

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Massi E. Kiani et al.
U.S. Patent No.: 6,771,994 Attorney Docket No.: 50095-0005IP1
Issue Date: August 3, 2004
Appl. Serial No.: 10/374,303
Filing Date: February 24, 2003
Title: PULSE OXIMETER PROBE-OFF DETECTION SYSTEM

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**PETITION FOR *INTER PARTES* REVIEW OF UNITED STATES PATENT
NO. 6,771,994 PURSUANT TO 35 U.S.C. §§ 311–319, 37 C.F.R. § 42**

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EXHIBITS

APPLE-1001	U.S. Patent No. 6,771,994
APPLE-1002	File History for U.S. Patent No. 6,771,994
APPLE-1003	Declaration of Dr. Anthony
APPLE-1004	Reserved
APPLE-1005	Masimo Corporation, et al. v. Apple Inc., Complaint, Civil Action No. 8:20-cv-00048 (C.D. Cal.)
APPLE-1006	U.S. Patent No. 5,638,818 (“Diab”)
APPLE-1007	U.S. Patent No. 4,015,595 (“Benjamin”)
APPLE-1008	U.S. Patent No. 5,254,388 (“Melby”)
APPLE-1009	WO Pub. No. 1996/41566 (“Fine”)
APPLE-1010	Excerpts from Design of Pulse Oximeters, J.G. Webster; Institution of Physics Publishing, 1997 (“Webster”)
APPLE-1011	Tremper, Pulse Oximetry, Anesthesiology, The Journal of the American Society of Anesthesiologists, Inc., Vol. 70, No. 1 (January 1989) (“APPLE-1011”)
APPLE-1012	Mendelson, Skin Reflectance Pulse Oximetry: In Vivo Measurements from the Forearm and Calf, Journal of Clinical Monitoring, Vol. 7, No. 1 (January 1991) (“APPLE-1012”)
APPLE-1013	Excerpts from Bronzino, The Biomedical Engineering Handbook, CRC Press, Inc. (1995) (“APPLE-1013”)
APPLE-1014	Konig, Reflectance Pulse Oximetry – Principles and Obstetric Application in the Zurich System, Journal of Clinical Monitoring, Vol. 14, No. 6 (August 1998) (“APPLE-1014”)

APPLE-1015 Declaration of Jacob Munford

APPLE-1016 to 1030 Reserved

APPLE-1031 Scheduling Order, Masimo v. Apple et al., Case 8:20-cv-00048, Paper 37 (April 17, 2020)

APPLE-1032 Stipulation by Apple

APPLE-1033 Telephonic Status Conference, Masimo v. Apple et al., Case 8:20-cv-00048, Paper 78 (July 13, 2020)

APPLE-1034 Joseph Guzman, “Fauci says second wave of coronavirus is ‘inevitable’”, TheHill.com (Apr. 29, 2020), available at: <https://thehill.com/changing-america/resilience/natural-disasters/495211-fauci-says-second-wave-of-coronavirus-is>

APPLE-1035 “Tracking the coronavirus in Los Angeles County,” LATimes.com (Aug. 20, 2020), available at <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/los-angeles-county/>

Apple Inc. (“Petitioner”) petitions for *Inter Partes* Review (“IPR”) of claim 15 (“Challenged Claim”) of U.S. Patent No. 6,771,994 (“’994 Patent”) under 35 U.S.C. §§ 311–319 and 37 C.F.R. § 42. As explained in this Petition, there exists a reasonable likelihood that Apple will prevail with respect to the Challenged Claim.

The earliest filed application from which the ’994 Patent claims priority is U.S. Provisional Application No. 60/140,000, filed on June 18, 1999. Thus June 18, 1999 (herein after “Critical Date” or “Earliest Effective Filing Date”) is the earliest possible priority date for the ’994 Patent. The ’994 Patent discloses a purported improvement to a “pulse oximeter probe to detect when the probe becomes partially or completely dislodged from the patient, but continues to detect” a signal within the normal operating range of the system. APPLE-1001, Abstract. According to the ’994 Patent, the improved pulse oximeter “provides a number of louvers placed in front of the probe’s photodetector” (*id.*, 2:9-12) to “prevent light from an oblique angle from reaching the photodetector” and creating a “false signal” that could be interpreted as an actual physiological signal of a patient. *Id.*, 2:16-19.

But the claimed device is not new. APPLE-1003, [0016]-[0029]. To the contrary, the ’994 Patent was granted without full consideration of the wide body of applicable art. As the ’994 Patent acknowledges in its “Description of the Related Art,” pulse oximetry was a “widely accepted noninvasive procedure for

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