

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner.

Case IPR2022-01299
U.S. Patent 7,761,127

PETITIONER'S REQUEST FOR ORAL ARGUMENT

Pursuant to 37 C.F.R. § 42.70(a), Petitioner, Apple Inc., hereby submits this Request for Oral Argument on all of the instituted grounds of unpatentability of claims 1-30 of U.S. Patent No. 7,761,127. Petitioner requests 60 minutes per side of oral argument time and requests that the hearing be conducted virtually by videoconference. To the extent the Board schedules the total hearing time to be more or less than 120 minutes, Petitioner requests that it be given half the length of the hearing to make its arguments.

Petitioner specifically requests authorization to address at least the following issues at the hearing, without waiving consideration of any issue not listed below:

1. Obviousness of claims 7-10 in Ground 1A based on the teachings of Yamada in view of Chadwick;
2. Obviousness of claims 11-12 in Ground 1B based on the teachings of Yamada in view of Chadwick and Leibowitz;
3. Obviousness of claims 13-17 and 20-23 in Ground 1C based on the teachings of Yamada in view of Chadwick and Cheung;
4. Obviousness of claims 18-19 and 24-25 in Ground 1D based on the teachings of Yamada in view of Chadwick, Cheung, and Leibowitz;
5. Obviousness of claims 1-3, 6-10, 26-27, and 30 in Ground 1E based on the teachings of Yamada in view of Chadwick and Noguchi;

6. Obviousness of claims 4-5, 11-12, and 28-29 in Ground 1F based on the teachings of Yamada in view of Chadwick, Noguchi, and Leibowitz;
7. Obviousness of claims 7-10 in Ground 2A based on the teachings of Yamada;
8. Obviousness of claims 11-12 in Ground 2B based on the teachings of Yamada in view of Leibowitz;
9. Obviousness of claims 13-17 and 20-23 in Ground 2C based on the teachings of Yamada in view of Cheung;
10. Obviousness of claims 18-19 and 24-25 in Ground 2D based on the teachings of Yamada in view of Cheung and Leibowitz;
11. Obviousness of claims 1-3, 6-10, 26-27, and 30 in Ground 2E based on the teachings of Yamada in view of Noguchi;
12. Obviousness of claims 4-5, 11-12, and 28-29 in Ground 2F based on the teachings of Yamada in view of Noguchi and Leibowitz;
13. Any claim construction issues including constructions of the terms “bulk temperature” and “thermal mass”;
14. Masimo’s arguments and evidence regarding alleged secondary considerations of non-obviousness, and Apple’s rebuttal of the same;
15. Any procedural and/or evidentiary issues;

16. Rebuttal to Patent Owner's presentation on all matters; and
17. Any additional issues on which the Board seeks clarification.

Respectfully submitted,

Dated: September 20, 2023

/Nicholas W. Stephens/
Nicholas Stephens, Reg. No. 74,320
Fish & Richardson P.C.
60 South Sixth Street
Minneapolis, MN 55402
T: 202-783-5070
F: 877-769-7945

CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(4), the undersigned certifies that on September 20, 2023, a complete and entire copy of this Petitioner's Request for Oral Argument were provided via email, to the Patent Owner by serving the email correspondence address of record as follows:

Irfan A. Lateef (Reg. No. 51,922)
Ted M. Cannon (Reg. No. 55,036)
Jarom D. Kesler (Reg. No. 57,046)
Jacob L. Peterson (Reg. No. 65,096)

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, Fourteenth Floor
Irvine, CA 92614
Tel.: (949) 760-0404
Fax: (949) 760-9502

E-mail: AppleIPR127-1@knobbe.com

/Crena Pacheco/
Crena Pacheco
Fish & Richardson P.C.
60 South Sixth Street
Minneapolis, MN 55402
pacheco@fr.com