

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:

U.S. Patent No.:

Attorney Docket No.: 50095-0004IP1

Issue Date:

Appl. Serial No.:

Filing Date:

Title:

Mail Stop Patent Board

Patent Trial and Appeal Board

U.S. Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

DECLARATION OF JACOB ROBERT MUNFORD

1. My name is Jacob Robert Munford. I am over the age of 18, have personal knowledge of the facts set forth herein, and am competent to testify to the same.
2. I earned a Master of Library and Information Science (MLIS) from the University of Wisconsin-Milwaukee in 2009. I have over ten years of experience in the library/information science field. Beginning in 2004, I have served in various positions in the public library sector including Assistant Librarian, Youth Services Librarian and Library Director. I have attached my Curriculum Vitae as Appendix A.
3. During my career in the library profession, I have been responsible for materials acquisition for multiple libraries. In that position, I have cataloged, purchased and processed incoming library works. That includes purchasing materials directly from vendors, recording publishing data from the material in question, creating detailed material records for library catalogs and physically preparing that material for circulation. In addition to my experience in acquisitions, I was also responsible for analyzing large collections of library materials, tailoring library records for optimal catalog

search performance and creating lending agreements between libraries during my time as a Library Director.

4. I am fully familiar with the catalog record creation process in the library sector. In preparing a material for public availability, a library catalog record describing that material would be created. These records are typically written in Machine Readable Catalog (herein referred to as “MARC”) code and contain information such as a physical description of the material, metadata from the material’s publisher, and date of library acquisition. In particular, the 008 field of the MARC record is reserved for denoting the date of creation of the library record itself. As this typically occurs during the process of preparing materials for public access, it is my experience that an item’s MARC record indicates the date of an item’s public availability.
5. Typically, in creating a MARC record, a librarian would gather various bits of metadata such as book title, publisher and subject headings among others and assign each value to a relevant numerical field. For example, a book’s physical description is tracked in field 300 while title/attribution is tracked in field 245. The 008 field of the MARC record is reserved for denoting the creation of the library record itself. As this is the only date reflecting the inclusion of said materials within the library’s collection, it is my experience

that an item's 008 field accurately indicates the date of an item's public availability.

6. This declaration is being drafted as of September 2020. Public and university libraries in my area have been closed for months due to the COVID-19 pandemic. My state, Pennsylvania, has a travel advisory, which has affected my ability to travel. In my experience, library catalog records are accurate descriptions of a library's collection and my lack of physical access to libraries at this time creates no doubt in my determinations of authenticity or availability of the exhibits noted below.

7. I have reviewed Exhibit 1015, a copy of an article entitled "Skin Reflectance Pulse Oximetry: In Vivo Measurements From the Forearm and Calf" by Y. Mendelson and M.J. McGinn as published in *Journal of Clinical Monitoring, January 1991* (hereinafter referred to as the "1991 publication").

8. Attached hereto as Appendix MENDELSON01 is a true and correct copy of the MARC record for the 1991 publication held by the Ohio State University library. I secured this record myself from the library's public catalog.

9. The MARC record contained within Appendix MENDELSON01 accurately describes the title, author, publisher, and ISSN number of the *Journal of Clinical Monitoring*. The ‘Lib Has.’ field of this MARC record indicates Ohio State University’s issue level holdings for the *Journal of Clinical Monitoring*, demonstrating that Ohio State University’s collection contains volumes 1 (1985) – volume 13 (1997). Accordingly, Ohio State’s journal holdings range clearly includes the January 1991 edition. In comparing the information listed in Appendix MENDELSON01 to Exhibit 1015 it is my determination that Exhibit 1015 is a true and correct copy of the “Skin Reflectance Pulse Oximetry: In Vivo Measurements From the Forearm and Calf” article, and that the copy of the 1991 publication in Ohio State University’s library includes the article in Exhibit 1015
10. The 008 field of the MARC record noted on page 1 of Appendix MENDELSON01 indicates that the *Journal of Clinical Monitoring* was first cataloged by Ohio State University’s library as of August 23, 1999. The ‘Lib has’ field of this record indicates Ohio State University’s acquisition of this material ceased as of Vol. 13. Based on this information, it is my determination that the 1991 publication, which included the article published as Exhibit 1015, was made available to the public by Ohio State University at least as of August 23, 1999.

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