020-01539
U.S. Patent 10,588,554

-against-

MASIMO CORPORATION,

Case IPR2020-01537
U.S. Patent 10,588,553

Case IPR2020-01536
U.S. Patent 10,588,553

Patent Owner.

Case IPR2020-01538
U.S. Patent 10,588,554

-----x

VIDEO-RECORDED DEPOSITION OF
THOMAS WILLIAM KENNY JR., PH.D.
Zoom Recorded Videoconference
09/18/2021
9:03 a.m. Pacific Daylight Time

REPORTED BY: AMANDA GORRONO, CLR
CLR NO. 052005-01

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

09/18/2021
9:03 a.m. (PDT)

VIDEO-RECORDED DEPOSITION OF THOMAS WILLIAM
KENNY, JR. Ph.D., held virtually via Zoom
Videoconferencing, before Amanda Gorrono, Certified
Live Note Reporter, and Notary Public of the State of
New York.

1 A P P E A R A N C E S

(Via Zoom Videoconferencing):

2 ON BEHALF OF PETITIONER APPLE, INC.:

Dan Smith, Esquire

3 Fish & Richardson

1717 Main Street - Suite 5000

4 Dallas, Texas 75201

PHONE: 214-292-4071

5 E-MAIL: Dsmith@fr.com

-AND-

6 Andrew B. Patrick, Esquire

Fish & Richardson

7 1000 Maine Avenue SW

Washington, D.C. 20024

8 PHONE: 202-626-7735

E-MAIL: Patrick@fr.com

9

10 ON BEHALF OF PATENT OWNER MASIMO CORPORATION:

Stephen W. Larson, Esquire

11 Knobbe Martens

2040 Main Street

12 Irvine, CA 92614

PHONE: 949-721-5301

13 E-MAIL: Stephen.larson@knobbe.com

-AND-

14 Jeremiah S. Helm, Ph.D., Esquire

Knobbe Martens

15 1717 Pennsylvania Avenue N.W.

Washington, DC 20006

16 PHONE: 202-640-6400

E-MAIL: Jeremiah.helm@knobbe.com

17 -AND-

Jacob Peterson, Esquire

18 Knobbe Martens

925 4th Ave #2500

19 Seattle, WA 98104

PHONE: 206-405-2000

20 E-MAIL: Jacob.peterson@knobbe.com

21 ALSO PRESENT:

Billy Fahnert, Legal Videographer/Exhibit Technician,

22 Digital Evidence Group

1 I N D E X

2

3 WITNESS EXAMINATION BY Page

4 THOMAS WILLIAM MR. HELM 6

5 KENNY, JR. Ph.D.

6

7 EXHIBITS IDENTIFIED

8 EXHIBIT DESCRIPTION PAGE

9 Exhibit 1047 Second Declaration of Dr. ... 8
Thomas W. Kenny - IPR1520

10 Exhibit 1040 Eugene Hecht Optics, Second.. 33
Edition Bates No.

11 IPR2020-01520

12 Exhibit 1015 Mendelson Design and 46
Evaluation of a New

13 Reflectance Pulse Oximeter
Sensor

14 Exhibit 1014 Ohsaki US Patent 127
Application Pub. No.

15 2001/0056243A1

16 Exhibit 2012 Webster Design of Pulse 185
Oximeters

17 Exhibit 1001 United States Patent Poeze .. 201
Patent No. 10,258,265

18 Exhibit 1013 United States Patent 228
Application No. US

19 2004/0054291 A1, dated
March 18, 2004

20 Exhibit 1047 Second Declaration, IPR No... 228
IPR2020-01536

21

22

1 AUTOMATED MESSAGE: Recording in
2 progress.

3 THE TECH: We are on the record.
4 This is the remote video deposition of Dr. Thomas W.
5 Kenny regarding IPR numbers 2020-01520, 2020-01536,
6 2020-01537, 2020-1538 -- 01538, and 2020-01539 in the
7 matter of Apple, Inc. versus Masimo Corporation in
8 the United States Patent and Trademark Office.

9 My name is Billy Fahnert. I am the
10 video technician today. The court reporter is Amanda
11 Gorrano. We are here on behalf of Digital Evidence
12 Group.

13 Today's date is September 18th, 2021.
14 The time is 9:03 a.m. Pacific Daylight Time. All
15 parties have stipulated to the witness being recorded
16 remotely.

17 Will counsel please identify
18 yourselves for the record and then the witness will
19 be sworn in.

20 MR. HELM: Jeremiah Helm, Knobbe
21 Martens on behalf of the patent owner, Masimo, and
22 with me on the line is Steve Larson and Jacob

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.