

Exhibit 2151

Filed on Behalf of Valencell, Inc.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC. and FITBIT, INC.
Petitioner

v.

VALENCELL, INC.
Patent Owner

Case IPR2017-00317¹ - U.S. Patent No. 8,989,830

Case IPR2017-00318² – U.S. Patent No. 8,886,269

**DECLARATION OF ALBERT H. TITUS IN SUPPORT OF
VALENCELL'S MOTIONS TO AMEND UNDER 37 C.F.R. § 42.121**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

¹ IPR2017-01553 has been joined to this current proceeding.

² IPR2017-01554 has been joined to this current proceeding.

I, Albert Titus, declare as follows:

I. INTRODUCTION

A. Engagement

1. My name is Dr. Albert H. Titus. I have been asked to submit this declaration on behalf of Valencell, Inc. (“Valencell” or “Patent Owner”) in connection with Motions to Amend for U.S. Patent Nos 8,989,830 (“the ’830 patent”) and 8,886,269 (“the ’269 patent”).
2. I have been retained as a technical expert by Warren Rhoades LLP and Valencell to study and provide my opinions on the prior art related to the claim amendments for the ’830 patent and the ’269 patent. I have also been retained by Valencell and Bragalone Conroy PC to study and provide my opinions related to the Patent Owner’s Response for the IPRs involving the ’830 patent and the ’269 patent.
3. I previously submitted declarations in both of these proceedings in support of Patent Owner’s Responses (Papers 19 and 20) and Valencell’s Motions to Amend under 37 C.F.R. § 42.121 (Papers 20 and 21) (collectively, “Declarations”). I incorporate all of these Declarations herein by reference.
4. As part of my study, I have reviewed and am familiar with the prior art and specifications of the ’830 patent and the ’269 patent. I have also

reviewed Petitioners' Oppositions to the Motions to Amend and the supporting Declarations of Dr. Brian W. Anthony for the '269 patent (Paper 33 and Exhibit 1103) and '830 patent (Paper 28 and Exhibit 1103).

5. It is still my opinion that the substitute claims of the '269 and '830 patents are not anticipated by the prior art, including the new prior art cited in the Oppositions to the Motions to Amend. It is also my opinion that the substitute claims of the '269 and '830 patents are not obvious in light of the prior art, individually or in combination.
6. It is still my understanding that Valencell has not disputed Petitioners' definition of a Person of Ordinary Skill in the Art ("POSITA").
7. My background qualifications and compensation remain unchanged from my original Declarations.
8. In the formation of my opinions, I have relied upon the legal standards set forth in my prior Declarations.

II. ANALYSIS OF PRIOR ART

A. The Cited Prior Art and the Motivation to Combine for the '830 Patent.

Goodman

9. Goodman describes a device that is small and, when "the adhesive fastener is used, the effect of the light source and photo-detector

substrates being integrated into the adhesive fastener is that they become, in effect, a part of the skin.” APL1007 at Abstract. “This disclosed adhesive fastening conforms the elements of the apparatus so completely to the patient's skin that motion artifact is eliminated. Hence, the light extinction measurement and resulting analysis to determine oxygen saturation and pulse rate is more accurate and less sensitive to interference.” APL1007 at Col. 5, lns. 41 – 47. The device’s tight adhesion to the skin prevents motion artifacts from distorting the signal. The Goodman device is “directed to providing non-invasive, reliable, and continuous monitoring of the vital signs of a patient requiring intensive care to prevent vital organ damage or reduced biopotential,” thus a patient with limited motion or mobility. APL1007 at Col. 5, lns. 3-6. The Goodman device “is entirely disposable and thus sanitary.” APL1007 at Col. 6, lns. 22-23. Additionally, “the plastic, flexible adhesive strip can be secured over the end of the fingertip, not circumferentially around the finger. This prevents restriction of blood flow to the tissue to be illuminated and measured. Only nominal pressure from this invention to the patient is applied locally to the patient on the topical skin layer directly holding the light source and the photosensor. This pressure does not extend

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