IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Michael J. Koss, et al.

U.S. Patent No.: 10,491,982 Attorney Docket No.: 50095-0019IP2

Issue Date: November 26, 2019

Appl. Serial No.: 16/528,701 Filing Date: August 1, 2019

Title: SYSTEM WITH WIRELESS EARPHONES

Mail Stop Patent Board

Patent Trial and Appeal Board U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450

PETITION FOR INTER PARTES REVIEW OF UNITED STATES PATENT NO. 10,491,982 PURSUANT TO 35 U.S.C. §§311–319, 37 C.F.R. §42



TABLE OF CONTENTS

I.	INTRODUCTION				
II.	REQUIREMENTS FOR IPR UNDER 37 C.F.R. §42.104				
	A.	Standing1			
	B.	Relief Requested: Timing and Grounds1			
III.	THE BOARD SHOULD NOT DENY INSTITUTION UNDER 35 U.S.C. § 325(d)				
	A.	Apple's Grounds And Obviousness Rationales Were Not Previously Considered By The Office			
	В.	The Office Erred In Granting The '982 Patent			
IV.	PTAB DISCRETION UNDER 35 U.S.C. § 314(a) SHOULD NOT PRECLUDE INSTITUTION				
	A.	The General Plastic Factors Favor Institution			
	В.	The <i>Fintiv</i> Factors Also Favor Institution1			
		1. Stay1			
		2. Uncertain District Court Schedule1			
		3. Early Stage Of Parallel Proceedings1			
		4. The Petition Raises Unique Issues1			
		5. Apple's Involvement In The Texas Litigation1			
		6. Other Considerations			
V.	SUMMARY OF THE '982 PATENT				
	A.	Overview1			
	B.	Prosecution History			
	C.	Claim Construction20			



			11 10 01 0.0. 1 dtollt 110. 10. 17 1.	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
VI.	THE	CHAL	LENGED CLAIMS ARE UNPATENTABLE	21	
	A.	Claims 6, 8, 10, And 11 Are Obvious Over Rosener, Hankey, Haupt and Seshadri [GROUND 1(A)], and Over Rosener, Hankey, Dyer, Haupt, And Seshadri [GROUND 1(A)(i)]			
		1.	Overview Of References	21	
		2.	Combinations Of References	31	
		3.	Overview of Claims 1, 4, And 5	45	
		4.	Claims 6 and 11	69	
		5.	Claims 8 And 10	76	
	В.	Claims 7, 9, 12, And 13 Are Obvious Over Rosener, Hankey, Haupt, Seshadri And Price [GROUND 1(B)], And Over Rosener, Hankey, Dyer, Haupt, Seshadri And Price [GROUND 1(B)(i)]79			
		1.	Price		
		2.	Combinations With Price	80	
		3.	Claims 7, 9, 12, And 13	83	
VII.	CONCLUSION85			85	
VIII.	FEES85			85	
IX.	MANDATORY NOTICES UNDER 37 C.F.R § 42.8(a)(1)			85	
	A.	Real	Party-In-Interest Under 37 C.F.R. § 42.8(b)(1)	85	
	B. Related Matters Under 37 C.F.R. § 42.8(b)(2)				
	C. Lead And Back-Up Counsel Under 37 C.F.R. § 42.8(b)(3)				
	D.	Servi	ce Information	86	



EXHIBITS

APPLE-1001	U.S. Patent No. 10,491,982 to Koss, et al. ("the '982 patent")
APPLE-1002	Excerpts from the Prosecution History of the '982 patent ("the Prosecution History")
APPLE-1003	Declaration of Jeremy R. Cooperstock
APPLE-1004	U.S. Pat. App. Pub. No. 2008/0076489 ("Rosener")
APPLE-1005	U.S. Pat. App. Pub. No. 2008/0166001 ("Hankey")
APPLE-1006	U.S. Pat. No. 8,031,900 ("Dyer")
APPLE-1007	RESERVED
APPLE-1008	U.S. Pat. App. No. 60,879,177 ("'177 Provisional")
APPLE-1009	U.S. Pat. App. Pub. No. 2006/0026304 ("Price")
APPLE-1010	RESERVED
APPLE-1011	RESERVED
APPLE-1012	RESERVED
APPLE-1013	RESERVED
APPLE-1014	Plaintiff KOSS Corporations' Preliminary Infringement Contentions, <i>KOSS Corporation v. Apple Inc.</i> , 6:20-cv-00665 (WDTX)
APPLE-1015	Example Order Governing Proceedings - Patent Case
APPLE-1016	Agreed [Proposed] Scheduling Order, KOSS Corporation v. Apple Inc., 6:20-cv-00665 (WDTX)



Attorney Docket No. 50095-0019IP2
IPR of U.S. Patent No. 10,491,982

	IPR of U.S. Patent No. 10,491,982
APPLE-1017	Katie Buehler, "Texas Patent Trials Halted Due to COVID-19 Spike," Law360, <i>available at</i> https://www.law360.com/ip/articles/1330855/texas-patent-trials-halted-due-to-covid-19-spike .
APPLE-1018	Scott McKeown, <i>District Court Trial Dates Tend to Slip After PTAB Discretionary Denials</i> , available at https://www.patentspostgrant.com/district-court-trial-dates-tend-to-slip-after-ptab-discretionary-denials/ (Jul. 24, 2020)
APPLE-1019	Agreed Amended Scheduling Order, <i>Fintiv, Inc. v. Apple, Inc.</i> , Civil Action No. A-19-CV-1238 (WDTX)
APPLE-1020	Certified Translation of WO 2006/042749 ("Haupt")
APPLE-1021	Letter from Doug Winnard to Darlene F. Ghavimi re Conditional Stipulation dated March 22, 2021
APPLE-1022	U.S. Pat. App. Pub. No. 2006/0166716 to Seshadri et al. ("Seshadri")
APPLE-1023	U.S. Pat. App. No. 2005/0037818 to Seshadri et al. ("Seshadri-818")



DOCKET

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.

