

## Beamer, Norman

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**From:** Trials  
**Sent:** Thursday, September 9, 2021 10:54 AM  
**To:** Knedeisen, Mark G.; Trials  
**Cc:** holt2@fr.com; ipr50095-0018ip1@fr.com; ptabinbound@fr.com; AXF-PTAB; ipr50095-0018ip1@fr.com; IPR50095-0020IP2; Roberto Devoto; IPR50095-0021IP2; Joel Henry; IPR50095-0022IP2@fr.com; IPR50095-0019IP2; Weaver, Michelle L.; Bozzo, Brian P.; Murray, Laurén S.; Ghabrial, Ragae  
**Subject:** RE: Apple Inc. v. Koss Corp. IPRs (Case Nos. IPR2021-00592, -00600, -00626, -00679, -00693)

Counsel,

No teleconference is necessary. Patent Owner is authorized to file motions for additional discovery in Case Nos. IPR2021-00592, -00600, -00626, -00679, -00693 under 37 CFR 42.51(b)(2) within 14 days of this email authorization. This authorization is limited to Patent Owner seeking the discovery outlined in its email request for each case (copied below). Per agreement of the parties, the following terms shall apply:

- The time for oppositions and replies is governed by 37 CFR 42.25(a), and the replies will be limited to responsive arguments only, without new evidence;
- Patent Owner will not use any evidence that may eventually be produced under this additional discovery process in any IPRs where Patent Owner sought similar additional discovery and the Board denied the requests (namely IPR2021-00255, IPR2021-00305, and IPR2021-00381); and
- Petitioner will not oppose any of the motions as being premature.

Regards,

Andrew Kellogg,  
Supervisory Paralegal  
Patent Trial and Appeal Board  
USPTO  
[andrew.kellogg@uspto.gov](mailto:andrew.kellogg@uspto.gov)  
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**From:** Knedeisen, Mark G. <Mark.Knedeisen@klgates.com>  
**Sent:** Tuesday, September 7, 2021 5:03 PM  
**To:** Trials <Trials@USPTO.GOV>  
**Cc:** holt2@fr.com; ipr50095-0018ip1@fr.com; ptabinbound@fr.com; AXF-PTAB <AXF-PTAB@fr.com>; ipr50095-0018ip1@fr.com; IPR50095-0020IP2 <IPR50095-0020IP2@fr.com>; Roberto Devoto <devoto@fr.com>; IPR50095-0021IP2 <IPR50095-0021IP2@fr.com>; Joel Henry <jhenry@fr.com>; IPR50095-0022IP2@fr.com; IPR50095-0019IP2 <IPR50095-0019IP2@fr.com>; Weaver, Michelle L. <Michelle.Weaver@klgates.com>; Bozzo, Brian P. <Brian.Bozzo@klgates.com>; Murray, Laurén S. <Lauren.Murray@klgates.com>; Ghabrial, Ragae <ragae.ghabrial@klgates.com>  
**Subject:** Apple Inc. v. Koss Corp. IPRs (Case Nos. IPR2021-00592, -00600, -00626, -00679, -00693)

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Honorable Board,

Patent Owner, Koss Corporation, requests authorization to file a motion for additional discovery under 37 CFR 42.51(b)(2) in each of the following IPRs where Apple Inc. is Petitioner and Koss Corporation is Patent Owner:

IPR2021-00592 (for Patent 10,469,934) (instituted Aug. 23, 2021)  
IPR2021-00600 (for Patent 10,298,451) (instituted Sept. 1, 2021)  
IPR2021-00626 (for Patent 10,206,025) (no institution decision)  
IPR2021-00679 (for Patent 10,506,325) (no institution decision)  
IPR2021-00686 (for Patent 10,491,982) (no institution decision)  
IPR2021-00693 (for Patent 10,469,934) (no institution decision)

Through the additional discovery, Patent Owner seeks sales data for products of Petitioner that Patent Owner asserts have experienced commercial success, which is a factor in assessing obviousness, which is an issue in each of the IPRs. The products for which Patent Owner seeks sales data vary based on the patent at issue in the IPR as follows:

Case No.	Information Sought by Patent Owner Through Additional Discovery
IPR2021-00592	Sales revenue and quantity of units sold, by calendar quarter, for AirPods (1 <sup>st</sup> & 2 <sup>nd</sup> gen) and AirPods Pro since the commercial introduction of those products
IPR2021-00600	Sales revenue and quantity of units sold, by calendar quarter, for HomePod and HomePod Mini since the commercial introduction of those products
IPR2021-00626	Sales revenue and quantity of units sold, by calendar quarter, for AirPods (1 <sup>st</sup> & 2 <sup>nd</sup> gen) and AirPods Pro since the commercial introduction of those products
IPR2021-00679	Sales revenue and quantity of units sold, by calendar quarter, for Beats Powerbeats Pro since the commercial introduction of those products
IPR2021-00686	Sales revenue and quantity of units sold, by calendar quarter, for AirPods (1 <sup>st</sup> & 2 <sup>nd</sup> gen) and AirPods Pro since the commercial introduction of those products
IPR2021-00693	Sales revenue and quantity of units sold, by calendar quarter, for AirPods (1 <sup>st</sup> & 2 <sup>nd</sup> gen) and AirPods Pro since the commercial introduction of those products

Patent Owner consulted with Petitioner about the requests. Petitioner does not oppose the requests for authorization under the following terms:

- If authorized, Patent Owner files the motions within 14 days of authorization from the Board;
- The time for oppositions and replies would be governed by 37 CFR 42.25(a), and the replies will be limited to responsive arguments only, without new evidence;
- Patent Owner will not use any evidence that may eventually be produced under this additional discover process in any IPRs where Patent Owner sought similar additional discovery and the Board denied the requests (namely IPR2021-00255, IPR2021-00305 and IPR2021-00381); and
- Petitioner will not oppose any of the motions as being premature.

While Petitioner does not oppose Patent Owner's requests for authorization under these terms, Petitioner intends to oppose the motions for the additional discovery.

Counsel for the parties are available for a teleconference with the Board this week at the following days/times:

- Thursday, September 9, 12pm to 1pm eastern;

- Friday, September 10, 12:30pm eastern to 1pm eastern, 2:30pm eastern to 3pm eastern, and 4pm to 5pm eastern; and
- Monday, September 13, 11am eastern to 2pm eastern.

Respectfully, Mark Knedeisen  
Counsel for Patent Owner, Koss Corporation

**K&L GATES**

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