

Filed on behalf of Valencell, Inc.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FITBIT, INC.,  
Petitioner,

v.

VALENCELL, INC.,  
Patent Owner.

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Case IPR2017-01556  
U.S. Patent No. 8,923,941

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**PATENT OWNER PRELIMINARY RESPONSE PURSUANT TO  
35 U.S.C. § 313 and 37 C.F.R. § 42.107**

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**TABLE OF CONTENTS**

I.	INTRODUCTION .....	1
II.	BACKGROUND OF PATENT OWNER AND TECHNOLOGY.....	4
III.	OVERVIEW OF THE '941 PATENT .....	6
IV.	OVERVIEW OF THE PETITION .....	9
	A. United States Patent Application Publication No. US 2004/0186387 Al to Kosuda.....	10
	B. JP Patent Application Publication No. 2005-270544 to Maekawa.....	11
	C. United States Patent Application Publication No. 2005/0059870 to Aceti .....	12
	D. United States Patent Application Publication No. 2009/0105556 to Fricke.....	13
V.	CLAIM CONSTRUCTION .....	14
	A. Petitioner’s Construction of “Body” Is Confusing and Unnecessary. 15	
	B. Petitioner’s Construction of “Window” Is Improper .....	16
	C. Construction of “PPG Sensor” .....	16
VI.	LEGAL STANDARDS .....	17
	A. Standard for Instituting Petition .....	17
	B. Obviousness.....	20
VII.	PETITIONER FAILS TO ESTABLISH A REASONABLE LIKELIHOOD OF PROVING THE UNPATENTABILITY OF ANY CHALLENGED CLAIM.....	24
	A. Petitioner Fails to Show a Reasonable Likelihood of Success with Respect to Grounds 1 and 2.....	24
	1. Petitioner Does Not Demonstrate that Kosuda Discloses a “PPG Sensor” as Required by All Challenged Claims. ....	24

2.	Petitioner Fails to Show that Kosuda in View of Maekawa and Han Discloses Any of the Limitations in Claims 18-20. ....	27
3.	Petitioner Cannot Demonstrate Why a POSITA Would Modify Kosuda in View of Maekawa.....	28
B.	Petitioner Fails to Show a Reasonable Likelihood of Success with Respect to Grounds 3 and 4 Because It Cannot Demonstrate Why a POSITA Would Modify Aceti in View of Fricke.....	30
C.	Petitioner Proposes Redundant Grounds for Challenging Claims 14, 15, 18, 19, 20, and 21. ....	34
D.	Petitioner Fails to Conduct a Proper Analysis of the Second <i>Graham</i> Factor.....	36
VIII.	CONCLUSION.....	39

### TABLE OF EXHIBITS

Exhibit No.	Description
2001	Skip West, Valencell and RapidSOS Honored with CTA's 2016 Innovation Entrepreneur Awards
2002	Biometrics Lab: Performance of Leading Optical Heart Rate Monitors During Interval Exercise Conditions
2003	Valencell website ( <a href="http://valencell.com/customers/">http://valencell.com/customers/</a> )
2004	Electrical (ECG) vs. Optical-based (PPG) Biosensors in Wearable Devices
2005	Estimating Respiratory and Heart Rates from the Correntropy Spectral Density of the Photoplethysmogram,
2006	Continuous blood pressure measurement by using the pulse transit time: comparison to a cuff-based method
2007	How an LDV/LDA works

Pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.107, Patent Owner Valencell, Inc. (“Valencell” or “Patent Owner”) hereby files this preliminary response (“Preliminary Response”) to the Petition (Paper 2) (the “Petition”) for *Inter Partes* Review of U.S. Patent No. 8,923,941 (Ex. 1001) (the “’941 Patent”) in IPR2017-01556 filed by Fitbit, Inc. (“Fitbit” or “Petitioner”). The Board should deny institution because Petitioner has not established that “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a).

This Response is timely under 35 U.S.C. § 313 and 37 C.F.R. § 42.107(b), as it is filed within three months of the June 16, 2017 mailing date of the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper 4). For purposes of this Preliminary Response, Patent Owner has limited its identification of deficiencies in the Petition and does not intend to waive any arguments not addressed in this Preliminary Response. Valencell submits this Preliminary Response subject and without prejudice to its opposition to Petitioner’s Motion for Joinder (Paper 7).

## **I. INTRODUCTION**

The ’941 Patent is part of a family of patents directed to biometric sensor technology for wearables and hearables. The Petition presents four Grounds for

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