

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent of: Poeze, et al.  
U.S. Patent No.: 10,258,266 Attorney Docket No.: 50095-0007IP1  
Issue Date: April 16, 2019  
Appl. Serial No.: 16/212,537  
Filing Date: December 6, 2018  
Title: 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. 10,258,266 PURSUANT TO 35 U.S.C. §§ 311–319, 37 C.F.R. § 42**

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## EXHIBITS

- APPLE-1001 U.S. Patent No. 10,258,266 to Poeze, et al. (“the ’266 patent”)
- APPLE-1002 Excerpts from the Prosecution History of the ’266 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 to 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           RESERVED

APPLE-1017           RESERVED

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 to 1022           RESERVED

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 to 1036           RESERVED

APPLE-1037           *Masimo Corporation, et al. v. Apple Inc.*, Second Amended Complaint, Civil Action No. 8:20-cv-00048 (C.D. Cal.) (Redacted)

APPLE-1038           U.S. Patent No. 8,577,431 to Lamego et al. (“CIP Patent”)

Apple Inc. (“Petitioner” or “Apple”) petitions for *inter partes* review (“IPR”) under 35 U.S.C. §§311–319 and 37 C.F.R. §42 of claims 1-6, 8-16, 18, and 19 (“the Challenged Claims”) of U.S. Patent No. 10,258,266 (“’266 patent”). As explained in this petition, there exists a reasonable likelihood that Apple will prevail with respect to at least one of the Challenged Claims.

## **I. REQUIREMENTS FOR IPR UNDER 37 C.F.R. §42.104**

### **A. Grounds for Standing Under 37 C.F.R. §42.104(a)**

Apple certifies that the ’266 Patent is available for IPR. The present petition is being filed within one year of service of a complaint against Apple in *Masimo Corporation, et al. v. Apple Inc.*, Civil Action No. 8:20-cv-00048 (C.D. Cal.).<sup>1</sup> Apple is not barred or estopped from requesting this review challenging the Challenged Claims on the below-identified grounds.

### **B. Challenge Under 37 C.F.R. §42.104(b) and Relief Requested**

Apple requests an IPR of the Challenged Claims on the grounds set forth in the table below, and requests that each of the Challenged Claims be found unpatentable. Additional explanation and support is set forth in APPLE-1003, the

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<sup>1</sup> In the second amended complaint of July 24, 2020, the ’266 patent was dropped from this civil action. APPLE-1037.

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