

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

Omni MedSci, Inc.,

Plaintiff/Counter Defendant,

v.

Apple Inc.,

Defendant/Counter Claimant

Case No. 2:18-cv-134-RWS

JURY TRIAL DEMANDED

**APPLE INC.'S FINAL ELECTION OF
ASSERTED PRIOR ART**

Pursuant to the Court's Docket Control Order (D.I. 142), General Order No. 13-20, and the parties' agreement to amend General Order No. 13-20 (D.I. 169), Defendant/Counter Claimant Apple, Inc., ("Apple") hereby provides Plaintiff/Counter-Defendant Omni MedSci, Inc. ("Omni") with the following final election of asserted prior art.

Apple's final election of asserted prior art is based on Omni's May 7, 2019 Final Election of Asserted Claims and information currently available to Apple. In addition, the Court has not yet issued a claim construction order in this case. Apple reserves all rights to modify this election if Omni amends its Final Election of Asserted Claims, if additional information becomes available, and/or when the Court issues a claim construction order.

Subject to the foregoing, Apple elects to assert the following prior art references as follows:

I. Election of Prior Art for Each Asserted Patent

Refer to Section II for the full names and information corresponding to each item of prior art identified in this section.

U.S. Patent No. 9,651,533

1. Valencell + Carlson + Mannheimer
2. Lisogurski + Carlson + Mannheimer
3. Park + Fitbit + Carlson + Mannheimer
4. Masimo Radical-7 + Carlson + Webster
5. Masimo iSpO2 + Carlson + Webster
6. Nellcor + Carlson + Webster
7. Nonin + Carlson + Webster
8. Asada + Valencell + Carlson + Mannheimer

U.S. Patent No. 9,757,040

1. Valencell + Hanna + Mannheimer
2. Lisogurski + Carlson + Maekawa + Mannheimer
3. Park + Fitbit + Lisogurski + Mannheimer
4. Masimo Radical-7 + Carlson + Hanna + Webster
5. Masimo iSpO2 + Carlson + Hanna + Webster
6. Nellcor + Carlson + Hanna + Webster
7. Nonin + Carlson + Hanna + Webster
8. Asada + Hanna + Valencell + Mannheimer

U.S. Patent No. 9,861,286

1. Valencell + Hanna + Mannheimer
2. Lisogurski + Carlson + Mannheimer
3. Park + Lisogurski + Mannheimer

4. Masimo Radical-7 + Carlson + Hanna + Webster
5. Masimo iSpO2 + Carlson + Hanna + Webster
6. Nellcor + Carlson + Hanna + Webster
7. Nonin + Carlson + Hanna + Webster
8. Asada + Hanna + Valencell + Mannheimer

II. Full Name of Each Prior Art Reference or System

1. Valencell, as described by:
 - a. U.S. Appl. Pub. No. 2012/0197093
 - b. U.S. Appl. Pub. No. 2010/0217099
2. Lisogurski – U.S. Patent No. 9,241,676
3. Park - U.S. Patent No. 9,596,990
4. Asada, as described by the Asada Charts attached to the Expert Report of Majid Sarrafzadeh, Ph.D. Regarding Invalidity
5. Fitbit, as described by FITBIT00001-00078
6. Masimo Radical-7, as described by the Masimo Charts attached to the Expert Report of Majid Sarrafzadeh, Ph.D. Regarding Invalidity
7. Masimo iSpO2, as described by the Masimo iSpO2 Charts attached to the Expert Report of Majid Sarrafzadeh, Ph.D. Regarding Invalidity
8. Nellcor, as described by the Nellcor Charts attached to the Expert Report of Majid Sarrafzadeh, Ph.D. Regarding Invalidity
9. Nonin, as described by the Nonin Charts attached to the Expert Report of Majid Sarrafzadeh, Ph.D. Regarding Invalidity
10. Hanna – U.S. Patent No. 6,505,133
11. Maekawa – JP Appl. No. 2005270544

12. Carlson – U.S. Appl. Pub. No. 2005/0049468

13. Mannheimer – U.S. Patent No. 5,746,206

14. Webster – Design of Pulse Oximeters, by John Webster (Institute of Physics Publishing 1997)

Date: May 22, 2019

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