IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Poeze, et al.

U.S. Patent No.: 10,258,265 Attorney Docket No.: 50095-0006IP1

Issue Date: April 16, 2019 Appl. Serial No.: 16/212,440

Filing Date: December 6, 2018

Title: MULTI-STREAM DATA COLLECTION SYSTEM FOR NONIN-

VASIVE MEASUREMENT OF BLOOD CONSTITUENTS

Mail Stop Patent Board

Patent Trial and Appeal Board U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450

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





TABLE OF CONTENTS

I.	RE	QUIREMENTS FOR IPR UNDER 37 C.F.R. §42.104	1		
		Grounds for Standing Under 37 C.F.R. §42.104(a)			
	В.	•			
	C.				
	D.	Level of Ordinary Skill in the Art			
ΤΤ	SUMMARY OF THE '265 PATENT				
II.					
	A. B.	Summary of the Prosecution History of the '265 Patent			
III.		THE CHALLENGED CLAIMS ARE UNPATENTABLE			
	A.	[GROUND-1A] – Claims 1-4, 6-14, 16, 17, 19-23, and 26-29 are			
		rendered obvious by Aizawa in view of Inokawa			
		1. Overview of Aizawa	_		
		2. Overview of Inokawa			
		3. Combination of Aizawa and Inokawa	13		
		4. Analysis	22		
	B.	[GROUND-1B] – Claims 1-4, 6-14, 16, 17, 19-23, and 26-29 are			
		rendered obvious by Aizawa in view of Inokawa and Ohsaki	48		
		1. Overview of Ohsaki	48		
		2. Analysis	50		
	C.	[GROUND-1C] – Claims 23-24 are rendered obvious by Aizawa in			
		view of Inokawa and Mendelson-2006	51		
		1. Overview of Mendelson-2006	51		
		2. Combination of Aizawa, Inokawa, and Mendelson-2006	53		
		3. Analysis			
	D.	[GROUND-1D] – Claims 23-24 are rendered obvious by Aizawa in			
		view of Inokawa, Goldsmith, and Lo	57		
		1. Overview of Goldsmith			
		2. Overview of Lo	58		
		3. Combination of Aizawa, Inokawa, Goldsmith, and Lo			
		4. Analysis			
	E.	[GROUND-1E] – Claim 25 is rendered obvious by Aizawa in view o			
		Inokawa, Mendelson-2006, and Beyer			
	F.	[GROUND-2A] – Claims 1-4, 6-14, 16-22, and 26-30 are rendered			
		obvious by Mendelson-1988 in view of Inokawa	66		
		1. Overview of Mendelson-1988			
		2. Combination of Mendelson-1988 and Inokawa			
		3. Analysis			
		L ALLWAY DID HILLION H	1		



	G.	[GROUND-2B] – Claims 23-24 are rendered obvious by Mendelson-1988 in view of Inokawa and Mendelson-2006		
		1. Combination of Mendelson-1988, Inokawa, and Mendelson-200	06	
		2. Analysis		
	П	[GROUND-2C] – Claim 25 is rendered obvious by Mendelson-1988		
	11.	view of Inokawa, Mendelson-2006, and Beyer		
IV.	PA	YMENT OF FEES – 37 C.F.R. §42.103	100	
V.	PT	AB DISCRETION SHOULD NOT PRECLUDE INSTITUTION	100	
		Factor 1: Institution will increase the likelihood of stay		
		Factor 2: District Court schedule		
		Factor 3: Apple's investment in IPR outweighs forced investment in		
		litigation to date	101	
	D.	Factor 4: The Petition raises unique issues	102	
	E.	Factor 5: Institution would provide the Board an opportunity to		
		invalidate claims that could later be reasserted against others	103	
	F.	Factor 6: Other circumstances support institution	104	
VI.	CC	CONCLUSION104		
VII.	MA	MANDATORY NOTICES UNDER 37 C.F.R §42.8(a)(1)10		
		Real Party-In-Interest Under 37 C.F.R. §42.8(b)(1)		
		Related Matters Under 37 C.F.R. §42.8(b)(2)		
		Lead And Back-Up Counsel Under 37 C.F.R. §42.8(b)(3)		
		Service Information		
		201 1100 111101111001011		



EXHIBITS

APPLE-1001	U.S. Patent No. 10,258,265 to Poeze, et al. ("the '265 patent")
APPLE-1002	Excerpts from the Prosecution History of the '265 Patent ("the Prosecution History")
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 Action 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 Declaration
APPLE-1009	U.S. Pat. No. 7,088,040 ("Ducharme")
APPLE-1010	U.S. Pat. No. 8,177,720 ("Nanba")
APPLE-1011	RESERVED
APPLE-1012	U.S. Pat. No. 6,853,304 ("Reisman")
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



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



DOCKET

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.

