

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

FREEBIT AS,  
Petitioner,

v.

BOSE CORPORATION,  
Patent Owner.

---

Case IPR2017-\_\_\_\_\_

U.S. Patent No. 9,036,853

---

**PETITION FOR *INTER PARTES* REVIEW OF  
CLAIMS 1-3, 5, 6, 8-11, and 13 OF U.S. PATENT NO. 9,036,853  
UNDER 35 U.S.C. § 312 AND 37 C.F.R. § 42.104**

## TABLE OF CONTENTS

I.	Mandatory Notices—Rule 42.8(a)(1) .....	1
II.	Certification of Grounds for Standing—Rule 42.104(a).....	2
III.	Overview of Challenge and Relief Requested—Rule 42.104(b).....	2
	A. Prior Art Patents and Printed Publications.....	2
	B. Grounds for Challenge .....	4
IV.	Overview of the '853 Patent and the Prior Art .....	5
	A. The '853 Patent.....	5
	B. The Prosecution History of the '853 Patent .....	9
	C. Summary of Select Prior Art .....	10
	1. Sapiejewski.....	10
	2. Tan .....	13
	3. Howes.....	15
V.	Claim Construction.....	18
VI.	Level of Ordinary Skill in the Art.....	18
VII.	Identification of How the Challenged Claims Are Unpatentable .....	20
	A. Ground 1: Claims 1-3, 5, 6, 8-11, and 13 are Rendered Obvious by Sapiejewski and Tan.....	20
	B. Ground 2: Claims 1-3, 5, 6, and 8-11 are Rendered Obvious by Sapiejewski and Howes .....	66
VIII.	CONCLUSION .....	95
	CERTIFICATE OF SERVICE.....	96
	CERTIFICATE OF COMPLIANCE	

## TABLE OF AUTHORITIES

### Cases

<i>In re GPAC Inc.</i> , 57 F.3d 1573, 1579 (Fed. Cir. 1995) .....	18
<i>KSR Int'l co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007) .....	<i>passim</i>

### Statutes

35 U.S.C. § 102 .....	<i>passim</i>
35 U.S.C. §§ 103 .....	<i>passim</i>
35 U.S.C. § 314 .....	5

### Rules

37 C.F.R. § 42.8 .....	1
37 C.F.R. § 42.100 .....	18
37 C.F.R. § 42.104 .....	2, 20
37 C.F.R. § 42.15 .....	2

## EXHIBIT LIST

- 1001 U.S. Patent No. 9,036,853 to Silvestri et al.
- 1002 File History for U.S. Patent No. 9,036,853 to Silvestri et al.
- 1003 Declaration of Dr. Wayne J. Staab, Ph.D.
- 1004 U.S. Patent Pub. No. 2008/0002835 to Sapiejewski et al.
- 1005 U.S. Patent Pub. No. 2011/0255729 to Tan et al.
- 1006 U.S. Patent No. 7,536,008 to Howes et al.
- 1007 RESERVED
- 1008 RESERVED
- 1009 2007 Bose® in-ear headphones Owner's Guide
- 1010 U.S. Patent No. D628,990
- 1011 U.S. Patent No. D630,621
- 1012 U.S. Patent No. D634,306

**I. Mandatory Notices—Rule 42.8(a)(1)**

Freebit AS (“Freebit” or “Petitioner”) provides notice of the following:

**Real Party-In-Interest:** Petitioner certifies that Freebit AS is the real party-in-interest.

**Related Matters:** Petitioner is not aware of any pending matters that would be affected by this proceeding.

**Lead counsel:** W. Todd Baker (Reg. No. 45,265)

**Back-up counsel:** Tia D. Fenton (Reg. No. 55,170) and John F. Presper (Reg. No. 53,483)

**Service Information:** Petitioner consents to email service.

Email: cpdocketbaker@oblon.com  
cpdocketfenton@oblon.com  
cpdocketpresper@oblon.com

Post: Oblon LLP  
1940 Duke Street  
Alexandria, VA 22314

Telephone: (703) 412-6383

Fax: (703) 413-2220

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.