

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner,

v.

MASIMO CORPORATION,  
Patent Owner.

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IPR2020-01526  
Patent 6,771,994 B2

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Record of Oral Hearing  
Held: January 19, 2022

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Before JOSIAH C. COCKS, ROBERT L. KINDER, and  
AMANDA F. WIEKER, *Administrative Patent Judges*.

IPR2020-01526  
Patent 6,771,994 B2

APPEARANCES:

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The above-entitled matter came on for hearing on Wednesday, January 19, 2022, commencing at 3:59 p.m., EDT, at the U.S. Patent and Trademark Office, by video/by telephone, before Chris Hofer, Notary Public.



1 parties are briefed during this proceeding and they are identified within our  
2 table of contents as issues 1A through 1D and as 2A and 2B.

3 MR. PATRICK: I would like to ask Your Honors to turn to slide 5  
4 which begins our treatment of issue 1A and --

5 JUDGE COCKS: Counsel, before you begin just --

6 MR. PATRICK: -- there you'll see the issues --

7 JUDGE COCKS: Counsel? Just to double check you said ten  
8 minutes of rebuttal time; is that accurate?

9 MR. PATRICK: Yes, Your Honor, that's right. Thank you.

10 JUDGE COCKS: Go ahead, please.

11 MR. PATRICK: Thank you, Your Honor. So, slide 5 shows our  
12 treatment of issue 1A that a POSITA would have understood and found it  
13 obvious to apply light control film as taught by Benjamin and further  
14 detailed by Melby to Diab's system to improve that system's consistency and  
15 accuracy.

16 So, turning to slide 5. We can see that Diab describes an optical probe  
17 for measurements that in the embodiment shown in figure 24 at the top right  
18 of this slide includes a light source consisting of two LEDs operating in  
19 different wavelengths and a photodetector that detects light emitted by the  
20 LEDs ideally only after it has passed through user tissue and as Dr. Anthony  
21 explained --

22 JUDGE KINDER: This is Judge Kinder. Sorry to interrupt you. If I  
23 could ask a quick question. This is Judge Kinder.

24 MR. PATRICK: Yes, Your Honor.

25 JUDGE KINDER: I kind of understood what the scattering medium

1 is but can you describe the purpose of the scattering medium because I know  
2 that's kind of one of the issues we'll talk about later.

3 MR. PATRICK: Thank you, Your Honor. I appreciate that question.  
4 So Diab actually describes the scattering medium and you may see some  
5 description with respect to that actually on slide 6 as offering an improved  
6 optical signal-to-noise ratio and it does that in a few portions. It details it in  
7 a few portions. In the section appearing on slide 6 of Diab which is column  
8 3, lines 63 through column, line 12, it talks about actually a number of  
9 preferred embodiments of its invention in which the scattering medium is  
10 used and in some of those embodiments the scattering medium is said to be  
11 positioned between the user tissue and a photodetector and others it's said to  
12 be placed between LEDs and user tissue and yet other it's said to be placed  
13 in both locations. Now all of those embodiments are said to result in an  
14 improved optical signal-to-noise ratio and I don't have the clipping available  
15 on this slide but this could be better understood I think with respect to  
16 column 20 of Diab and in particular column 20, lines 1 through 13 and there  
17 Diab explains that by scattering the signal either prior to or posterior to the  
18 material interface and by material interface I believe they're referring to the  
19 user tissue, perturbations of a locality within the area of exposure will have  
20 less effect and in that regard, at least the way I'm thinking about this and as  
21 it's been explained on the record, the locality within an area of exposure  
22 would refer to structures within user tissue and so Diab speaks to reduction  
23 of noise related to user motion because as a user of the device is moving and  
24 light is passing through that tissue particular structures within the tissue can,  
25 you know, have an effect on the way that the light passes and so through use

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