

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

KOSS CORPORATION,
Patent Owner.

CASE: IPR2021-00592
U.S. PATENT NO. 10,469,934

PATENT OWNER RESPONSE

TABLE OF CONTENTS

I. INTRODUCTION 1

II. BACKGROUND 3

 A. Summary of the '934 Patent..... 3

 B. Person of Ordinary Skill in the Art 4

 C. Petitioner’s Evidence..... 6

 1. The References..... 6

 2. Cooperstock’s Testimony 10

III. PETITIONER FAILED TO SHOW THAT CLAIM 1 WOULD HAVE BEEN OBVIOUS 15

 A. Petitioner Failed to Show that the Headphone Assembly’s Interconnections With the “Remote, Network-Connected Server” Would Have Been Obvious..... 15

 1. Petitioner Failed to Show That the Haupt and Seshadri, in Combination, Teach That the Network-Connected Server to Which Transmission of the Request Is Initiated From the Headphone Assembly Is in Communication With the Mobile DAP and Transmits Firmware Upgrades to the Headphone Assembly..... 17

 2. The Board Previously Rejected Petitioner’s Argument for Limitation 1.i and Should Reject it Again 19

 3. Rao Is Irrelevant to Limitation 1.i 22

 4. Petitioner Failed to Show That the Network-Connected Server to Which the Headphone Assembly Initiates Transmission of the Request Also Transmits the Firmware Upgrades to the Headphone Assembly 23

B.	Commercial Success of Petitioner’s Products Confirms That Claim 1 Would Not Have Been Obvious.....	27
1.	Background	27
2.	Legal Principles.....	29
3.	The AirPods Products Are a Commercial Success.....	30
4.	There Is a Nexus Between the AirPods Products and Claim 1	32
IV.	DEPENDENT CLAIMS.....	34
A.	Claims 7, 21, 30, and 45	34
B.	Claims 33-37, 39, 42-43, and 45-46.....	38
1.	Background on Firmware and Firmware Upgrades.....	39
2.	Petitioner Has Not Shown That Claim 33 and the Challenged Claims Depending Therefrom Would Have Been Obvious	40
3.	Claims 37 and 39.....	46
C.	Claims 56-57	50
D.	Claims 52-53 and 56-57	51
E.	Commercial Success Applies to Dependent Claims 7, 21, 30, 33-37, 39, 42-43, 45-46, and 56-67.....	56
V.	CONCLUSION.....	56

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>AG v. Nike, Inc.</i> , IPR2016-00921, Paper 21 (PTAB Oct. 19, 2017).....	13
<i>Apple Inc. v. Koss Corp.</i> , IPR2021-00546, Paper 10 (PTAB Sept. 7, 2021).....	<i>passim</i>
<i>Apple Inc. v. Koss Corp.</i> , IPR2021-00626, Paper 10 (PTAB Sept. 30, 2021).....	<i>passim</i>
<i>Apple, Inc. v. Koss Corp.</i> , IPR2021-00592, Paper 9 (Aug. 23, 2021).....	<i>passim</i>
<i>In re Applied Materials, Inc.</i> , 692 F.3d 1289 (Fed. Cir. 2012)	31
<i>Belden Inc. v. Berk-Tek LLC</i> , 805 F.3d 1064 (Fed. Cir. 2015)	21, 25
<i>BMW of North America, LLC v. Stragent, LLC</i> , IPR2017-00676, Paper 33 (PTAB June 14, 2018)	15
<i>Demaco Corp. v. F. Von Langsdorff Licensing Ltd.</i> , 851 F.2d 1387 (Fed. Cir. 1998)	30, 33
<i>Ecolochem, Inc. v. S. Cal. Edison Co.</i> , 227 F.3d 1361 (Fed. Cir. 2000)	29
<i>Eli Lilly and Co. v. Teva Pharms. Int’l GmbH</i> , 8 F.4th 1331 (Fed. Cir. 2021)	12
<i>Environmental Designs, Ltd. v. Union Oil Co.</i> , 713 F.2d 693 (Fed. Cir. 1983)	12
<i>In re Fine</i> , 837 F.2d 1071 (Fed. Cir. 1988)	56

<i>FMC Tech. Inc. v. OneSubsea IP UK Ltd.</i> , IPR2019-00935, Paper 45 (PTAB Oct. 14, 2020).....	12
<i>Fox Factory, Inc. v. SRAM, LLC</i> , 994 F.3d 1366 (Fed. Cir. 2019)	30
<i>Global Tel*Link Corp. v. Securus Techs., Inc.</i> , IPR2015-01225, Paper 44 (PTAB Dec. 14, 2016)	38
<i>Goodyear Tire & Rubber Co. v. Ray-O-Vac Co.</i> , 321 U.S. 275 (1944).....	3, 29, 34
<i>Graham v. John Deere Co. of Kansas City</i> , 383 U.S. 1 (1966).....	29
<i>Harmonic Inc. v. Avid Tech., Inc.</i> , 815 F.3d 1356 (Fed. Cir. 2016)	27, 51
<i>In re Huang</i> , 100 F.3d 135 (Fed. Cir. 1996)	30
<i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.</i> , 821 F.3d 1359 (Fed. Cir. 2016)	24, 51
<i>In re Kahn</i> , 441 F.3d 977 (Fed. Cir. 2006)	14, 42
<i>KSR Int’l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	14
<i>Merck & Co. v. Teva Pharm. USA, Inc.</i> , 395 F.3d 1364 (Fed. Cir. 2005)	29, 34
<i>Nautilus Hyosung Inc. v. Diebold, Inc.</i> , IPR2016-00633, Paper 9 (PTAB Aug. 22, 2016).....	25
<i>Nobel Biocare Services AG v. Intradent USA, Inc.</i> , 903 F.3d 1365 (Fed. Cir. 2018)	55
<i>Ormco Corp. v. Align Tech., Inc.</i> , 463 F.3d 1299 (Fed. Cir. 2006)	29

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.