

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner.

IPR2021-00193 (Patent 10,299,708 B1)
IPR2021-00195 (Patent 10,376,190 B1)
IPR2021-00208 (Patent 10,258,266 B1)
IPR2021-00209 (Patent 10,376,191 B1)

Record of Oral Hearing
Held: March 15, 2022

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

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The above-entitled matter came on for hearing on March 15,
2022, commencing at 12:59 p.m. EDT, via videoconference.

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P R O C E E D I N G S

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12:59 p.m.

JUDGE WIEKER: Good afternoon, everyone. We will hear argument today in four proceedings, specifically IPR2021-00193, -195, -208, and -209 between Petitioner, Apple Inc., and Patent Owner, Masimo Corporation. These proceedings concern U.S. Patent No. 10,299,708; Patent No. 10,376,190; Patent No. 10,258,266; and Patent No. 10,376,191 respectively. I'm Judge Wieker and I'm joined today by Judge Cocks and Judge Kinder. There are a few housekeeping matters we would like to address briefly before asking for appearances. First, thank you for your flexibility in accommodating this video hearing. If any technical difficulties arise during the hearing, please call or email the hearing staff.

Our primary concern is your right to be heard so if at anytime you have technical problems that undermine your ability to represent your client effectively, please let us know immediately. If we become aware that someone gets disconnected or is experiencing technical difficulties, we will pause the hearing while the issue is resolved.

For clarity of the record, please mute yourself when you are not speaking. When you do speak, please identify yourself at the start of your remarks so that the court reporter can make an accurate transcript. At the conclusion of the hearing please remain on the line in case the court reporter has any questions.

With that, let's turn to appearances, please. Counsel for

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1 Petitioner. would you please introduce yourself.

2 MR. PATRICK: Thank you, Your Honors. I'm Andrew
3 Patrick, counsel for Petitioner. I'm joined today by my colleagues H.
4 J. In and Karl Renner.

5 JUDGE WIEKER: Thank you very much.

6 And for Patent Owner?

7 MR. KESLER: Good morning. Jarom Kesler on behalf of
8 Patent Owner Masimo. With me today is Jacob Peterson and Stephen
9 Larson.

10 JUDGE WIEKER: Great. Thank you.

11 As discussed in our January 28th order, the four proceedings
12 before us today will be argued together and will share a single
13 transcript. Each side will have a total of 90 minutes of argument time
14 with which to address all four proceedings. That 90-minute time
15 allotment includes the parties' principle argument and any rebuttal.

16 Petitioner will begin first and then Patent Owner will follow.
17 If requested, we will then hear Petitioner's rebuttal and Patent Owner
18 sur-rebuttal. The panel will keep time and will aim to give you a
19 warning a few minutes before the expiration of each party's principal
20 argument time. As a reminder, Petitioner bears the burden of proving
21 any proposition of unpatentability by a preponderance of the evidence.

22 Does either party have any questions regarding the procedure
23 for today's argument before we get started?

24 MR. PATRICK: No, Your Honors.

25 MR. KESLER: No, Your Honor.

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1 JUDGE WIEKER: Thank you.

2 As a reminder, the hearing is open to the public and a full
3 transcript of the hearing will become part of the record. Finally,
4 please bear in mind that because this hearing is being held virtually,
5 we cannot see your demonstrative exhibits, but we do have a copy of
6 the papers and the demonstratives with us so if you can please identify
7 each demonstrative slide number as you refer to it, that would be
8 great.

9 With that, we will begin the argument. Mr. Patrick, would
10 you like to reserve time for rebuttal?

11 MR. PATRICK: Thank you, Your Honor. Because the issues
12 addressed in today's hearing overlap so strongly with those already
13 addressed with respect to later patents and recent hearings, we are
14 planning for a relatively short direct of about 20 minutes. In that
15 regard, we would like to reserve the remainder of our time, although
16 we're not sure that we'd use it.

17 JUDGE WIEKER: Okay, Petitioner. You may begin your
18 argument when you're ready.

19 MR. PATRICK: Okay. Thank you, Your Honors. May it
20 please the Board, my name is Andrew Patrick and I represent
21 Petitioner Apple. I would like Your Honors to turn to slide 2 of the
22 deck which provides an overview of our demonstratives.

23 Similar to the issues address in recent hearings, the dispute
24 between the parties in the proceedings before Your Honors today
25 turns on the question of combinability. Indeed, similar to those

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