IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:Poeze, et al.U.S. Patent No.:10,258,265Attorney Docket No.: 50095-0006IP1Issue Date:April 16, 2019Appl. Serial No.:16/212,440Filing Date:December 6, 2018Title:MULTI-STREAM DATA COLLECTION SYSTEM FOR NONIN-
VASIVE MEASUREMENT OF BLOOD CONSTITUENTS

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PETITION FOR INTER PARTES REVIEW OF UNITED STATES PATENT NO. 10,258,265 PURSUANT TO 35 U.S.C. §§ 311–319, 37 C.F.R. § 42

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EXHIBITS

APPLE-1001	U.S. Patent No. 10,258,265 to Poeze, et al. ("the '265 patent")			
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APPLE-1003	Declaration of Dr. Thomas W. Kenny			
APPLE-1004	Curriculum Vitae of Dr. Thomas W. Kenny			
APPLE-1005	Masimo Corporation, et al. v. Apple Inc., Complaint, Civil Ac- tion No. 8:20-cv-00048 (C.D. Cal.)			
APPLE-1006	U.S. Pub. No. 2002/0188210 ("Aizawa")			
APPLE-1007	JP 2006-296564 ("Inokawa")			
APPLE-1008	Certified English Translation of Inokawa and Translator's Dec- laration			
APPLE-1009	U.S. Pat. No. 7,088,040 ("Ducharme")			
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APPLE-1013	U.S. Pub. No. 2004/0220738 ("Nissila")			
APPLE-1014	U.S. Pub. No. 2001/0056243 ("Ohsaki")			
APPLE-1015	"Design and Evaluation of a New Reflectance Pulse Oximeter			
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Sensor," Y. Mendelson, et al.; Worcester Polytechnic Institute, Biomedical Engineering Program, Worcester, MA 01609; Association for the Advancement of Medical Instrumentation, vol. 22, No. 4, 1988; pp. 167-173 ("Mendelson-1988")

- APPLE-1016 "A Wearable Reflectance Pulse Oximeter for Remote Physiological Monitoring," Y. Mendelson, et al.; Proceedings of the 28th IEEE EMBS Annual International Conference, 2006; pp. 912-915 ("Mendelson-2006")
- APPLE-1017 Excerpt from Merriam-Webster Dictionary
- APPLE-1018 "Acrylic: Strong, stiff, clear plastic available in a variety of brilliant colors," available at https://www.curbellplastics.com/Research-Solutions/Materials/Acrylic
- APPLE-1019 U.S. Pat. No. 7,031,728 ("Beyer")
- APPLE-1020 U.S. Pat. No. 7,092,735 ("Osann, Jr.")
- APPLE-1021 U.S. Pat. No. 6,415,166 ("Van Hoy")
- APPLE-1022 QuickSpecs; HP iPAQ Pocket PC h4150 Series
- APPLE-1023 U.S. Pat. App. Pub. No. 2007/0145255 ("Nishikawa")
- APPLE-1024 "Measurement Site and Photodetector Size Considerations in Optimizing Power Consumption of a Wearable Reflectance Pulse Oximeter," Y. Mendelson, et al.; Proceedings of the 25th IEEE EMBS Annual International Conference, 2003; pp. 3016-3019 ("Mendelson-2003")
- APPLE-1025 U.S. Pat. No. 6,801,799 ("Mendelson-'799")
- APPLE-1026 Declaration of Jacob Munford

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- APPLE-1027 U.S. Pub. No. 2007/0093786 ("Goldsmith")
- APPLE-1028 U.S. Pub. No. 2004/0138568 ("Lo")

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