

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner,

v.

KOSS CORPORATION,

Patent Owner.

IPR2021-00592

Patent 10,469,934 B2

Before PATRICK R. SCANLON, DAVID C. McKONE,
and GREGG I. ANDERSON, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

ORDER

Conduct of the Proceeding

37 C.F.R. § 42.05

INTRODUCTION

An oral hearing was held in this proceeding on May 25, 2022. Petitioner argued at the oral hearing that, because claim 1 is directed to a “headphone assembly,” the claim language “a remote, network-connected server that is in wireless communication with the mobile, digital audio player,” recited in claim 1, should not be given patentable weight. Patent Owner provided responsive arguments, but noted (and we observed as well), that Petitioner had not presented this argument as to the scope of claim 1 in its Petition or Reply. Patent Owner expressed concern that it was unfair to have to respond to this argument for the first time at the hearing.

Because the scope of claim 1 is a matter of law on which issues in this proceeding could turn, and to afford the parties a fair opportunity to address this issue in briefing, we authorize the parties to submit additional briefing. The additional briefing is limited to whether “a remote, network-connected server that is in wireless communication with the mobile, digital audio player,” recited in claim 1, should be given patentable weight.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that on or before June 6, 2022, the parties are authorized to concurrently file additional briefs of not more than seven (7) pages;

ORDERED that the briefs are limited to the issue as detailed above; and

FURTHER ORDERED that no other issues shall be briefed and no additional exhibits may be filed with the briefs.

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PETITIONER:

Walter K. Renner
David L. Holt
Joel Henry
FISH & RICHARDSON P.C.
axf-ptab@fr.com
holt2@fr.com
jhenry@fr.com

PATENT OWNER:

Mark Knedeisen
K&L GATES LLP
mark.knedeisen@klgates.com