Paper No.
-----------

#### UNITED STATES PATENT AND TRADEMARK OFFICE

\_\_\_\_\_

## BEFORE THE PATENT TRIAL AND APPEAL BOARD

\_\_\_\_\_

BOSE CORPORATION Petitioner,

v.

KOSS CORPORATION Patent Owner.

\_\_\_\_\_

IPR2021-00680 Patent No. 10,469,934

\_\_\_\_\_\_

### PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE



# TABLE OF CONTENTS

I.	INDEPENDENT CLAIM 1 IS UNPATENTABLE2					
	A.	GROUND 1A: SCHRAGER-GOLDSTEIN2				
	B.	GROUND 2A: REZVANI-REZVANI-SKULLEY-HIND5				
		1.	Hind Discloses Firmware Upgrades	5		
		2.	Rezvani-875's Figure 2 Discloses the Headset's Components	6		
II.	THE SIGNAL STRENGTH CLAIMS ARE UNPATENTABLE1					
	A.	Koss's Argument that Harada Fails to Disclose the Signal-Strength Limitation Ignores Harada's Key Disclosures10				
	В.		Fails to Rebut the Reasons for the Harada-Based binations	14		
III.	THE	THE DEPENDENT CLAIMS ARE UNPATENTABLE15				
	A.	Claims 34-41 Are Unpatentable				
		1.	Grounds 1A, 1C	20		
		2.	Grounds 2C-2D	20		
	B.	The DSP Claims Are Unpatentable		22		
		1.	Schrager-Goldstein Would Have Included DSPs for Sound Enhancement	22		
		2.	Rezvani-Rezvani-Skulley-Hind-Oh Would Have Used Rezvani-875's DSP to Enhance Audio Output	24		
		3.	Implementing DSPs in True-Wireless Earbuds Required Only Ordinary Skill	25		
IV.	KOSS'S COMMERCIAL SUCCESS ARGUMENT LACK NEXUS					
	A.	No Presumptive Nexus Because Koss Failed to Show that AirPods Are "Coextensive" with Claim 1 or 58		27		
		1.	Koss Failed to Establish that Either Claim 1 or 58 Covers AirPods	28		
		2.	Koss Failed to Address AirPods' Unclaimed Features	30		
	B.	Any	Conceivable Nexus Has Been Rebutted	31		



	C.	No Commercial Success for Dependent Claims	32
	D.	Dr. Williams Had No Obligation to Address Evidence Koss	
		Had Not Raised.	32
V.	KOS	SS'S CRITICISM OF DR. WILLIAMS IS MERITLESS	33
VI.	CO	NCLUSION	34



## **TABLE OF AUTHORITIES**

## **CASES**

Apple v. AliveCore, IPR2021-00970, Paper 10 (Dec. 8, 2021)	34
BMW v. Carrum, IPR2019-00903, Paper 24 (Oct. 9, 2020)	3
Bradium v. Iancu, 923 F.3d 1032 (Fed. Cir. 2019)	3
Demaco v. F. Von Langsdorff Licensing, 851 F.2d 1387 (Fed. Cir. 1988)	27, 31
Eli Lilly v. Teva Pharms., IPR2018-01423, Paper 7 aff'd, 8 F.4th 1349 (Fed. Cir. 2021)	28
EWP v. Reliance, 755 F.2d 898 (Fed. Cir. 1985)	13
Fleming v. Cirrus Design, 2022 WL 710549 (Fed. Cir. Mar. 10, 2022)	4
Fox Factory v. SRAM, 944 F.3d 1366 (Fed. Cir. 2019)	. passim
In re Epstein, 32 F.3d 1559 (Fed. Cir. 1994)	14, 26
<i>In re Fulton</i> , 391 F.3d 1195 (Fed. Cir. 2004)	14
KSR Int'l v. Teleflex, 550 U.S. 398 (2007)	14
Lectrosonics v. Zaxcom, IPR2018-01129, Paper 33Jan. 24, 2020)	27, 31
Microsoft v. Synkloud, IPR2020-00316, Paper 43 (Jun. 14, 2021)	28, 29



Ormco v. Align, 463 F.3d 1299 (Fed. Cir. 2006)	31
Syntex v. Apotex, 407 F.3d 1371 (Fed. Cir. 2005)	4
REGULATIONS	
37 C.F.R. § 1.84(p)(4)	9
37 C.F.R. § 42.6(a)(3)	28



# DOCKET A L A R M

# 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.

