

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner,

v.

MASIMO CORPORATION,

Patent Owner.

Case IPR2020-01733
U.S. Patent 10,702,195

PETITIONER'S REPLY TO PATENT OWNER RESPONSE

TABLE OF CONTENTS

I.	INTRODUCTION	8
II.	GROUND 1 ESTABLISHES OBVIOUSNESS	8
	A. Ohsaki does not teach or require its translucent board 8 to be “rectangular” in shape.....	13
	B. A POSITA would have recognized the benefits of Ohsaki’s teachings when applied to Aizawa’s sensor.....	16
	C. Modifying Aizawa’s sensor to include a convex cover as taught by Ohsaki enhances the sensor’s light-gathering ability	20
	D. A POSITA would have been motivated to select a convex cover to protect the optical elements	32
	E. Patent Owner mischaracterizes Aizawa’s principle of operation.....	32
	F. A POSITA would have been motivated to add a second ring of sensors to Aizawa	34
	G. A POSITA would have been motivated to keep the first and second rings of detectors separate.....	36
	H. Protrusion height in claims 9 and 15 would have been obvious to a POSITA.....	38
III.	GROUND 2 ESTABLISHES OBVIOUSNESS	39
IV.	CONCLUSION.....	40

EXHIBITS

APPLE-1001	U.S. Patent No. 10,702,195 to Poeze, et al. (“the ’195 patent”)
APPLE-1002	Excerpts from the Prosecution History of the ’195 Patent (“the Prosecution History”)
APPLE-1003	Declaration of Dr. Thomas W. Kenny
APPLE-1004	Curriculum Vitae of Dr. Thomas W. Kenny
APPLE-1005	<i>Masimo Corporation, et al. v. Apple Inc.</i> , 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. 6,198,951 (“Kosuda”)
APPLE-1011	RESERVED
APPLE-1012	RESERVED
APPLE-1013	RESERVED
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 “Noninvasive Pulse Oximetry Utilizing Skin Reflectance Photoplethysmography,” Y. Mendelson, et al.; IEEE Transactions on Biomedical Engineering, Vol. 35, No. 10, October 1988; pp. 798-805 (“Mendelson-IEEE-1988”)
- 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 RESERVED
- APPLE-1023 U.S. Pub. No. 2005/0276164 (“Amron”)
- 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. Patent No. 7,251,513 (“Kondoh”)
- APPLE-1029 Wikipedia: The Free Encyclopedia, “Universal asynchronous receiver-transmitter” at https://en.wikipedia.org/wiki/Universal_asynchronous_receiver-transmitter, last accessed 08/27/2020
- APPLE-1030 U.S. Pat. No. 6,081,735 (“Diab”)
- 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-1036 Order Amending Scheduling Order, *Masimo et al. v. True Wearables et al.*, Case 8:18-CV-02001 (July 7, 2020)
- APPLE-1037 *Masimo Corporation, et al. v. Apple Inc.*, Second Amended Complaint, Civil Action No. 8:20-cv-00048 (C.D. Cal.)
- APPLE-1038 to 1039 RESERVED
- APPLE-1040 Order Granting Stipulation to Amend the Scheduling Order, *Masimo v. Apple et al.*, Case 8:20-cv-00048, Paper 201 (September 21, 2020)

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.