

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner

IPR2022-01291 (Patent 10,687,745 B1)
IPR2022-01465 (Patent 10,687,745 B1)

Held: November 17, 2023

BEFORE: JOSIAH C. COCKS, GEORGE R. HOSKINS, and
ROBERT A. POLLOCK, Administrative Patent Judges.

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The above-entitled matter came on for hearing on November 17, 2023,
commencing at 1:00 p.m., via video teleconference.

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1 P R O C E E D I N G S

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3 JUDGE HOSKINS: This is Administrative Patent Judge George
4 Hoskins. We're here today for oral argument in two related IPR proceedings
5 that are challenging the same patent. So the proceedings are IPR2022-
6 01291, and IPR2022-01465. And the Patent is U.S. Patent Number
7 10,687,745. Our Petitioner here today is Apple Inc., and our Patent Owner
8 is Masimo Corporation. And I am joined by my two panel colleagues,
9 Judges Josiah Cocks, and Robert Pollock today. So, with that introduction,
10 let me get some introductions into the record from our parties. And we'll
11 start with counsel for Petitioner, please.

12 MR. STEPHENS: Thank you, Your Honors. This is Nick
13 Stephens from Fish & Richardson on behalf of Petitioner, Apple Inc. I'm
14 here with my colleagues, Karl Renner, and Andrew Patrick. And Kim
15 Leung is joining us remotely from our San Diego office.

16 JUDGE HOSKINS: Thank you, Mr. Stephens and welcome to the
17 Board, well, re-welcome to the Board this afternoon. And so, an appearance
18 from Patent Owner, please.

19 MR. HELM: Hello, Your Honor. Jeremiah Helm on behalf of
20 Masimo. I'm from the firm of Knobbe, Martens, and I'm here with Carol
21 Pitzel Cruz, Brian Claassen and Daniel Kiang, my partners here at Knobbe.

22 JUDGE HOSKINS: Thank you, Mr. Helm, and also welcome to
23 the Board here today. So, I guess particularly with respect to Mr. Helm, we
24 intend to do this afternoon under the same procedure that we did this

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1 morning. And so, I'm not inclined to go through the whole procedure, but
2 even though it was the same firm from Patent Owner here this morning, it
3 wasn't you. So do you have any questions or concerns about how we're
4 going to proceed today?

5 MR. HELM: No, Your Honor. If I may just confirm my
6 understanding, the first session will be the public session, and then we'll
7 move on to the confidential session. In each case, Patent Owner will go
8 second.

9 JUDGE HOSKINS: That is correct.

10 MR. HELM: Thank you very much, Your Honor.

11 JUDGE HOSKINS: And also importantly, we're not going to ask
12 for a reservation of time up front for either the reply portion of Petitioner's
13 argument in each session, or up front now for a reservation for the second
14 session. We're just going to let you talk and when you want to stop, you can
15 stop, and then whatever is left over, you have then left over for the
16 remaining sessions. The difference, I guess, from this case to the case this
17 morning was you each have 75 minutes in this case as opposed to 60 in the
18 morning. So, with that, let me just -- I think we're ready to go and I can turn
19 it over to Petitioner unless, Mr. Stephens, you have any questions about how
20 procedure-wise we're going to proceed today.

21 MR. STEPHENS: No questions. Thank you, Your Honor.

22 JUDGE HOSKINS: Okay. Well, then, when you are ready to
23 begin, you may begin. And, you know, please keep track of your own time.
24 We'll also be keeping track of your time. And when you do begin, we'll start
25 the clock on our end. So, thank you very much.

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1 MR. STEPHENS: May it please the Board. Good afternoon, Your
2 Honors. I'll be starting the open session today on behalf of Petitioner,
3 Apple. As I mentioned earlier during our appearances, Kim Leung is also
4 with us. And Kim, I'll be transitioning to Kim for the second half of our
5 open proceeding. And then during the closed session, we intend to, for Karl
6 Renner to present with respect to issues involving confidential information.

7 The 1291 Petition challenges three Independent Claims of the '745
8 Patent. Claims 1, 15, and 20. Specifically, Grounds 1A through 1B,
9 challenge Claim 1 as obvious based on Iwamiya and Sarantos, and Claims
10 15 and 20 are challenged as obvious based on the combination of Iwamiya,
11 Sarantos, and Ventkatraman. The 1465 Petition then challenges claims that
12 depend from each of these Independent Claims and thus addresses
13 obviousness of the limitations of 1, 15 and 20 in the same manner as the
14 1291 Petition. During trial, Masimo's not disputed that almost all of the
15 limitations in Independent Claims 1, 15 and 20 are disclosed or rendered
16 obvious by the applied prior art. We'd be happy to address any questions
17 from Your Honors today regarding the prior art mappings or any of the
18 limitations, but unless there's specific questions, we intend to focus our time
19 on the limitations that have been disputed, and we'll leave our arguments
20 with respect to the other limitations and Dependent Claim 25 to the papers.

21 So, with that, I'd like to turn to slide 11 of our demonstratives.
22 And the first limitation that's been disputed appears in both Independent
23 Claims 1 and 20. These claims require a surface comprising a dark-colored
24 coating, the surface configured to be positioned between the plurality of
25 photodiodes and the tissue when the physiological monitoring device is in

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