

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

OMNI MEDSCI, INC.,
Patent Owner.

IPR2021-00453
Patent 10,517,484

Record of Oral Hearing
Held: May 5, 2022

Before GRACE KARAFFA OBERMANN, BRIAN McNAMARA, and
SHARON FENICK, *Administrative Patent Judges*.

IPR2021-00453
Patent 10,517,484

APPEARANCES:

ON BEHALF OF THE PETITIONER:

THOMAS BROUGHAN, ESQUIRE
Sidley Austin, LLP
1501 K Street, N.W. #600
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ON BEHALF OF PATENT OWNER:

THOMAS LEWRY, ESQUIRE
Brooks Kushman
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Southfield, MI 40075

The above-entitled matter came on for hearing on Thursday, May 5, 2022, commencing at 1:00 p.m., EDT, at the U.S. Patent and Trademark Office, by video, before Julie Souza, Notary Public.

PROCEEDINGS

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2 JUDGE MCNAMARA: Good afternoon everybody. This is Judge
3 McNamara. I have with me Judges Obermann and Fenick and also on the
4 public line are two U.S. PTO examiners who are on detail at the Patent Trial
5 & Appeal Board. They are Leith Shafi and Larry Thrower. This is the oral
6 hearing in IPR 2021-00453, Apple, Inc. v. Omni Medsci, Inc.

7 As we are conducting this hearing as a video hearing, I have a couple
8 of things I need to say at the beginning as a preliminary. First, our primary
9 concern is your right to be heard so if at any time during the proceeding you
10 encounter any technical difficulties or for any other reason feel there is
11 something about the hearing that fundamentally undermines your ability to
12 adequately represent your client let us know immediately and one way to do
13 that is to contact the team member who provided you the connection
14 information. We do know sometimes people's connections tend to be a
15 problem.

16 The second one, when not speaking please mute yourself so we can
17 avoid extraneous background noise. Third, every time you do speak please
18 identify yourself. That is to help the court reporter get an accurate transcript.
19 Fourth, we have the entire record. That includes the demonstratives and the
20 papers and the exhibits, so clearly and explicitly by slide or page number
21 identify the subject matter that you are referring to in your discussion. You
22 might want to consider pausing a couple of seconds after you identify that.
23 That will give us time to find it in the record. In addition, please be aware
24 that members of the public might be listening to the oral hearing so if at any

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1 point you're going to have any confidential information that you're going to
2 want to discuss, identify that beforehand so we can take steps to address that
3 in a separate session, and finally after we adjourn I would ask that counsel
4 remain on the line in case there are any questions concerning -- for the court
5 reporter, questions concerning terminology spellings and that sort of thing
6 like that.

7 Aside from that, if I could begin with counsel for Petitioner if you
8 could please introduce yourselves.

9 MR. BROUGHAN: This is Tom Broughan of Sidley Austin on
10 behalf of Petitioner Apple. With me in the room is Jeff Kushan, lead
11 counsel on this matter.

12 JUDGE MCNAMARA: Thank you. And Patent Owner.

13 MR. LEWRY: Yes. Good afternoon, Judges. My name is Tom
14 Lewry. I'm representing Omni Medsci. In the room with me today is also
15 John Leroy, a lawyer, and the principal of Omni Medsci Dr. Mohammed
16 Islam.

17 JUDGE MCNAMARA: All right. The Petitioner of course in these
18 hearings has the burden of proof, so the Petitioner will present its case in
19 chief and any objections it wants to raise at the beginning and then the
20 Patent Owner will respond. The Petitioner can reserve up through half of its
21 time for a rebuttal and then the Patent Owner will have an opportunity to use
22 up to half of its time for surrebuttal. Each side will have 45 minutes per side
23 and that is about where things stand.

24 I do note that the Patent Owner has objected to some of the
25 Petitioner's demonstratives, so we'll hear argument during the course of this

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1 hearing concerning that but we are not going to rule on those objections right
2 now. As the Petitioner goes first however, I would suggest that you keep in
3 mind that at some point we may elect not to consider the demonstratives or
4 the subject matter that is objected to. As I understand it the slides 7 to 10
5 include figure 2A which did appear in the petition but in the slides they also
6 include some annotations to drive cycle modulation that may be the subject
7 of the Patent Owner's objection. Slide 12 as well includes figure 2C which
8 did not appear in the petition but did appear in the decision to institute. The
9 version that appears in the demonstratives I believe also includes an
10 annotation that was not in the decision to institute. So we'll hear more about
11 that I'm sure from Patent Owner during the hearing, but I just wanted to alert
12 Petitioner as you're going through your demonstratives that that could be an
13 issue for you at a later point.

14 I assume everyone is ready to proceed so we will begin with the
15 Petitioner. Is there some amount of time that I will try to alert you to
16 concerning, you know, for rebuttal?

17 MR. BROUGHAN: We'd like to reserve 15 minutes for rebuttal,
18 Your Honor.

19 JUDGE MCNAMARA: Okay. As I said I will try to alert you. Keep
20 track of your own time in the event that we get distracted but, you know, I
21 will try to alert you. I'm turning on my little timer. All right. Please
22 proceed.

23 MR. BROUGHAN: Good afternoon. Tom Broughan on behalf of
24 Petitioner Apple and may it please the Court.

25 This is the third IPR that's gone to oral argument on an Omni patent in

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