

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner,

v.

MASIMO CORPORATION,

Patent Owner.

Case IPR2024-00294

U.S. Patent 10,736,507

Telephonic Hearing Before:

David Cotta

Richard Marshall

Alyssa A. Finamore

Monday, March 10, 2025

12:00 p.m. Pacific Standard Time

Reported by: Matthew Goldstein, RMR, CRR

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State of Maryland.

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1 JUDGE COTTA: Good afternoon. This is
2 Judge Cotta speaking. With me on the lines are
3 Judges Marshall and Finamore.

4 This is a conference call concerning
5 IPR2024-00294.

6 I'd like to begin with a roll call. Who
7 do we have online for petitioner?

8 MR. BISENIUS: For petitioner we have --
9 this is Patrick Bisenius speaking. I also have
10 Grace Kim and Andrew Patrick all from Fish &
11 Richardson on the line.

12 JUDGE COTTA: Okay. And is that
13 everyone you expect to join?

14 MR. BISENIUS: We had ordered a court
15 reporter as well.

16 JUDGE COTTA: Okay. And is the court
17 reporter on the line?

18 THE COURT REPORTER: Yes, sir.

19 JUDGE COTTA: Okay. And who do we have
20 online for patent owner?

21 MR. NELSON: This is Philip Nelson for
22 Masimo. And I'm joined by my colleague Doug

1 Wentzel here in the same room. I believe we have
2 Paul Spiel that will also be joining by phone from
3 our Seattle office.

4 JUDGE COTTA: Okay.

5 MR. SPIEL: Yes, I'm here. This is Paul
6 Spiel.

7 JUDGE COTTA: Thank you.

8 So this call is to request -- to discuss
9 petitioner's request that we extend the page limit
10 for the opposition to patent owner's motion to
11 amend to a total of 50 pages. And petitioner is
12 also asking that we extend the deadline for the
13 opposition by six weeks and corresponding
14 deadlines as well.

15 I guess before we hear from the parties,
16 I'm going to suggest that we deal with those two
17 issues, the page extension and the time extension,
18 separately.

19 And I will also add that ultimately it's
20 the chief judge and not this panel that would have
21 to grant any kind of extension for the final
22 written decision, to the extent that that would be

1 necessitated by any extensions on the parties'
2 briefing.

3 So with that, maybe we could hear from
4 petitioner and, in particular, could you explain
5 why it is that you need a total of 50 pages,
6 particularly in light of the fact that the revised
7 motion to amend only includes four claims.

8 MR. BISENIUS: Thank you, Your Honor.

9 While it is true that the revised motion
10 to amend includes only four claims, the additional
11 elements and limitations added actually reach up
12 to two pages worth of elements. So categorizing
13 them as only four claims kind of ignores the fact
14 that the various different additions to Claim 21
15 could have been broken out into 13 dependent
16 claims. The patent owner simply chose to put them
17 all into independent Claim 21.

18 But regardless of the format of whether
19 they're in dependent claims or an independent
20 claim, we still need to do the same amount of work
21 and include the same amount of analysis in our
22 opposition.

1 JUDGE COTTA: But if I can interrupt you
2 for a second, I'm sorry.

3 MR. BISENIUS: Yeah.

4 JUDGE COTTA: How does the total number
5 of claim elements in the independent claim in the
6 revised motion to amend compare to the number of
7 claim elements in the original motion to amend?

8 MR. BISENIUS: I have not counted the
9 total number of claim elements in the original
10 motion to amend. The length is significantly
11 longer as far as the number of lines of elements
12 that have been added.

13 And notably, every single additional
14 element from the original motion to amend has been
15 removed. And every single element that's been
16 added to the revised motion to amend is now
17 brand-new, both brand-new with respect to the
18 original claims and brand-new with respect to the
19 original motion to amend.

20 So we feel this is a special
21 circumstance because usually in a revised motion
22 to amend, a patent owner would take the guidance

1 from the board and work to further narrow the
2 claim elements that have been included in the
3 original motion to amend. Here, the patent owner
4 has removed every single element, every single
5 additional limitation from the original motion to
6 amend and come with an entirely new set of new
7 elements.

8 But much like with the original motion
9 to amend, the patent owner has amended the claims
10 in a manner where petitioner cannot rely on our
11 primary reference from the petition. We also
12 cannot rely on our primary references from the
13 original opposition motion to amend. This is
14 specifically because our primary reference,
15 Mendelson, from the petition relies on the three
16 main components; the optical sensor, the
17 processing board, and the mobile computing device,
18 being in separate wireless communication with each
19 other and it's important in that reference that
20 they're in wireless communication.

21 In the original motion to amend, the
22 patent owner revised the claims to require that

1 all three of those components be wired together
2 and that the processing board and optical sensor
3 receive all of their power from the mobile
4 computing device, which was a wristwatch in that
5 version of the claims. The patent owner has now
6 removed that and required that the optical sensor
7 is in a wired connection to the processing board,
8 that the processing board is in a wireless
9 connection to the mobile computing device, which
10 is now not a wristwatch but a touch screen mobile
11 phone. This is in addition to numerous other
12 elements about the physical configuration, what's
13 displayed, how the physiological parameters are
14 measured, additional physiological parameters that
15 are measured, and a number of other additions.

16 But the main reason we need to use a new
17 primary reference is now there's a requirement
18 that the optical sensor and the processing board
19 have to have a wired connection, but the
20 processing board and the mobile computing device,
21 which is now a phone, not a wristwatch, has to
22 have a wireless connection, rather than before in

1 the original motion to amend, it was required to
2 have a wired connection.

3 JUDGE COTTA: Okay. And in addition to
4 obviousness, what other issues do you see?

5 MR. BISENIUS: So we see actually a
6 number of 112 issues more so than the original
7 motion to amend. In the original motion to amend,
8 we had made one potential lack of written
9 description support and one potential broadening
10 argument. Here, we see three different lack of
11 written description support arguments. We see
12 three different indefiniteness arguments. And
13 then similar to the original motion to amend, we
14 see an issue where one of the dependent claims
15 would have a different priority date for --
16 because we believe that the element has -- may
17 have support in the specification of the patent
18 itself, but not in the provisional application of
19 which it claims priority.

20 JUDGE COTTA: So only for the dependent
21 claim that you're talking about?

22 MR. BISENIUS: That last part is only

1 for the dependent claim, yes.

2 JUDGE COTTA: Okay. Are there any claim
3 construction issues other than to the extent
4 brought in by written description and/or
5 indefiniteness?

6 MR. BISENIUS: Correct. The claim
7 construction issues relate to indefiniteness and
8 written description support. Unlike the original
9 opposition -- or the original motion to amend and
10 our original opposition to motion to amend, we do
11 not believe that it has the issue where we would
12 need to argue the prior art under two different
13 constructions.

14 JUDGE COTTA: And are there any issues
15 with -- I presume no issues on reasonable number
16 of claims. Are there any issues with broadening?

17 MR. BISENIUS: So we're still working on
18 analyzing it. We've only had it for two weeks,
19 but at this point, we don't see any issues with
20 broadening or issues with reaching the number of
21 substitute claims.

22 JUDGE COTTA: Okay. Is there anything

1 else we should know that would help to support why
2 you need so many pages?

3 MR. BISENIUS: It's just a long --
4 they're long claims. The independent claim itself
5 now with the additions takes up nearly three
6 pages. And the dependent claims they propose are
7 also very long. And unlike a scenario where we
8 would be able to rely on primary reference from
9 the petition, where we could just cite back to the
10 petition for a lot of the elements, we're going to
11 have to rely on a new primary reference and,
12 therefore, make that analysis for every single
13 element, including the elements that are original
14 claim elements.

15 And so for that reason, we're
16 essentially drafting a third petition now for this
17 case. We had to draft what was essentially a
18 second petition for our opposition to motion to
19 amend. And here we're drafting essentially a
20 third petition, but unlike a petition, we're not
21 only going to be arguing 103, we also have to deal
22 with the 112 issues I previously mentioned.

1 JUDGE COTTA: Okay. Is there anything
2 else you can tell us about the complexity of this
3 as compared to the complexity of the original
4 motion to amend? Because I've gone through the
5 original motion to amend and tried to get a sense
6 of how much briefing was required for each of
7 these issues. So if you could say anything about
8 the comparison between those two, it might help us
9 to see whether this is justified.

10 MR. BISENIUS: Thank you. I appreciate
11 that question.

12 So one reason we see quite a bit more
13 complexity in this revised motion to amend is that
14 the different claim elements fall into what we've
15 identified as nine different categories of claim
16 elements. There are a few new additions that
17 involve the communication between the optical
18 sensor and the processing board. There are a few
19 new elements that involve specifics of the mobile
20 computing device and how it needs to be a
21 smartphone and it needs to have a touch screen.

22 There are new elements regarding what

1 information is actually collected and processed.

2 There are new elements about the communication
3 between the processing board and the mobile
4 computing device, it requires a wireless
5 communication.

6 There are three new elements about what
7 types of information are displayed by the mobile
8 computing device and how that information is
9 displayed. There's a new element regarding
10 authentication, which is something that did not
11 appear in the original claims or the original
12 motion to amend at all.

13 There are five new elements regarding
14 the physical structure of the system. And
15 specifically with respect to the processing board,
16 there was no elements regarding physical structure
17 in the original claims or in the revised -- or in
18 the original motion to amend. There's a new
19 element regarding how the actual physiological
20 parameters are obtained with more specifics as to
21 what types of light are used. And there's one
22 element regarding additional details of signal

1 processing.

2 And so we identified what we believe to

3 be nine different categories of claim elements.

4 So it's not like they're narrowing in one

5 direction, they're narrowing in nine different

6 directions which is requiring quite a bit of prior

7 art searching on our part and is going to require

8 quite a bit of analysis in the opposition to the

9 revised motion to amend especially if we end up

10 having to use different references for these

11 different categories. That's a lot of analysis

12 with respect to motivation to combine.

13 In addition to that, it's also more

14 complex because, as I mentioned earlier, we think

15 there's three different indefiniteness issues and

16 we think there's three different lack of written

17 description support issues.

18 JUDGE COTTA: One of your more recent

19 comments just kind of anticipated what I think is

20 my last question, but do you have a sense yet as

21 to how many references are going to be required

22 for this obviousness argument?

1 MR. BISENIUS: So we're still conducting
2 our prior art searching. As I said, we've only
3 had these claims for two weeks. Right now we're
4 getting the feeling it's going to be possibly
5 five, maybe more. But we think five references
6 for Claim 21, but that will need possibly one or
7 two or maybe even three more additional references
8 to hit the dependent claims.

9 JUDGE COTTA: Okay. Thank you.

10 Could we hear from patent owner. And,
11 Patent Owner, if you could address basically the
12 same points, which is, you know, complexity
13 compared to the original motion to amend as well
14 as whether it truly takes 50 pages to address the
15 types of issues that patent owner has been talking
16 about.

17 MR. NELSON: Sure. Yes, this is Philip
18 Nelson for Masimo.

19 We did this very comparison that you're
20 asking for and we looked at their previous
21 opposition to our original motion to amend and it
22 struck us as interesting that 40 of the 50 pages

1 they were granted last time were used on standard
2 obviousness arguments. And ten of the pages were
3 potentially on other nonobviousness matters,
4 including introductory material. But even though
5 last time they alleged several potential
6 complexities, only ten pages were used for those
7 additional issues and those included claim
8 construction that kind of bifurcated the analysis.

9 So in our view, this is certainly not
10 more complex than before. Recall that last time
11 there were 16 different claims being proposed to
12 substitute and that was we thought presumptively
13 reasonable because it was replacing 15. But here,
14 as you pointed out, there are only four claims
15 replacing the 15 and so it's not a case of
16 complexity.

17 So the questions you were asking were
18 very similar to the ones that I asked when we met
19 and conferred on this issue. I was trying to
20 understand where the sources of the complexity
21 were and counsel for Apple presented similar
22 arguments, but they all seemed to be related to

1 the claims themselves and they boil down to
2 standard obviousness arguments.

3 So we think that the one-year statutory
4 date is not warranted to be moved in this case.
5 We've already established the schedule for the
6 revised motion to amend, we agreed to it just a
7 few weeks ago. And so four claims we think is
8 very conservative. We limited the number of
9 claims we presented here specifically so that we
10 could avoid additional pages and additional time
11 extensions.

12 We've never seen a case that got
13 25 pages for something like this. They argue -- a
14 lot of their arguments are based on new art, but
15 we thought the most relevant analogy there was the
16 initial petition. All of the art was new there
17 and the initial petition never uses 50 pages for a
18 set of four claims. It didn't even use 25 pages
19 for Ground 1D which had 11 claims. And we think
20 that the three months of total extension that
21 would result from this page extension is not
22 warranted. We don't think it's worth going to the

1 chief judge to change the default.

2 And I think you correctly identified
3 that essentially if they were granted the
4 extensions they're requesting here, it would be
5 changing the default for the PTAB. I think every
6 time there was a revised motion to amend, people
7 would ask for additional time and extensions like
8 this, which is not warranted based on the policies
9 explained in the implementing regulations.

10 I want to --

11 JUDGE COTTA: Can you --

12 MR. NELSON: Go ahead.

13 JUDGE COTTA: Oh, I'm sorry, go ahead.

14 MR. NELSON: One more thing you asked
15 for I think was a comparison in the total number
16 of claims. A lot of their arguments were based on
17 claim complexity and claim length. And so I have
18 that comparison here. The claims take up a total
19 of four pages, the revised motion to amend claims.
20 Whereas before, the motion to amend claims took up
21 a total of eight pages. So I was stuck by the
22 fact they're asking for -- they asked for 50 pages

1 and were given 50 pages before and now we think a
2 default of 25 pages, which is half as long, would
3 be sufficient to address the half as many pages
4 that are taken by the claims here.

5 JUDGE COTTA: My recollection is they
6 asked for 75 pages originally and they get 50.

7 Can you speak to the origin of these new
8 limitations? They mentioned that there were two
9 pages of new limitations in Claim 1, are those --
10 were they originally independent claims, are they
11 just, you know, completely new at least as -- in
12 the sense of appearing in the claims for the first
13 time?

14 MR. NELSON: I think there are some of
15 each. Some came from dependents and so the topic
16 is not actually brand-new. There are others that
17 come from the specification.

18 JUDGE COTTA: Okay.

19 MR. NELSON: It was interesting to me
20 that they are not arguing that any of them are
21 broader. So they're really not that different.
22 And I don't think that the claims themselves are

1 forcing them to cite new art. Of course they're
2 free to do so, they can provide new evidence; but
3 in our view, claims that are limiting and
4 narrowing don't force a party to cite new art.

5 JUDGE COTTA: Okay. I'm going to give
6 petitioner a chance to respond on the issue of
7 length and then, Patent Owner, I'll give you a
8 chance to get the final word on that as well.

9 So, Petitioner, do you want to respond?
10 You don't need to rehash what you've already said,
11 but if you have anything responsive.

12 MR. BISENIUS: Yeah. Addressing the
13 issue of whether we need to use a new primary
14 reference, as I mentioned earlier but I'd like to
15 reiterate, the Mendelson reference is very clear
16 that the three components that we're referring to
17 that we read on the claimed optical sensor, that
18 we read on the claimed processing board, and that
19 we read on the claimed mobile computing device,
20 are all in wireless communication and it spells
21 out why they need to be in different physical
22 places and communicate wirelessly rather than

1 through a wired connection. And so patent owner
2 has crafted their claims specifically to get
3 around that art, which they're allowed to do, but
4 it forces us to have to find a new primary
5 reference.

6 With respect to the claims in the
7 original motion to amend, we think that's even
8 more clear because those claims not only required
9 wired connections between all three components,
10 but required the processing board and optical
11 sensor to receive all of their power from the
12 mobile computing device in which case there could
13 be no wireless connection, it all had to be wired.

14 And here they specified that the
15 communication between the processing board and
16 mobile computing device has to be wireless. So
17 they've gone down this third path where one of the
18 two connections has to be wired, one of the two
19 connections has to be wireless, and that avoids
20 the primary references that we had used
21 previously.

22 With respect to their statement that the

1 previous set of claims had taken eight pages and
2 had 16 different claims, all except for one of
3 the, quote, unquote, new dependent claims in the
4 original set was really just a changing in
5 dependency. And so it did not actually change the
6 recitation of these dependent claims at all and,
7 therefore, for many of them, especially dependent
8 claims where we had used a different secondary
9 reference in our petition, we were able to simply
10 cite back to that analysis in the petition in
11 order to keep the analysis short.

12 Here, they actually have added
13 limitations to all of the dependent claims.
14 Additionally, in the original motion to amend,
15 they had offered two different independent claims,
16 but the amendments to the two different
17 independent claims were relatively the same and
18 so, therefore, we could apply the same analysis to
19 both of the independent claims.

20 So the fact that it was eight pages is
21 really just two different sets of claims that were
22 very duplicative of each other, a method claim and

1 a system claim, but the analysis could be
2 repeated. So here we have none of that. There's
3 only one independent claim. There's no
4 opportunity to repeat any analysis. And all of
5 the dependent claims that are being offered have
6 new elements that we need to address with new art.

7 JUDGE COTTA: And do you anticipate
8 there being multiple obviousness grounds?

9 MR. BISENIUS: If we can fit them in, it
10 would be great. This is our only opportunity to
11 address these claims and we don't know how the
12 patent owner is going to present claim
13 interpretation. But we believe that with the
14 number of amendments and with the art, you know,
15 in our ongoing searching we've seen so far we may
16 be only able to fit one set of obviousness grounds
17 in the opposition.

18 JUDGE COTTA: Patent Owner, do you have
19 anything to say in response to that?

20 MR. NELSON: Yes. I just have four
21 quick points here.

22 All of the arguments that I'm hearing

1 continue to be obviousness arguments that seem
2 pretty standard. And they've mentioned some 112
3 and other nonobviousness arguments, but they
4 haven't, I think, made a showing of the specifics
5 that would warrant an additional 25 pages.

6 Regarding the obvious arguments we just
7 discussed here, Apple already argues with respect
8 to the original claims that you would connect
9 aspects of Mendelson's system -- Mendelson and
10 some of the art they're citing for the original
11 claims. So it's unclear why Apple is now saying
12 that Mendelson's teachings support wireless only.
13 And I think this is just an example of some
14 substantive obviousness arguments. It's not
15 actually as complex as they're arguing, trying to
16 make it seem here.

17 And just one final point, Apple didn't
18 ask for anything less than 25 extra pages. So we
19 think that it's their burden to show good cause
20 for that amount and these types of arguments don't
21 seem to rise to that level.

22 JUDGE COTTA: Okay. I'm going to pause

1 for a second just to confer with the panel and see
2 if they have any questions on page length that we
3 want to raise before we move on to the length of
4 the extension.

5 Okay. I've had the opportunity to
6 confer with the panel with respect to page length.
7 If we could now turn to the request for an
8 extension. As I said before, this is ultimately
9 the chief judge's decision and it's our initial
10 inclination that this case likely does not seem so
11 exceptional as to merit extending the deadline,
12 but I would like to give you an opportunity to say
13 your piece and explain to us why you think an
14 extent is merited.

15 So, Petitioner, since you requested it,
16 why don't you go first.

17 MR. BISENIUS: Thank you, Your Honor.

18 There are a number of different reasons
19 we believe that this is an extraordinary
20 circumstance that deserves an extension of time.
21 One of those reasons is that the original schedule
22 was condensed by three weeks through no fault of

1 the petitioner. If you recall early on in this
2 case, the petitioner and patent owner had agreed
3 to extend the due date for the patent owner's
4 response by three weeks and we filed a stipulation
5 as such. The patent owner then filed a motion to
6 amend on that date, which was three weeks after
7 the due date for the motion to amend, and the
8 parties had never agreed to extend the motion to
9 amend date.

10 The board ended up granting a
11 retroactive extension for the motion to amend, but
12 that condensed the schedule by three weeks. And
13 we'd already agreed to move some of the other
14 dates under the idea that those dates were only
15 being moved for the patent owner's response and
16 the petitioner's reply, not for any motion to
17 amend briefing.

18 Now we find ourselves in a situation
19 where we had agreed to cut off a week of our
20 six weeks for our opposition to revise motion to
21 amend with the belief that the patent owner would
22 further narrow the claim amendments presented in

1 the original motion to amend, not delete all of
2 those claim amendments and come back with two
3 pages worth of new amendments. And while they are
4 allowed to do that under rules, we believe it
5 appears -- we believe that it's an extraordinary
6 circumstance because, as I mentioned, we're once
7 again forced to file what is essentially an entire
8 petition for the third time in this case to
9 address all of these new claim amendments with new
10 prior art.

11 So to summarize, essentially the
12 schedule has been condensed through issues that
13 were out of the control of the petitioner and we
14 shouldn't be punished for that at this point in
15 time, especially when it comes to the fact that
16 there's very lengthy amendments. And I think that
17 actually comes through if you look at pages 3 to 6
18 of the revised motion to amend, the patent owner
19 itself has 16 bullet points addressing the new
20 additions to Claim 21 alone.

21 JUDGE COTTA: Okay. Let me ask one
22 question. To what extent is your request for

1 additional pages dependent on getting extra time
2 to address this, that is if we give you extra
3 pages but not extra time, like would you no longer
4 want the pages? What is your -- how intertwined
5 are these two requests?

6 MR. BISENIUS: We believe that they
7 share a lot of the underlying facts. The
8 complexity of the claims being the main shared
9 fact. But we believe we would need the length
10 either way. The main issue with the request for
11 additional time would just be time for prior art
12 searching. As I said, we need to find a new
13 primary reference and we believe we need to find
14 new secondary references for a number of these
15 elements.

16 And so conducting prior art searching,
17 which we've already started on, but then analyzing
18 the references as we find them and figuring out
19 our combinations, that's really where the length
20 would come in due to the complexity of the claims.
21 But whether or not a time extension was granted,
22 the complexity of the analysis for all these new

1 claim elements, including what we believe to be
2 three different indefiniteness issues and three
3 different lack of written description support
4 issues, would require the extra length.

5 JUDGE COTTA: Okay. Could I hear from
6 patent owner with respect to the request for an
7 extension of time?

8 MR. NELSON: Yes, certainly. This is
9 Philip Nelson again.

10 I just have to disagree with one of the
11 factual statements, the revised motion to amend
12 dates are the full default schedule. So any
13 compression or changes in the earlier dates before
14 that shouldn't affect that at all. And so in this
15 case, I think the defaults balance the hardship on
16 the parties. And so six weeks of time to do this
17 brief was considered by the board and by statute
18 and by the regulations to be enough. And so
19 anything more than that I think would be
20 burdensome not just on us but on the court and on
21 all the parties. And when I hear them mention
22 that they need more time for additional searching,

1 it just strikes me as fundamentally unfair and out
2 of whack with the balance that was struck by the
3 default.

4 JUDGE COTTA: And do you have any
5 response to petitioner's point that they lost
6 three weeks through no fault of their own?

7 And at least when we granted you
8 permission to file the motion to amend, there was
9 some understanding that you would cooperate and
10 you proposed a schedule, which just operating by
11 recollection, was fairly generous to petitioner
12 and you had very short response times for
13 yourself. Do you have any willingness to kind of
14 condense some of your response times on the
15 revised motion to amend as a way of keeping us on
16 target for the statutory deadline?

17 MR. NELSON: No, I think that would be
18 unfair here. They already got all their time back
19 before. We think that six weeks is the full time.
20 And as I mentioned before, the revised motion to
21 amend dates give them their full schedule. So we
22 think that anything that happened previously for

1 different claims with a motion to amend just isn't
2 relevant to these claims and the default would
3 apply.

4 JUDGE COTTA: Well, I mean, I think it
5 has some relevance in the sense that it
6 contributed toward us getting to this point, you
7 disagree?

8 MR. NELSON: Well, I just don't
9 understand how extending the default six weeks
10 would apply since the claims that are being
11 addressed here are new claims. They're responsive
12 to what we learned from the previous process, from
13 the motion to amend process, and from the board's
14 guidance, but other than that it's the standard
15 situation of having claims that are presented and
16 the standard six weeks to be opposed.

17 JUDGE COTTA: Okay. I'm going to -- or
18 actually I'll give you both a quick chance to
19 respond before I confer with the panel.

20 So, Petitioner, do you have anything you
21 want to respond to there?

22 MR. BISENIUS: Yes, Your Honor, just a

1 few quick points.

2 First off, we don't currently have a
3 full six weeks. The revised motion to amend
4 schedule gives only five weeks total to respond.

5 But I also want to point out that in similar
6 circumstances, other panels have granted such time
7 extensions when the amendments in the revised
8 motion to amend were so complex and required use
9 of new primary references. A couple of examples
10 that we've identified are Eden Park Illumination
11 versus Edward Neister, that's IPR2022-00381,
12 Paper 51. And another example is Hope Medical
13 Enterprises versus Fennec Pharmaceuticals, that's
14 IPR2022-00125, Paper 35.

15 JUDGE COTTA: Okay. Patent Owner, do
16 you have a response?

17 MR. NELSON: Well, I haven't had time to
18 look at these cases, but we did review several in
19 trying to find analogous situations and I'll just
20 reiterate that we've never seen a case that got
21 25 pages for something like this and we've never
22 seen one that had a time extension of six weeks

1 for something like this.

2 JUDGE COTTA: Okay. I'm going to confer
3 with the panel and I'll be back shortly.

4 Okay. I've had the opportunity to
5 confer with the panel. We don't have any further
6 questions. We're going to take the matter under
7 advisement and we're going to get back to you
8 shortly. I would suggest just because the time
9 schedule is compressed that you operate under the
10 assumption that the final written decision
11 deadline will not be extended.

12 And I understand that you have a court
13 reporter present, would it be possible to get an
14 expedited copy of the transcript filed as an
15 exhibit?

16 MR. BISENIUS: Yes, we can do that, Your
17 Honor.

18 JUDGE COTTA: Okay.

19 MR. NELSON: Your Honor, I had one quick
20 thing that I did while you were conferring. We
21 did the date calculation one last time and we
22 calculate that from February 20th to April 3rd is

1 six weeks. So I don't think I misspoke on that
2 just for the record.

3 JUDGE COTTA: Okay. Thank you.

4 Anything further?

5 MR. NELSON: Nothing from Masimo.

6 JUDGE COTTA: Nothing from Apple as
7 well, I assume?

8 MR. BISENIUS: Sorry, I was on mute.

9 Nothing for petitioner.

10 JUDGE COTTA: Okay. Thank you everyone
11 and we are now adjourned.

12 MR. NELSON: Thank you.

13 MR. BISENIUS: Thank you, Your Honor.

14 (Off the record at 12:39 p.m.)

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1 STATE OF MARYLAND)

2 ss:

3 COUNTY OF MONTGOMERY)

4

5 I, Matthew Goldstein, Notary Public
6 within and for the State of Maryland, do hereby
7 certify:

8

9 That I reported the proceedings in the
10 within entitled matter, and that the within
11 transcript is a true record of said proceedings.

12

13 I further certify that I am not related
14 to any of the parties to the action by blood or
15 marriage, and that I am in no way interested in
16 the outcome of this matter.

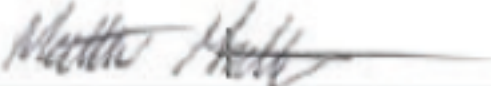
17

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 10th day of March, 2025.

20

21

22



Matthew Goldstein, RMR, CRR

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