

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FITBIT, INC.,
Petitioner,

v.

VALENCELL, INC.,
Patent Owner

IPR2017-00319
U.S. Patent No. 8,923,941

**PETITIONER'S RESPONSE TO PATENT OWNER'S
IDENTIFICATION OF ALLEGEDLY NEW ARGUMENTS AND
EVIDENCE**

Prior Support for Alleged New “Evidence”:

Generally: Paper 57 (Fitbit may address “the *grounds* presented in” the Petition).

Craw ¶ 4: Pet. at 19 (citing “Ex. 1056, ¶0004”).

Craw ¶ 48, 149, 202-203: Pet. at 27 (citing “Ex. 1056, ¶0048, 0149, 0202-0203”).

Craw ¶ 208, Fig. 9A: Pet. at 27 (“[A]s *discussed above*, Craw suggests configuring this data into a serial output string of physiological and physical activity parameters.”); Pet. at 25 (citing “Ex. 1056, ¶¶0200-0216” as “suggest[ing] serializing data”); Craw ¶208 (describing Fig. 9A); Pet. at 21 (showing Fig. 9A).

IPR2017-00321: not evidence.

Prior Support for Alleged New “Arguments” for Claim 3

Paper 57 at 10-11 (Fitbit may address “whether our narrowing construction of the term ‘application-specific interface (API)’ has no significance”).

Craw’s “interface”: Pet. at 27 (citing “Ex. 1056, ¶0256”); Ex. 1056, ¶0256 (“The data dictionary used with DMOIB and string table classes may act as interfaces”); Paper 40 at 4-5 (“The grounds presented provide an API that is ‘utilized’ for a particular application.”); Paper 13 at 2-4 (discussing and quoting Craw ¶48, 202).

Lee’s “interface”: Pet. at 57 (discussing “mobile phone application programs”).

Prior Support for Alleged New Arguments for Clams 4-5

Paper 57 at 10-11 (Fitbit may address “the patentability of claims 4 and 5, assuming their dependence from claim 3”); Paper 40 at 7.

Date: November 9, 2020

By: /Jim Glass/

James M. Glass (Reg. No. 46,729)
QUINN EMANUEL URQUHART &
SULLIVAN LLP

51 Madison Avenue, 22nd Floor

New York, NY 10010

Email: jimglass@quinnemanuel.com

Phone: 212-849-7142

Fax: 212-849-7100

Counsel for Petitioner Fitbit, Inc.

CERTIFICATE OF SERVICE (37 C.F.R. §§ 42.6(E), 42.105(A))

The undersigned hereby certifies that the foregoing document was served in its entirety on November 9, 2020 upon the following parties via Electronic Mail.

Justin B. Kimble
Jeffrey R. Bragalone
Daniel F. Olejko
T. William Kennedy
Jonathan H. Rastegar
Marcus Benavides
R. Scott Rhoades
Sanford E. Warren, Jr

BRAGALONE CONROY PC
2200 Ross Ave.
Suite 4500 – West
Dallas, TX 75201

JKimble-IPR@bcpc-law.com

jbragalone@bcpc-law.com

dolejko@bcpc-law.com

bkennedy@bcpc-law.com

jrastegar@bcpc-law.com

mbenavides@bcpc-law.com

srhoades@wriplaw.com

swarren@wriplaw.com

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James M. Glass (Reg. No. 46,729)
QUINN EMANUEL URQUHART &
SULLIVAN LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010

Email: jimglass@quinnemanuel.com

Phone: 212-849-7142

Fax: 212-849-7100

Counsel for Petitioner Fitbit, Inc.