

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Michael J. Koss, et al.
U.S. Patent No.: 10,491,982 Attorney Docket No.: 50095-0019IP1
Issue Date: November 26, 2019
Appl. Serial No.: 16/528,701
Filing Date: August 1, 2019
Title: SYSTEM WITH WIRELESS EARPHONES

Mail Stop Patent Board

Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION FOR *INTER PARTES* REVIEW OF UNITED STATES PATENT
NO. 10,491,982 PURSUANT TO 35 U.S.C. §§311–319, 37 C.F.R. §42**

TABLE OF CONTENTS

I.	REQUIREMENTS FOR IPR UNDER 37 C.F.R. §42.104.....	1
A.	Grounds for Standing Under 37 C.F.R. §42.104(a).....	1
B.	Challenge Under 37 C.F.R. §42.104(b) and Relief Requested.....	1
II.	THE BOARD SHOULD NOT DENY INSTITUTION UNDER 35 U.S.C. § 325(d).....	4
A.	Petitioner’s Grounds and Obviousness Rationales Were Not Previously Considered by The Office.....	5
B.	The Office Erred in Granting the ’982 Patent.....	6
III.	PTAB DISCRETION UNDER 35 U.S.C. § 314(a) SHOULD NOT PRECLUDE INSTITUTION	9
	Factor 1: Institution Will Enable a Stay	10
	Factor 2: Uncertain District Court Schedule	10
	Factor 3: Early Stage of Parallel Proceedings	12
	Factor 4: The Petition Raises Unique Issues	13
	Factor 5: Petitioner’s Involvement in the Texas Litigation.....	14
	Factor 6: Other Considerations Support Institution	15
IV.	SUMMARY OF THE ’982 PATENT	15
A.	Overview	15
B.	Prosecution History	17
C.	Claim Construction Under 37 C.F.R. §§42.104(b)(3)	18
V.	THE CHALLENGED CLAIMS ARE UNPATENTABLE.....	18
A.	Claims 1, 2, and 18-20 Are Obvious Over Rosener and Hankey [GROUND 1(A)], and Over Rosener, Hankey and Dyer [GROUND 1(A)(i)]	18

1.	Rosener.....	18
2.	Hankey	21
3.	Dyer.....	23
4.	Combinations of Rosener and Hankey, and Rosener, Hankey and Dyer	24
5.	Claim 1	32
6.	Claims 2 and 18-20	53
B.	Claims 3-5 Are Obvious Over Rosener, Hankey, and Haupt [GROUND 1(B)], and Over Rosener, Hankey, Dyer, and Haupt [GROUND 1(B)(i)]	58
1.	Haupt.....	58
2.	Combinations with Haupt	59
3.	Claims 3-5	61
C.	Claim 14 Is Obvious Over Rosener, Hankey, and Price [GROUND 1(C)], and Over Rosener, Hankey, Dyer and Price [GROUND 1(C)(i)]	67
1.	Price.....	67
2.	Combinations with Price.....	68
3.	Claim 14	71
D.	Claim 15 Is Obvious Over Rosener, Hankey, and Paulson [GROUND 1(C)], and Over Rosener, Hankey, Dyer, and Paulson [GROUND 1(C)(i)].....	72
1.	Paulson	72
2.	Combinations with Paulson	73
3.	Claim 15	74

E.	Claims 16 and 17 Are Obvious Over Rosener, Hankey, and Huddart [GROUND 1(D)], and Over Rosener, Hankey, Dyer, and Huddart, [GROUND 1(D)(i)]	76
1.	Huddart.....	76
2.	Combinations with Huddart.....	78
3.	Claims 16 and 17.....	80
F.	Claim 17 Is Obvious Over Rosener, Hankey, Huddart, and Vanderelli [GROUND 1(E)], and Over Rosener, Hankey, Dyer, Huddart, and Vanderelli [GROUND 1(E)(i)]	82
1.	Vanderelli.....	82
2.	Combinations with Vanderelli	84
3.	Claim 17	84
VI.	CONCLUSION.....	85
VII.	FEES	85
VIII.	MANDATORY NOTICES UNDER 37 C.F.R. § 42.8(a)(1).....	85
A.	Real Party-In-Interest Under 37 C.F.R. § 42.8(b)(1)	85
B.	Related Matters Under 37 C.F.R. § 42.8(b)(2)	86
C.	Lead And Back-Up Counsel Under 37 C.F.R. § 42.8(b)(3)	86
D.	Service Information	86

EXHIBITS

APPLE-1001	U.S. Patent No. 10,491,982 to Koss, et al. (“the ’982 patent”)
APPLE-1002	Excerpts from the Prosecution History of the ’982 patent (“the Prosecution History”)
APPLE-1003	Declaration of Jeremy R. Cooperstock
APPLE-1004	U.S. Pat. App. Pub. No. 2008/0076489 (“Rosener”)
APPLE-1005	U.S. Pat. App. Pub. No. 2008/0166001 (“Hankey”)
APPLE-1006	U.S. Pat. No. 8,031,900 (“Dyer”)
APPLE-1007	U.S. Pat. No. 7,627,289 (“Huddart”)
APPLE-1008	U.S. Pat. App. No. 60,879,177 (“’177 Provisional”)
APPLE-1009	U.S. Pat. App. Pub. No. 2006/0026304 (“Price”)
APPLE-1010	U.S. Pat. No. 7,551,940 (“Paulson”)
APPLE-1011	U.S. Pat. No. 5,371,454 (“Marek”)
APPLE-1012	U.S. Pat. No. 7,027,311 (“Vanderelli”)
APPLE-1013	RESERVED
APPLE-1014	Plaintiff KOSS Corporations’ Preliminary Infringement Contentions, <i>KOSS Corporation v. Apple Inc.</i> , 6:20-cv-00665 (WDTX)
APPLE-1015	Example Order Governing Proceedings - Patent Case
APPLE-1016	Agreed [Proposed] Scheduling Order, <i>KOSS Corporation v. Apple Inc.</i> , 6:20-cv-00665 (WDTX)

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.