

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner,

v.

FINTIV, INC.,  
Patent Owner.

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IPR2022-00976  
Patent 9,892,386 B2

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Record of Oral Hearing  
Held: August 23, 2023

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Before KRISTEN L. DROESCH, MICHAEL R. ZECHER, and  
GEORGE R. HOSKINS, *Administrative Patent Judges*.

IPR2022-00976  
Patent 9,892,386 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on August 23, 2023,  
commencing at 1:00 p.m., via video teleconference.

P R O C E E D I N G S

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JUDGE ZECHER: Great. Thank you. Good afternoon. I'm Judge Zecher. I have with me two of my colleagues, Judge Droesch and Judge Hoskins. This is an oral hearing for IPR2022-00976. The Petitioner in this case challenges Claims 1–3 of U.S. Patent No. 9,892,386. From this point forward we'll refer to the Patent as the '386 Patent. Let's begin the hearing by taking appearances from the parties. Let's hear from Petitioner, Apple, first.

MR. EHMKE: Thank you, Your Honors. This is Andrew Ehmke. I am lead counsel on this case on behalf of Petitioner Apple. Joining me today are my colleagues, Jonathan Bowser, and Eugene Goryunov. Mr. Bowser will be presenting on behalf of Petitioner today.

JUDGE ZECHER: Thank you, Mr. Ehmke. Let's hear from Patent Owner, Fintiv, please. Counsel, I think you're on mute.

MR. THEISS: Board, can you hear us now?

JUDGE ZECHER: Yes, we can hear you now.

MR. THEISS: We apologize. It wouldn't be the modern era if we didn't have a slight technical issue. Lead counsel John Waldrop is unable to join us today. He had surgery last week. However, backup counsel, myself, and Dan Golub, will be presenting. I am Brandon Theiss. Last name is T-H-E-I-S-S.

MR. GOLUB: And this is Dan Golub, G-O-L-U-B.

JUDGE ZECHER: Okay. Thank you, Mr. Golub, and Mr. Theiss. You said Mr. Waldrop, the lead counsel, wouldn't be present today. Is that

1 correct?

2 MR. THEISS: That's correct. He had surgery last week and is  
3 recovering.

4 JUDGE ZECHER: Okay. I guess it would've been appreciated if  
5 the panel was tipped off to that because I do think we indicated in our oral  
6 argument that lead counsel needs to be present. But given the circumstances  
7 here, we'll go ahead and give you a pass. Let's move on to the parameters of  
8 this oral argument. We issued a paper, paper 22 --

9 JUDGE HOSKINS: Judge Zecher?

10 JUDGE ZECHER: Yes.

11 JUDGE HOSKINS: This is Judge Hoskins. I have a quick  
12 question. Are -- the two counsel for Patent Owner here today, are you  
13 entered in this case? I know you have been in other cases.

14 MR. THEISS: Yes.

15 JUDGE HOSKINS: Okay.

16 MR. THEISS: We're entered as backup counsel. And we  
17 indicated to the Board secretary that we would be the ones presenting.

18 JUDGE HOSKINS: Thank you.

19 JUDGE ZECHER: Great. Thank you. Yes, I see you guys as  
20 counsel of record here. All right. So let's move to the terms of this oral  
21 argument.

22 In paper 22 we indicated that each party is going to get 45 minutes  
23 of total argument time to present their case. Because Petitioner, Apple, has  
24 the burden of persuasion, they will go first and they can reserve some  
25 rebuttal time, at which point Patent Owner, Fintiv, will present their case,

1 and they can reserve some sur-rebuttal time. We'd appreciate it that if you're  
2 not presenting that you keep yourself on mute so we don't have any echoes  
3 here. If you run into any technical issues, please let us know immediately so  
4 we can pause the hearing and we can act accordingly.

5 But I think that covers all the necessary aspects of what we need  
6 for this particular hearing. So we'll just go ahead and turn the floor over to  
7 Mr., I believe Bowser, who's going to be presenting for Apple. One last  
8 thing, too. I want to note we do have your slides and we have the  
9 demonstratives here. So when you are referring to those, please refer to the  
10 slide number so we can follow along with the presentation. So without  
11 further ado, Mr. Bowser, how much rebuttal time would you like to reserve?

12 MR. BOWSER: Your Honor, I would like to reserve 10 minutes  
13 for rebuttal please.

14 MR. ZECHER: Okay. Great. You can begin when ready.

15 MR. BOWSER: All right. Your Honor, before I start would it be  
16 possible if I could share my screen with the slides, or would you prefer that  
17 I --

18 JUDGE ZECHER: However you want to do it. If you want to  
19 share your screen we can follow along that way. Like I said, we have a copy  
20 in front of us we can follow as well.

21 MR. BOWSER: Okay. Give me one moment here. I'm going to  
22 share my PowerPoint. And I will get started. Your Honors, thank you. This  
23 is Jonathan Bowser. I'm presenting for Petitioner Apple in the '386 IPR. I'm  
24 going to move to slide 2. This is an overview of the '386 Patent and it's  
25 going to be just brief. What I'm going to talk about here is just effectively

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