

VIA E-MAIL

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Re: *AliveCor, Inc. v. Apple Inc.*, Case No. 6:21-cv-03958
*Certain Wearable Electronic Devices With ECG Capability and
Components Thereof*, Investigation No. 337-TA-1266

Counsel:

We write regarding the petition for *inter partes* review (IPR) filed against the patent in suit, U.S. Patent No. 9,572,499 (“the ’499 patent”), in the captioned litigations. We write to inform you that Apple Inc. (“Apple”) hereby stipulates that if the Patent Trial and Appeal Board (PTAB) institutes this petition on the grounds presented, then the Defendant, Apple, will not seek resolution in the district court or the ITC of any ground of invalidity that utilizes PCT Patent Publication 2012/0140559 (“Shmueli”), U.S. Patent Publication 2014/0275840 (“Osorio”), or a printed publication by Hu et al. on pages 891-900 of Volume No. 44, Issue No. 9 of the IEEE Transactions on Bio-medical Engineering in 1997 (“Hu-1997”).

In so stipulating, Apple seeks to avoid multiple proceedings addressing the validity of the ’499 patent based on any of the same prior art references. Rather, consistent with Congressional intent, Apple wishes the patentability of this patent over Shmueli, Osorio, or Hu-1997 to be addressed at the PTAB. But, for the sake of clarity and to

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avoid any doubt, if the PTAB declines institution of Apple's IPR petition relating to the '499 patent, Apple reserves the right to pursue this prior art in the litigations.

Sincerely,

/s/ Michael A. Amon
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Fish & Richardson P.C.