Filed: October 15, 2021

Filed on behalf of:

Patent Owner Masimo Corporation

By: Joseph R. Re (Reg. No. 31,291)

Stephen W. Larson (Reg. No. 69,133)

Jarom D. Kesler (Reg. No. 57,046)

Jacob L. Peterson (Reg. No. 65,096)

William R. Zimmerman (admitted pro hac vice)

Jeremiah S. Helm, Ph.D. (admitted pro hac vice)

KNOBBE, MARTENS, OLSON & BEAR, LLP

2040 Main Street, Fourteenth Floor

Irvine, CA 92614

Tel.: (949) 760-0404 Fax: (949) 760-9502

E-mail: AppleIPR2020-1539-554@knobbe.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner,

v.

MASIMO CORPORATION,

Patent Owner.

Case IPR2020-01539 U.S. Patent 10,588,554

.

PATENT OWNER'S SUR-REPLY TO REPLY



TABLE OF CONTENTS

Page No.

I.	INT	RODU	JCTIO1	N	1
II.	ARGUMENT				
	A.	Ground 1			3
		1.	A POSITA Would Have Understood That Ohsaki's Board Is Longitudinal And Even Small Changes Result In Slippage		3
			a)	Ohsaki's Board Is Longitudinal	3
			b)	Petitioner's Additional Arguments Regarding Ohsaki Are Unpersuasive	7
		2.	Prev	ioner Incorrectly Asserts That Ohsaki's Board ents Slipping "On Either Side Of The User's st Or Forearm"	11
		3.		onvex Cover Does Not Enhance Aizawa's t-Gathering Ability	14
			a)	Petitioner Contradicts Its Admissions	14
			b)	The Principle Of Reversibility Is Irrelevant To Petitioner's Proposed Combination	16
			c)	Petitioner's Other New Theories Are Similarly Misplaced	18
		4.		ioner Does Not Dispute That A Convex Cover ald Be More Prone To Scratches	22



TABLE OF CONTENTS (cont'd)

Page No.

		5.	Petitioner Establishes No Motivation To Modify Aizawa's Sensor To Include Both Multiple Detectors And Multiple Emitters	23
		6.	Mendelson 2006 Underscores Petitioner's Hindsight Reconstruction	25
		7.	Expectation Of Success	26
	B.	Clai	ms 11, 17, 28	27
	C.	Clai	im 13	28
ш	CONCLUSION			20



TABLE OF AUTHORITIES

Page No(s).

ActiveVideo Networks, Inc. v. Verizon Commc'ns, Inc., 694 F.3d 1312 (Fed. Cir. 2012)	27
DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc., 567 F.3d 1314 (Fed. Cir. 2009)	10, 14
Panduit Corp. v. Dennison Mfg. Co., 810 F.2d 1561 (Fed. Cir. 1987)	9
<i>TQ Delta, LLC v. CISCO Sys., Inc.</i> , 942 F.3d 1352 (Fed. Cir. 2019)	8



EXHIBIT LIST

Exhibit No.	Description
2001	Declaration of Jeremiah S. Helm in Support of <i>Pro Hac Vice</i> Motion
2002	Declaration of William R. Zimmerman in Support of <i>Pro Hac Vice</i> Motion
2003	Reserved
2004	Declaration of Dr. Vijay K. Madisetti
2005	Curriculum Vitae of Dr. Vijay K. Madisetti
2006	Deposition Transcript of Dr. Thomas W. Kenny in <i>Apple Inc. v. Masimo Corp.</i> , IPR2020-01520, IPR2020-01537, IPR2020-01539 (April 22, 2021)
2007	Deposition Transcript of Dr. Thomas W. Kenny in <i>Apple Inc. v. Masimo Corp.</i> , IPR2020-01520, IPR2020-01537, IPR2020-01539 (April 23, 2021)
2008	Deposition Transcript of Dr. Thomas W. Kenny in <i>Apple Inc. v. Masimo Corp.</i> , IPR2020-01536, IPR2020-01538 (April 24, 2021)
2009	Deposition Transcript of Dr. Thomas W. Kenny in <i>Apple Inc. v. Masimo Corp.</i> , IPR2020-01536, IPR2020-01538 (April 25, 2021)
2010	Frank H. Netter, M.D., Section VI Upper Limb, Atlas of Human Anatomy (2003), Third Edition ("Netter")
2011	Reserved
2012	Reserved
2013	Reserved
2014	Reserved



DOCKET A L A R M

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

