

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner.

IPR2022-01299
Patent 7,761,127 B2

Record of Oral Hearing
Held: November 17, 2023

Before JOSIAH C. COCKS, GEORGE R. HOSKINS, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

IPR2022-01299
Patent 7,761,127 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Friday, November 17, 2023, commencing at 10:00 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P R O C E E D I N G S

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JUDGE POLLOCK: Good morning. This is the final hearing in IPR2022-01299, which relates to U.S. patent number 7,761,127B2. Petitioner is Apple Inc. Patent Owner is Masimo Corporation. I'm Judge Pollock. With me are Judges Hoskins and Cocks. Counsel for Petitioner Apple, would you kindly identify yourself and your colleagues?

MR. RENNER: Thank you, your Honor. This is Karl Renner on behalf of Apple and I'm joined by Andrew Patrick as well as Nick Stephens.

JUDGE POLLOCK: Good morning. Counsel for Patent Owner Masimo, would you kindly identify yourself and your colleagues?

MR. LATEEF: Good morning. I'm Irfan Lateef of Knobbe Martens and with me today is Ted Cannon.

JUDGE POLLOCK: All right. This hearing will proceed in two phases. First phase will be open to the public. Each party will present its argument as to publicly available information. Petitioner will proceed first, present its case with regard to the challenged claims and grounds set forth in the petition. Patent Owner may then present its own case and respond to Petitioner's argument. Both parties will be afforded an opportunity for rebuttal, should they desire.

The second phase of the hearing will follow the same pattern but be closed to any person not qualified to receive sealed information pursuant to the board protective order. Accordingly, any public lines will be terminated prior to the beginning of the second phase.

Considering the multi-phase nature of this proceeding, we will not require counsel to pre-designate a time they expect to take for rebuttal. As

1 set forth in our October 5th order setting oral argument, each side has a total
2 of 60 minutes to present its case and may deploy those minutes where it sees
3 fit. My colleagues and I will do best to keep track of allotted time, but we
4 do suggest the parties do the same.

5 Okay, a few matters of housekeeping. For the courtesy of all parties
6 and to minimize technical interference, please mute your microphone when
7 not speaking. For clarity of the record, please identify yourself each time
8 you begin speaking and refer to each demonstrative by page number. We
9 have digital access to the full record, but to the extent you refer to something
10 other than one of your demonstratives, please give us time to locate a copy,
11 as we may not be able to clearly read the text or context of what you might
12 post to video.

13 To the extent there are objections to today's demonstrative, we will
14 take them under advisement and address it in our final written decision to the
15 extent necessary. Should counsel wish to raise any additional objections,
16 you may raise them at the conclusion of any portion of opposing counsel's
17 presentation, and we will likewise take them under advisement. Please do
18 not interrupt counsel while they are presenting.

19 Petitioner will go first, as it bears the burden of showing
20 unpatentability of the challenged claims. Mr. Renner, if you are speaking,
21 you are welcome to begin the non-confidential portion of your presentation.

22 MR. RENNER: Thank you, your Honor. And good morning. May it
23 please the Board. Karl Renner here on behalf of Apple. If we could go to
24 slide 2 of Petitioner's demonstratives, please.

25 On this slide you'll see a presentation of a table of contents for the
26 demonstrative material you have before you. I'll highlight to the section on

1 Yamada-Chadwick combinations, which is intended to cover the variety of
2 combinations involving the Chadwick and Yamada references as well as the
3 claim construction session following the various objections that were
4 addressed. And then finally, a couple of sections that are discussing what
5 would happen in terms of alternative constructions, should they ultimately
6 be addressed by the Panel.

7 If I could take us, please, to slide 12 and 13, slide 12 in particular.
8 This shows us a listing of the different grounds that were at issue in the case
9 that were brought forth in this petition. And the highlighting that Yamada-
10 Chadwick is the base combination for the various grounds of 1A through 1F,
11 whereas Yamada alone, 2A through 2F, each of which is complemented by
12 teachings such as Leibowitz, Cheung, and Noguchi, as indicated.

13 As mentioned, we wanted to spend some time on the combination,
14 particularly the Yamada-Chadwick types of combinations that were formed
15 to make sure that we're all speaking on the same grounds in talking about
16 what we in fact support. I'm told there's confusion in the record. We just
17 want to make sure this is very clean and clear.

18 So if I could take it to slide 15, please, we'll look together at Yamada.
19 It is a base reference. And I just wanted to explain how we see Yamada, and
20 then we'll bring in Chadwick and then Noguchi and Cheung as they come
21 in. On this slide, you can see on the upper left figure 5 annotated, it shows
22 us the substrate that runs vertically, F15. It's right in the center just a little
23 bit to the right of the pink. You can see additionally on the right-hand side
24 of that substrate two LEDs labeled 111 and 112, and they're attached to that
25 substrate, says Yamada. On the left side is an optical center. It's to capture
26 the light that comes through the optical passage up top through the

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