

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC. and FITBIT, INC.
Petitioners,

v.

VALENCELL, INC.,
Patent Owner

Case IPR2017-00318¹
Patent 8,886,269

**DECLARATION OF BRIAN W. ANTHONY, PH.D.
IN SUPPORT OF PETITIONER APPLE INC.'S
OPPOSITION TO PATENT OWNER'S MOTION TO AMEND**

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¹ IPR2017-01554 has been joined to this current proceeding.

TABLE OF CONTENTS

I.	Background	3
II.	My Understanding of Legal Principles.....	6
III.	Level of Ordinary Skill in the Art	12
IV.	Substitute Claims 12-21 Lack Written-Description Support.....	13
V.	Substitute Claims 12-21 Lack Reasonable Certainty	13
VI.	Overview of the Applied References.....	14
	A. Asada	14
	B. Goodman.....	19
	C. Hicks	21
	D. Hannula.....	23
	E. Delonzor	24
	F. Al-Ali	25
	G. Swedlow	27
	H. Fricke	28
	I. Gupta.....	29
	J. Tran.....	30
	K. Fraden	30
VII.	The Combination of Asada, Swedlow, Fricke, and Gupta Render Substitute Claim 12 Obvious	31
	A. “a band <u>and light guiding structure</u> configured to at least partially encircle a portion of the body <u>limb</u> of a subject” recited in claim 12 ..	37
	B. “a <u>base comprising</u> at least one optical emitter and at least one optical detector attached to the band <u>and light-guiding structure</u> ” recited in claim 12	39
	C. “a <u>signal processor</u> ” limitation recited in claim 12	41
VIII.	The Combination of Goodman, Asada, Fricke, and Gupta Render Substitute Claim 12 Obvious	44
	A. “a band <u>and light guiding structure</u> configured to at least partially encircle a portion of the body <u>limb</u> of a subject” recited in claim 12 ..	48

B.	“ <u>a base comprising</u> at least one optical emitter and at least one optical detector attached to the band <u>and light-guiding structure</u> ” recited in claim 12	50
C.	“ <u>a signal processor</u> ” limitation recited in claim 12	51
IX.	The Addition of Tran to Either Combination of References Presented above with Respect to Claim 12 Renders Substitute Claim 13	54
X.	The Addition of Hannula and Fraden to Either Combination of References Presented above with Respect to Claim 12 Renders Substitute Claim 16 Obvious, and The Addition of Fraden to Either Combination of References Presented above with Respect to Claim 12 Renders Substitute Claim 17 Obvious	55
XI.	Substitute Claims 14, 15, and 18-21	57
XII.	Conclusion	57

I, Dr. Brian W. Anthony, make this supplemental declaration to support the opposition to the motion to amend in IPR2017-00318. To that end, I hereby declare as follows:

I. Background

1. I am an expert in the relevant field of U.S. Patent No. 8,886,269 (APL1001, “the ’269 patent”). My qualifications and work experience are set forth in my original declaration submitted in connection with the petition. (*See* APL1003.) A copy of my *curriculum vitae* was submitted as APL1004.

2. I understand that the Board instituted an *inter partes* review of the ’269 patent in IPR2017-00318. I have reviewed the Board’s institution decision and am familiar with all of the prior art supporting those grounds. The instituted grounds include:

Instituted Grounds		
Type	References	Claims
§ 103	Asada	1, 2, 6, and 7
§ 103	Asada and Hicks	3
§ 103	Asada and Hannula	4 and 5
§ 103	Asada and Delonzor	8

Instituted Grounds		
§ 103	Asada and Al-Ali	9 and 10
§ 103	Goodman	1 and 2
§ 103	Goodman and Hicks	3
§ 103	Goodman and Hannula	4
§ 103	Goodman, Hannula, and Asada	5
§ 103	Goodman and Asada	6 and 7
§ 103	Goodman and Delonzor	8
§ 103	Goodman and Al-Ali	9 and 10

3. I understand that Valencell, Inc. (“Patent Owner”) filed a contingent motion to amend in the *inter partes* review proceeding on September 22, 2017. In the motion to amend, Patent Owner proposed to substitute claims 12-22 in place of original claims 1-11 of the ’269 patent only if each of original claims 1-11 are found unpatentable. I have been asked to provide my technical review, analysis, insights, and opinions about the motion to amend.

4. In reaching my opinions, I carefully reviewed the motion to amend, the petition for *inter partes* review of the ’269 patent, my original declaration, and

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