

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOSE CORPORATION,
Petitioner,

v.

KOSS CORPORATION,
Patent Owner.

IPR2021-00612
Patent 10,206,025 B2

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

SCANLON, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Bose Corporation (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–56 of U.S. Patent No. 10,206,025 B2 (Ex. 1001, “the ’025 patent”). Koss Corporation (“Patent Owner”) filed a Preliminary Response (Paper 9, “Prelim. Resp.”). With our authorization, Petitioner filed a Preliminary Reply (Paper 12, “Prelim. Reply”) and Patent Owner filed a Preliminary Sur-reply (Paper 13, “Prelim. Sur-reply”).

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2020). To institute an *inter partes* review, we must determine that the information presented in the Petition shows “a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). For the reasons set forth below, we determine that the information presented in the Petition establishes a reasonable likelihood that Petitioner will prevail with respect to at least one challenged claim. Accordingly, we institute an *inter partes* review of the ’025 patent.

II. BACKGROUND

A. *Real Parties in Interest*

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

B. *Related Matters*

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

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Koss Corp. v. Bose Corp., Case No. 6:20-cv-00661 (W.D. Tex.) (“the Bose Litigation”);¹

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

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

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

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.

In addition, the parties identify the following *inter partes* review proceedings⁵ 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;

Apple Inc. v. Koss Corp., IPR2021-00305, filed December 15, 2020, challenging U.S. Patent No. 10,506,325 B1;

Apple Inc. v. Koss Corp., IPR2021-00381, filed January 4, 2021, challenging U.S. Patent No. 10,491,982 B1;

¹ This proceeding has been dismissed. Ex. 1137.

² This proceeding has been dismissed. Ex. 1140.

³ This proceeding has been transferred to the Northern District of California. Ex. 1139.

⁴ This proceeding has been dismissed. Ex. 1138.

⁵ *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, are also pending.

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Bose Corp. v. Koss Corp., IPR2021-00546, filed February 22, 2021, challenging the '025 patent;

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

Apple Inc. v. Koss Corp., IPR2021-00626, filed March 17, 2021, challenging the '025 patent;

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;

Apple Inc. v. Koss Corp., IPR2021-00686, filed March 22, 2021, challenging U.S. Patent No. 10,491,982 B1; and

Apple Inc. v. Koss Corp., IPR2021-00693, filed March 23, 2021, challenging U.S. Patent No. 10,469,934 B2.

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

C. 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, 2008.⁶ 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,

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

without using an access point.” *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.

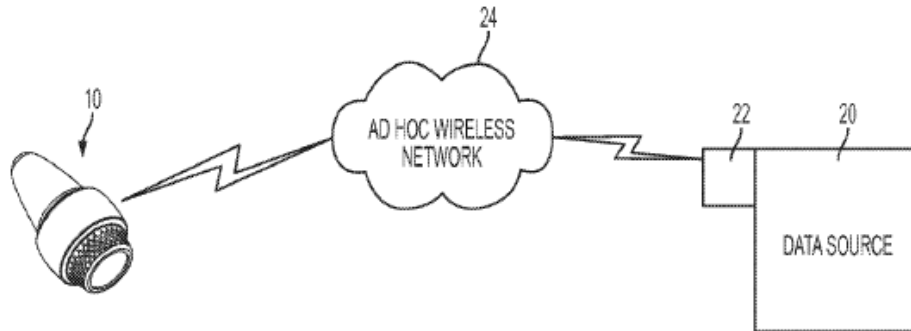


FIG. 2A

Figure 2A illustrates a communication mode for a wireless earphone. *Id.* at 2:27–29, 4:21–24. In particular, Figure 2A shows data source 20 in communication with earphone 10 over ad hoc wireless network 24. *Id.* at 4:24–26. Data source 20 may be a digital audio player (DAP), such as an MP3 player, an iPod, or a laptop computer. *Id.* at 4:30–34. “When in range, the data source 20 may communicate with the earphone 10 via the ad hoc wireless network 24 using any suitable wireless communication protocol,” including Bluetooth and other communication protocols. *Id.* at 4:54–59.

In one embodiment, earphone 10 connects to network-enabled host server 40 via networks 30a, 42 so that host server 40 can transmit streaming digital audio to earphone 10. *Id.* at 5:54–60, Fig. 2D. Alternatively, host server 40 may transmit to earphone 10 a network address for streaming digital audio content server 70. *Id.* at 5:60–63, Fig. 2D. In this case, earphone 10 uses the received address to connect to content server 70 via networks 30a, 42 and receive digital audio from content server 70. *Id.* at 5:64–67. Content server 70 may be an Internet radio station server. *Id.* at

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