

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

**Before the Honorable Cameron R. Elliot
Administrative Law Judge**

In the Matter of

**CERTAIN WEARABLE ELECTRONIC
DEVICES WITH EGG
FUNCTIONALITY AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1266

JOINT DISCLOSURE OF PROPOSED CLAIM CONSTRUCTIONS

Pursuant to Ground Rule 7.1 and the Procedural Schedule (Order No. 6), Complainant and Respondent (“the Parties”) identify the following proposed claim constructions for terms and phrases of the asserted claims of United States Patent Nos. 9,572,499 (“the ’499 patent”), 10,595,731 (“the ’731 patent”), and 10,638,941 (“the ’941 patent”):

Term Relevance	Term	Proposed Constructions of Complainant	Proposed Constructions of Staff	Proposed Constructions of
Top 10	Preambles ('499 Patent claims 1 and 11)	Preambles are not limiting.	The preambles of the asserted claims are limiting.	The preambles of the asserted claims 11 are limiting.
Top 10	“alerting said first user to sense an electrocardiogram” ('499 Patent claim 1) / “alert” ('499 Patent claim 11)	No construction required. Alternatively: “notifying said first user to sense an electrocardiogram” (claim 11) / “notify” (claim 11)	No construction necessary. However, if construed: “informing the first user to take an electrocardiogram” (claim 1) / “inform” (claim 11)	“informing said first user to take an electrocardiogram” (claim 1) / “inform” (claim 11)
Top 10	“heart rate sensor” ('499 Patent claims 1 & 11)	No construction necessary. Alternatively: “a sensor for measuring heart rate”	No construction necessary. However, if construed: “a sensor for measuring heart rate”	“A sensor for measuring heart rate”
Top 10	Order of steps ('499 Patent claim 1)	While some ordering is dictated by logic, the limitations of the claim may be performed in different order than recited.	While some ordering is dictated by logic, the limitations of the claim may be performed in different order than recited.	Should be in the order listed

Term Relevance	Term	Proposed Constructions of Complainant	Proposed Constructions of Staff	Proposed Constructions of
Top 10	<p>“confirm the presence of the arrhythmia based on the ECG data” (’731 Patent claim 1 & 15)</p> <p>“confirming the presence of the arrhythmia based on the ECG data” (’731 Patent claim 17)</p>	<p>No construction required.</p> <p>Alternatively: “identify[ing] the occurrence of the arrhythmia based on the ECG data.”</p>	<p>No construction necessary. These claims do not require verifying an arrhythmia by comparing ECG sensor data to PPG sensor data.</p> <p>If, however, these claims are construed, they mean:</p> <p>“verify the presence of the arrhythmia based on the ECG data” (claims 1 & 15)</p> <p>“verifying the presence of the arrhythmia based on the ECG data” (claim 17)</p>	<p>“verify the presence of the arrhythmia based on the ECG data to the PPG sensor data” (Claims 1 & 15)</p> <p>“verifying the presence of the arrhythmia based on the ECG data to the PPG sensor data” (Claim 17)</p>
Top 10	Order of steps (’731 Patent claim 17)	While some ordering is dictated by logic, the limitations of the claim may be performed in different order than recited.	While some ordering is dictated by logic, the limitations of the claim may be performed in different order than recited.	Should be in the order listed

Term Relevance	Term	Proposed Constructions of Complainant	Proposed Constructions of Staff	Proposed Constructions of
Top 10	“to confirm a presence of the arrhythmia” (’941 Patent claim 1) / “to confirm the presence of the arrhythmia” (’941 Patent claim 12)	No construction required. Alternatively, “to identify an occurrence of an arrhythmia.”	No construction necessary. These claims do not require verifying an arrhythmia by comparing ECG sensor data to PPG sensor data. If, however, these claims are construed, they mean: “to verify a presence of the arrhythmia” (claims 1) / “to verify the presence of the arrhythmia” (claim 12)	“to verify the presence of the arrhythmia by comparing ECG sensor data to PPG sensor data.” (Claim 12)
Top 10	“when the activity level is resting” (’941 Patent claim 1) / “when the activity level value is resting” (’941 Patent claim 12)	Not indefinite.	Not indefinite.	Indefinite.
Top 10	“discordance” (’941 Patent claims 1 & 12)	No construction required.	“inconsistency”	“inconsistent”
Top 10	Order of steps (’941 Patent claim 1)	While some ordering is dictated by logic, the limitations of the claim may be performed in different order than recited.	While some ordering is dictated by logic, the limitations of the claim may be performed in different order than recited.	Should be in the order listed

Agreed Constructions

Further, the following claim constructions for terms and phrases of the asserted claims of the asserted patents are agreed amongst the Parties:

Term	Agreed Construction
“arrhythmia” (’499 patent, claim 7-9, 17-19; ’731 patent, claim 1-7, 12-13, 17-23, 25-26; ’941 patent, claim 1-4, 6, 12-15, and 17)	“a cardiac condition in which the electrical activity of the heart is irregular or is faster or slower than normal.”

Date: September 13, 2021

Respectfully submitted,

/s/ S. Alex Lasher

S. Alex Lasher
Brian L. Saunders
Peter Benson
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
1300 I Street NW, Suite 900
Washington D.C. 20005
Tel.: (202) 538-8000

Sean S. Pak
Andrew M. Holmes
Michelle A. Clark
Philip Ducker
John W. McCauley
Kevin Gu
Catherine R. Lacey
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
Tel.: (415) 875-6600
Fax: (415) 875-6700

Adam B. Wolfson
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
865 S. Figueroa St., 10th Floor
Los Angeles, CA 90017
Tel.: (213) 443-3000

/s/ Michael Amon

Benjamin C. Elacqua
FISH & RICHARDSON P.C.
1221 McKinney Street, Suite 2800
Houston, TX 77010
Telephone: (713) 654-5300
Facsimile: (713) 652-0109

Betty Chen
FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood, CA 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

Ruffin B. Cordell
Joseph V. Colaiani Jr.
Thomas S. Fusco
Taylor Burgener
FISH & RICHARDSON P.C.
1000 Maine Avenue, SW, Suite 1000
Washington, D.C. 20024
Telephone: (202) 783-5070
Facsimile: (202) 783-2331

Michael Amon
Raisa Ahmad
FISH & RICHARDSON P.C.
12860 El Camino Real, Suite 400
San Diego, CA 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

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.