

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

KOSS CORPORATION,
Patent Owner.

IPR2021-00546
Patent 10,206,025 B2

Before PATRICK R. SCANLON, DAVID C. McKONE, and
NORMAN H. BEAMER, *Administrative Patent Judges*.

SCANLON, *Administrative Patent Judge*.

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

I. INTRODUCTION

Apple Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–3, 6, 8, 10–13, 16, 18, 20–22, 25, 27, 29–31, 34, 36, 38–43, 46, 48, and 51–56 of U.S. Patent No. 10,206,025 B2 (Ex. 1001, “the ’025 patent”). Koss Corporation (“Patent Owner”) filed a Preliminary Response (Paper 8, “Prelim. Resp.”).

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2020). To institute an *inter partes* review, we must determine that the information presented in the Petition shows “a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). For the reasons set forth below, we determine that the information presented in the Petition does not establish a reasonable likelihood that Petitioner will prevail with respect to at least one challenged claim. Accordingly, we do not institute an *inter partes* review of the ’025 patent.

II. BACKGROUND

A. *Real Parties in Interest*

The parties identify themselves as the real parties in interest. Pet. 75; Paper 3, 1.

B. *Related Matters*

The parties identify the following proceeding as a related matter involving the ’025 patent: *Koss Corp. v. Apple Inc.*, Case No. 6:20-cv-00665 (W.D. Tex.) (“the Texas case”). Pet. 75; Paper 3, 1. Patent Owner identifies five other proceedings in which Patent Owner is plaintiff and the ’025 patent is asserted against other parties. Paper 3, 1; Paper 7, 1. Patent Owner also identifies two proceedings involving the ’025 patent, including

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one filed by Petitioner in the United States District Court for the Northern District of California captioned *Apple Inc. v. Koss Corporation*, Case No. 4:20-cv-05504 (N.D. Cal.). Paper 3, 1.

In addition, Patent Owner identifies the following *inter partes* review proceedings¹ challenging the '025 patent or patents related to the '025 patent as a related matters:

Bose Corp. v. Koss Corp., IPR2021-00297, filed December 7, 2020, challenging U.S. Patent No. 10,368,155 B2;

Apple Inc. v. Koss Corp., IPR2021-00305, filed December 15, 2020, challenging U.S. Patent No. 10,506,325 B1;

Apple Inc. v. Koss Corp., IPR2021-00381, filed January 4, 2021, challenging U.S. Patent No. 10,491,982 B1;

Apple Inc. v. Koss Corp., IPR2021-00592, filed March 2, 2021, challenging U.S. Patent No. 10,469,934 B2;

Bose Corp. v. Koss Corp., IPR2021-00612, filed March 3, 2021, challenging the '025 patent;

Apple Inc. v. Koss Corp., IPR2021-00626, filed March 17, 2021, challenging the '025 patent;

Bose Corp. v. Koss Corp., IPR2021-00680, filed March 17, 2021, challenging U.S. Patent No. 10,469,934 B2;

Apple Inc. v. Koss Corp., IPR2021-00679, filed March 22, 2021, challenging U.S. Patent No. 10,506,325 B1;

Apple Inc. v. Koss Corp., IPR2021-00686, filed March 22, 2021, challenging U.S. Patent No. 10,491,982 B1; and

Apple Inc. v. Koss Corp., IPR2021-00693, filed March 23, 2021, challenging U.S. Patent No. 10,469,934 B2.

Paper 6, 1–2.

¹ *Apple Inc. v. Koss Corp.*, IPR2021-00255, filed November 25, 2020, and *Apple Inc. v. Koss Corp.*, IPR2021-00600, filed March 7, 2021, both challenging U.S. Patent 10,298,451 B1, are also pending.

C. The '025 Patent

The '025 patent, titled “System with Wireless Earphones,” issued February 12, 2019, with claims 1–56, and claims priority to several applications dating to April 7, 2008.² Ex. 1001, codes (45), (54), (60), (63), 1:3–28, 18:2–24:56. The '025 patent relates to “a wireless earphone that comprises a transceiver circuit for receiving streaming audio from a data source, such as a digital audio player or a computer, over an ad hoc wireless network.” *Id.* at 1:65–2:2. The '025 patent defines an “ad hoc wireless network” as “a network where two (or more) wireless-capable devices, such as the earphone and a data source, communicate directly and wirelessly, without using an access point.” *Id.* at 3:2–5. In some embodiments there may be two discrete wireless earphones, one in each ear. *Id.* at 3:45–46.

We reproduce Figure 2A of the '025 patent below.

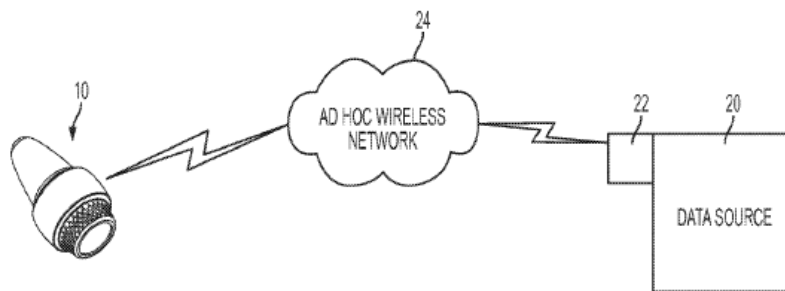


FIG. 2A

Figure 2A illustrates a communication mode for a wireless earphone. *Id.* at 2:27–29, 4:21–24. In particular, Figure 2A shows data source 20 in communication with earphone 10 over ad hoc wireless network 24. *Id.* at

² Although Petitioner does not concede that the challenged claims are entitled to the April 7, 2008, priority date, it does not assert that any challenged claim is not entitled to the benefit of this date. *See* Pet. 2. Therefore, for purposes of this Decision, we consider the effective filing date of the '025 patent to be April 7, 2008.

4:24–26. Data source 20 may be a digital audio player (DAP), such as an MP3 player, an iPod, or a laptop computer. *Id.* at 4:30–34. “When in range, the data source 20 may communicate with the earphone 10 via the ad hoc wireless network 24 using any suitable wireless communication protocol,” including Bluetooth and other communication protocols. *Id.* at 4:54–59.

In one embodiment, earphone 10 connects to network-enabled host server 40 via networks 30a, 42 so that host server 40 can transmit streaming digital audio to earphone 10. *Id.* at 5:54–60, Fig. 2D. Alternatively, host server 40 may transmit to earphone 10 a network address for streaming digital audio content server 70. *Id.* at 5:60–63, Fig. 2D. In this case, earphone 10 uses the received address to connect to content server 70 via networks 30a, 42 and receive digital audio from content server 70. *Id.* at 5:64–67. Content server 70 may be an Internet radio station server. *Id.* at 6:1–2. In addition, content server 70 may stream digital audio that it has received from data source 20 via networks 30b, 42. *Id.* at 6:5–11.

Figure 3, reproduced below, depicts earphone 10 in more detail.

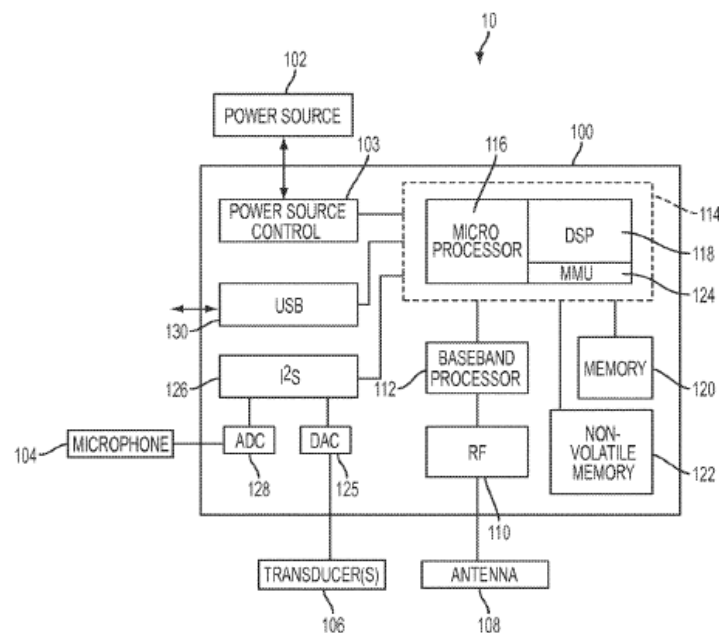


FIG. 3

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