

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Poeze, et al.
U.S. Patent No.: 10,376,191 Attorney Docket No.: 50095-0011IP1
Issue Date: August 13, 2019
Appl. Serial No.: 16/409,515
Filing Date: May 10, 2019
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. 10,376,191 PURSUANT TO 35 U.S.C. §§ 311–319, 37 C.F.R. § 42**

TABLE OF CONTENTS

| | | |
|-------------|--|----|
| I. | REQUIREMENTS FOR IPR UNDER 37 C.F.R. §42.104 | 1 |
| A. | Grounds for Standing Under 37 C.F.R. §42.104(a) | 1 |
| B. | Challenge Under 37 C.F.R. §42.104(b) and Relief Requested | 1 |
| C. | Effective Priority Date of the Claims of the '191 Patent | 2 |
| D. | Claim Construction under 37 C.F.R. §§42.104(b)(3) | 3 |
| E. | Level of Ordinary Skill in the Art | 4 |
| II. | SUMMARY OF THE '191 patent | 4 |
| A. | Brief Description | 4 |
| B. | Summary of the Prosecution History of the '191 patent | 6 |
| III. | THE CHALLENGED CLAIMS ARE UNPATENTABLE | 6 |
| A. | [GROUND 1A] – Claims 1-6, 8-16, 18, and 19 are rendered obvious by Aizawa in view of Inokawa | 6 |
| 1. | Overview of Aizawa | 7 |
| 2. | Overview of Inokawa | 9 |
| 3. | Combination of Aizawa and Inokawa | 13 |
| 4. | Analysis | 22 |
| B. | [GROUND 1B] – Claims 1-6, 8-16, 18, and 19 are rendered obvious by Aizawa in view of Inokawa and Ohsaki | 43 |
| 1. | Overview of Ohsaki | 43 |
| 2. | Analysis | 44 |
| C. | [GROUND 2] – Claims 1-6, 8-16, 18, and 19 are rendered obvious by Mendelson-1988 in view of Inokawa | 46 |
| 1. | Overview of Mendelson-1988 | 46 |
| 2. | Combination of Mendelson-1988 and Inokawa | 47 |
| 3. | Analysis | 51 |
| IV. | CONCLUSION | 70 |
| V. | PAYMENT OF FEES – 37 C.F.R. §42.103 | 71 |
| VI. | MANDATORY NOTICES UNDER 37 C.F.R §42.8(a)(1) | 71 |
| A. | Real Party-In-Interest Under 37 C.F.R. §42.8(b)(1) | 71 |
| B. | Related Matters Under 37 C.F.R. §42.8(b)(2) | 71 |
| C. | Lead And Back-Up Counsel Under 37 C.F.R. §42.8(b)(3) | 72 |
| D. | Service Information | 72 |

EXHIBITS

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|--------------------|--|
| APPLE-1001 | U.S. Patent No. 10,376,191 to Poeze, et al. (“the ’191 patent”) |
| APPLE-1002 | Excerpts from the Prosecution History of the ’191 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. 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. 10,376,191 (“’191 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 ’191 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.).¹ 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

¹ In the second amended complaint of July 24, 2020, the ’191 patent was dropped from this civil action. APPLE-1037.

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