Trials@uspto.gov
571-272-7822

Paper 22
Date: June 3, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

KOSS CORPORATION,
Patent Owner.

IPR2021-00255
Patent 10,298,451 B1

Before DAVID C. MCKONE, GREGG I. ANDERSON, and NORMAN H. BEAMER, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

On November 25, 2020, Apple, Inc. ("Petitioner") filed a Petition ("Pet.") pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1–21 of U.S. Patent No. 10,298,451 B1 ("the '451 patent"). Paper 2. On March 8, 2021, Koss Corporation ("Patent Owner") filed a Preliminary Response ("Prelim. Resp."). Paper 6. Pursuant to our authorization, Petitioner and Patent Owner subsequently filed reply and sur-reply briefs, respectively, further addressing discretionary denial pursuant to 35 U.S.C. § 314. Papers 20, 21 ("Reply"; "Sur-Reply").

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless the information presented in the Petition and any preliminary response shows that "there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition."

For the reasons explained below, we institute an *inter partes* review as to all challenged claims and on all grounds raised in the Petition.

II. BACKGROUND

A. The '451 Patent

The '451 patent, titled "Configuring Wireless Devices For A Wireless Infrastructure Network," was filed on August 7, 2018, issued on May 21,

2019, and lists related continuation applications dating to March 15, 2013.[1] Ex. 1001, codes (54), (22), (45), (63).

The '451 patent is directed to "permit[ing] a wireless device to receive data wirelessly via an infrastructure wireless network, without physically connecting the wireless device to a computer in order to configure it, and without having an existing infrastructure wireless network for the wireless device to connect to." Ex. 1001, Abstr. Figure 1 of the '451 patent is reproduced below.

[1] During prosecution, Applicant asserted an invention date of May 14, 2012, and, according to Petitioner, in the Texas litigation, Patent Owner asserts an invention date of July 10, 2010. Pet. 8–9 (citing Ex. 1002, 50–57). It is unnecessary to determine the applicability of these dates for purposes of this Decision, because the effective dates of the references are sufficiently early compared to the May 14, 2012, date, and no evidence has been provided in the record as to the July 10, 2010 date.

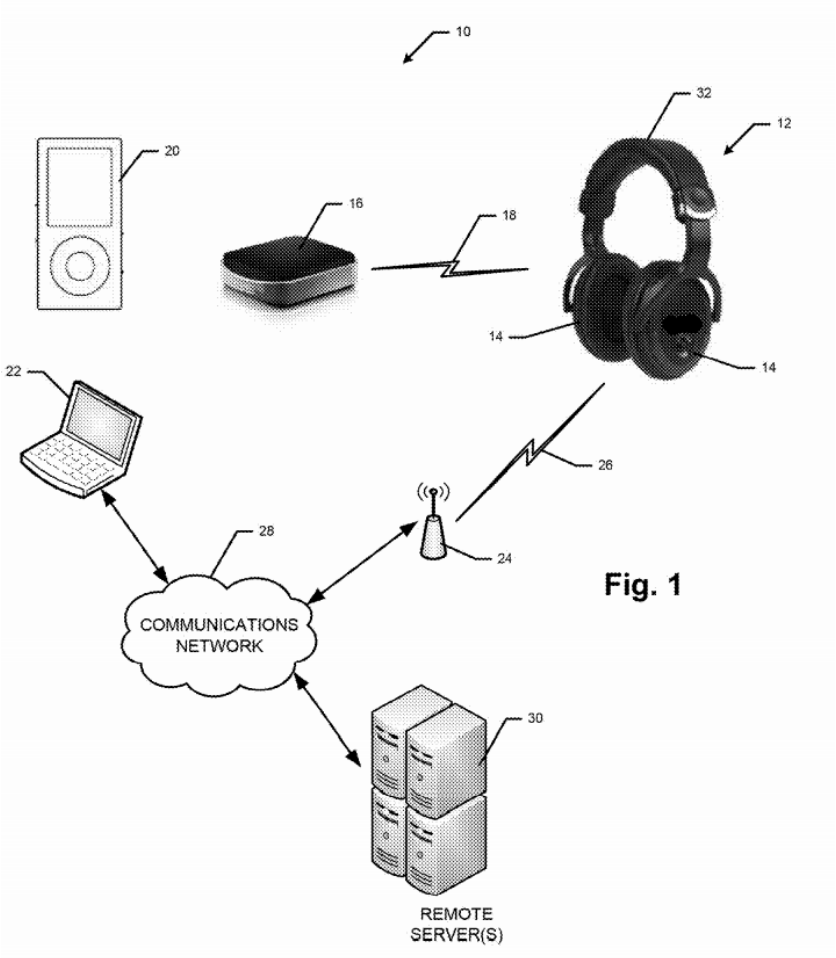

Fig. 1

Figure 1 is a block diagram depicting earphones 14 which can communicate wirelessly with content access point (CAP) 16 via ad hoc communications link 18, which can be, for example, a Wi-Fi link or Bluetooth. *Id.* at 3:1–10. The '451 patent explains that an ad hoc link is a point-to-point network that does not utilize preexisting structure such as wireless access points. *Id.* at 3:10–15. CAP 16 can be connected to digital audio player (DAP) 20, such as a personal MP3 player, or computer 22, such as a laptop, via a USB connector. *Id.* at 3:17–36. Earphones 14 can also connect to access point 24 via wireless infrastructure link 26. *Id.* at 3:36–40. The '451 patent explains that a wireless infrastructure link is part of a network that utilizes a wireless access point and connects to an Internet service provider, such as Internet

28. *Id.* at 3:40–44. Both computer 22 and access point 24 connect to Internet 28. *Id.* at 3:45–40. Remote servers 30 are also connected to Internet 28. *Id.* at 3:49—50.

In operation, a user, via computer 22, may connect to the remote server system 30 to provision or initialize CAP 16 and earphones 14 for initial use, and to otherwise manage CAP 16 and earphones 14. *Id.* at 3:51––54. Initial operation of earphones 14 involves plugging CAP 16 into DAP 20 or computer 22 (generally, "media devices"), enabling CAP 16 to transmit media content from the media devices to be played on earphones 14. *Id.* at 4:35–44. Earphones 14 can also be set up to receive content from server 30 via Internet 28 and access point 24, which is achieved by the user logging into a website via computer 22, with CAP 16 connected to the computer. *Id.* at 4:45–5:22. While logged in, the user enters access point credentials and information identifying CAP 16 and earphones 14, which is stored in the users account on the server, and the access point credentials are also transferring to the earphones 14. *Id.* As stated in the '451 patent:

> This process allows the earphones 14 to be configured for infrastructure network (and Internet) access without having to physically connect the earphones 14 to the computer 22 to configure them and without having an existing different infrastructure network that the earphones 14 need to connect to.

Id. at 5:22–27. The '451 patent also describes using devices such as video players, lighting systems, cameras, manufacturing equipment, medical devices, gaming systems, "or any other suitable controllable electronic equipment" in place of the earphones. *Id.* at Figs. 4, 5, 5:66, 6:10–15.

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