

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

RFCYBER CORP.,
Patent Owner

IPR2022-01239
Patent 10,600,046 B2

Record of Oral Hearing
Held: October 24, 2023

Before JOSIAH C. COCKS, PATRICK R. SCANLON, and KEVIN W.
CHERRY, *Administrative Patent Judges*.

IPR2022-01239
Patent 10,600,046 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

PAUL R. HART, ESQUIRE
ERISE IP, P.A.
717 17th Street, Suite 1400
Denver, CO 80202

ON BEHALF OF THE PATENT OWNER:

RICHARD COWELL, ESQUIRE
FABRICANT, LLP
411 Theodore Fremd Avenue,
Suite 206 South,
Rye, New York 10580

The above-entitled matter came on for hearing on October 24,
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 SCANLON: Okay, good afternoon and welcome to the Patent and Trial and Appeal Board. We are here today for a consolidated hearing in IPR2022-01239 and 01256 between Petitioner, Apple, Inc., and Patent Owner, RFCyber Corp. The 1239 case involves patent number 10,600,046, and the 1256 case involves patent number 11,018,724. I'm Judge Scanlon and joining me today are Judge Cherry and Judge Cocks. Let's start with appearances. Who is here for Petitioner, please?

MR. HART: Thank you, Your Honor. Paul Hart with ERISE IP for Petitioner Apple Inc.

JUDGE SCANLON: All right. Thank you. And for Patent Owner?

MR. COWELL: Good afternoon, Your Honor. Richard Cowell of FABRICANT LLP for Patent Owner RFCyber Corp.

JUDGE SCANLON: All right. Very good. I'd like to go over some brief guidelines for this video hearing. If at any time during you encounter technical or other difficulties, please let us know immediately so we can try to address the issue. If you get disconnected completely please contact the hearing staff who provided you with the contact information. Please make every effort to speak clearly and avoid speaking over others. That will assist our court reporter in making a clear record. Also please mute your line when not speaking. We do have access to the entire record, including the demonstratives. It's helpful for you to provide us with the page number for the slides to improve the clarity of the record. And likewise, if

1 you're citing to exhibits or papers. Please be aware that we have a public
2 access line open for the hearing. I don't believe there's any confidential
3 information in this -- in the record for these proceedings, but if there's
4 something that's confidential that you want to discuss, let us know so we can
5 make accommodations. As set forth in the hearing order, each party is
6 permitted 90 minutes to present their arguments. Because it bears the
7 burden of persuasion, Petitioner will go first and may reserve no more than
8 half of its time for rebuttal. Patent Owner will then have an opportunity to
9 respond and may also reserve time for a sur-rebuttal. We'll keep time to the
10 best of our ability and I will try to provide updates about remaining time as
11 the hearing progresses. With that, we'll start with Petitioner, and please let
12 us know how much time, if any, you would like to reserve for rebuttal.

13 MR. HART: Thank you, Your Honor. Just as a point of
14 clarification, the parties addressed the 1239 proceeding first in their
15 demonstratives. I assumed that we were going to split up the proceeding as
16 such that we would address the '046 Patent proceeding first, and then
17 transition to the '724 proceeding. Is that consistent with Your Honors'
18 preferences here?

19 JUDGE SCANLON: That would be fine, yes. Are you saying go
20 through -- are you proposing that each party presents their cases for the 1239
21 and then transition to the next case?

22 MR. HART: Exactly. These are unrelated patents using different
23 prior art. It seems like bucketing them in that way might help clarify the
24 issues for everybody. So if you're amenable to that approach, I would
25 reserve 15 minutes of my first 45 minutes for the 1239 proceeding regarding
26 the '046 Patent, and I'll plan to start with that proceeding.

1 JUDGE SCANLON: Okay, that should be fine. Before we
2 proceed, I guess, just so we're clear, I would like to ask Mr. Cowell, is that
3 procedure acceptable to the Patent Owner?

4 MR. COWELL: Yes, Your Honor. I have no objection to that.

5 JUDGE SCANLON: Okay, then we will proceed in that manner.
6 So then Mr. Hart you said -- I guess in that case you would have 45 minutes
7 for your case in the 1239 case which we'll address first, and I believe you
8 said you would like to reserve 15 minutes.

9 MR. HART: Yes, Your Honor.

10 JUDGE SCANLON: Okay. With that then, please proceed.

11 MR. HART: Thanks very much, Your Honor. I'd like to start with
12 Petitioner's DX-3 from its demonstratives just to provide an overview of the
13 subject matter here. The '046 claims describe a process for using a mobile
14 phone to make a purchase. The phone captures an invoice from the
15 merchant. The phone presents the invoice to the user, allows the user to add
16 a tip. The phone then allows the user to choose an e-purse account for the
17 purchase. The phone confirms their sufficient balance and sends a payment
18 request to the payment gateway. Finally, if the transaction was successful,
19 the device receives a confirmation of successful transaction from the
20 payment gateway and displays that to the user.

21 Now, relevant to the parties' disputes in this proceeding, it's
22 important to point out that the claims require some steps that are performed
23 locally in the device without involving the payment gateway and some steps
24 that are performed in a connected arrangement via communications with the
25 payment gateway. For example, in Claim 1 that I have up here on DX-3, the
26 verifying step requires checking the transaction total against a balance of the

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