

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BOSE CORPORATION,  
Petitioner,

v.

KOSS CORPORATION,  
Patent Owner.

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IPR2021-00612  
Patent 10,206,025 B2

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

SCANLON, *Administrative Patent Judge*.

JUDGMENT  
Final Written Decision  
Determining Some Challenged Claims Unpatentable  
*35 U.S.C. § 318(a)*

## I. INTRODUCTION

Bose Corporation (“Petitioner”) challenges claims 1–56 of U.S. Patent No. 10,206,025 B2 (Ex. 1001, “the ’025 patent”). We have jurisdiction under 35 U.S.C. § 6, and this Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that 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 the ’025 patent are unpatentable but has not shown by a preponderance of the evidence that claims 4, 5, 7, 9, 14, 15, 17, 19, 23, 24, 26, 28, 32, 33, 35, 37, 44, 45, 47, 49, and 50 are unpatentable.

### A. Procedural History

Petitioner filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of the challenged claims. Koss Corporation (“Patent Owner”) filed a Preliminary Response (Paper 9). With our authorization, Petitioner filed a Preliminary Reply (Paper 12) and Patent Owner filed a Preliminary Sur-reply (Paper 13).

We instituted a trial as to all challenged claims. Paper 15 (“Decision on Institution” or “Dec. Inst.”).

After institution, Patent Owner filed a Patent Owner Response (Paper 20, “PO Resp.”), Petitioner filed a Reply (Paper 29, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 33, “PO Sur-reply”).

Petitioner relies on the Declaration of Tim A. Williams, Ph.D. (Ex. 1003), the Declaration of John G. Casali, Ph.D., CPE (Ex. 1005), and the Reply Declaration of Tim A. Williams, Ph.D. (Ex. 1152) in support of its contentions. Patent Owner relies on the Declaration of Joseph C. McAlexander III (Ex. 2024) and the Declaration of Nicholas S. Blair (Ex. 2025) in support of its contentions.

An oral hearing was held on June 15, 2022. A transcript of the hearing is included in the record. Paper 37 (“Tr.”).

*B. Real Parties in Interest*

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

*C. Related Matters*

The parties identify the following proceedings as related matters involving the ’025 patent:

*Koss Corp. v. Bose Corp.*, Case No. 6:20-cv-00661 (W.D. Tex.);<sup>1</sup>

*Koss Corp. v. PEAG LLC*, Case No. 6:20-cv-00662 (W.D. Tex.);<sup>2</sup>

*Koss Corp. v. Plantronics, Inc.*, Case No. 6:20-cv-00663 (W.D. Tex.);<sup>3</sup>

*Koss Corp. v. Skullcandy, Inc.*, Case No. 6:20-cv-00664 (W.D. Tex.);<sup>4</sup>

*Koss Corp. v. Apple Inc.*, Case No. 6:20-cv-00665 (W.D. Tex.) (“the Apple Litigation”);

*Bose Corp. v. Koss Corp.*, Case No. 1:20-cv-12193 (D. Mass.);

*Apple Inc. v. Koss Corp.*, Case No. 4:20-cv-05504 (N.D. Cal.);

*Apple Inc. v. Koss Corp.*, Case No. 6:21-cv-00495 (W.D. Tex.); and

*Koss Corp. v. Skullcandy, Inc.*, Case No. 2:21-cv-00203 (D. Utah).

Pet. xx–xxi; Paper 3, 1; Paper 7, 1; Paper 8, 2.

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<sup>1</sup> This proceeding has been dismissed. Ex. 1137.

<sup>2</sup> This proceeding has been dismissed. Ex. 1140.

<sup>3</sup> This proceeding has been transferred to the United States District Court for the Northern District of California. Ex. 1139.

<sup>4</sup> This proceeding has been dismissed. Ex. 1138.

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In addition, the parties identify the following *inter partes* review proceedings<sup>5</sup> challenging the '025 patent or patents related to the '025 patent as related matters:

*Bose Corp. v. Koss Corp.*, IPR2021-00297, filed December 7, 2020, challenging U.S. Patent No. 10,368,155 B2 (final written decision, notice of appeal filed Aug. 1, 2022);

*Apple Inc. v. Koss Corp.*, IPR2021-00305, filed December 15, 2020, challenging U.S. Patent No. 10,506,325 B1 (final written decision, notice of appeal filed Aug. 1, 2022);

*Apple Inc. v. Koss Corp.*, IPR2021-00381, filed January 4, 2021, challenging U.S. Patent No. 10,491,982 B1 (final written decision, notice of appeal filed Aug. 9, 2022);

*Bose Corp. v. Koss Corp.*, IPR2021-00546, filed February 22, 2021, challenging the '025 patent (institution denied Oct. 8, 2021);

*Apple Inc. v. Koss Corp.*, IPR2021-00592, filed March 2, 2021, challenging U.S. Patent No. 10,469,934 B2 (terminated Aug. 2, 2022);

*Apple Inc. v. Koss Corp.*, IPR2021-00626, filed March 17, 2021, challenging the '025 patent (institution denied Sept. 30, 2021);

*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 (institution denied Oct. 12, 2021);

*Apple Inc. v. Koss Corp.*, IPR2021-00686, filed March 22, 2021, challenging U.S. Patent No. 10,491,982 B1 (institution denied Oct. 12, 2021); and

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<sup>5</sup> *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, were also pending at the time the Petition was filed. Final written decisions and notices of appeal subsequently have been entered in both of these proceedings.

*Apple Inc. v. Koss Corp.*, IPR2021-00693, filed March 23, 2021, challenging U.S. Patent No. 10,469,934 B2 (institution denied Oct. 13, 2021).

Pet. xx; Paper 3, 1–2; Paper 6, 1–2; Paper 8, 2.

#### *D. 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.<sup>6</sup> 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.”<sup>7</sup> *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.

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<sup>6</sup> Petitioner does not assert that any challenged claim is not entitled to the benefit of the earliest claimed priority date. *See* Pet. 2. Therefore, for purposes of this proceeding, we consider the effective filing date of the '025 patent to be April 7, 2008.

<sup>7</sup> In contrast, the '025 patent defines an “infrastructure network” as “a wireless network that uses one or more access points to allow a wireless-capable device, such as the wireless earphone, to connect to a computer network, such as a LAN or WLAN (including the Internet).” Ex. 1001, 3:5–10.

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