

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Ammar Al-Ali
U.S. Patent No.: 10,687,745 Attorney Docket No.: 50095-0045IP2
Issue Date: June 23, 2020
Appl. Serial No.: 16/835,772
Filing Date: March 31, 2020
Title: PHYSIOLOGICAL MONITORING DEVICES, SYSTEMS,
AND METHODS

Mail Stop Patent Board

Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

CORRECTED PETITION FOR *INTER PARTES* REVIEW OF
UNITED STATES PATENT NO. 10,687,745
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.	Standing	1
B.	Challenge and Relief Requested.....	1
II.	SUMMARY OF THE '745 PATENT	3
A.	Brief Description.....	3
B.	Summary of the Prosecution History.....	3
C.	Level of Ordinary Skill in the Art.....	5
III.	CLAIM CONSTRUCTION UNDER 37 C.F.R. §§ 42.104(b)(3)	6
IV.	THE CHALLENGED CLAIMS ARE UNPATENTABLE.....	6
A.	Ground 1A: Claims 1, 9, 15, and 18 are obvious over Ackermans in view of Savant.....	6
1.	Overview of Ackermans.....	6
2.	Overview of Savant	9
3.	The combination of Ackermans and Savant	10
4.	Reasons to combine Ackermans and Savant.....	10
5.	Analysis	12
B.	Ground 1B: Claims 20 and 27 are obvious over Ackermans and Savant in view of Venkatraman.....	31
1.	Overview of Venkatraman	31
2.	The combination of Ackermans, Savant, and Venkatraman.....	32
3.	Reasons to combine Ackermans, Savant, and Venkatraman	33
4.	Analysis	35
C.	Ground 2A: Claims 1, 9, 15, 18, 20, and 27 are obvious over Mendelson-799 in view of Haar, Venkatraman, and Savant.....	37
1.	Overview of Mendelson-799.....	37
2.	Overview of Haar	41
3.	The combination of Mendelson-799, Haar, Venkatraman, and Savant	42
4.	Reasons to combine Mendelson-799, Haar, Venkatraman, and Savant	43
5.	Analysis	51
V.	PTAB DISCRETION SHOULD NOT PRECLUDE INSTITUTION.....	74
A.	314(a) – <i>Fintiv</i>	75
B.	325(d) – Advanced Bionics	76
VI.	MANDATORY NOTICES UNDER 37 C.F.R. §42.8.....	79

A. Real Parties-In-Interest Under 37 C.F.R. §42.8(b)(1)	79
B. Related Matters Under 37 C.F.R. §42.8(b)(2)	79
C. Lead And Back-Up Counsel Under 37 C.F.R. §42.8(b)(3).....	80
D. Service Information	80
VII. PAYMENT OF FEES – 37 C.F.R. §42.103.....	81
VIII. CONCLUSION.....	81

EXHIBITS

APPLE-1001	U.S. Pat. No. 10,687,745 to Al-Ali (“the ’745 patent”)
APPLE-1002	Prosecution History of the ’745 patent (Serial No. 16/835,772)
APPLE-1003	Declaration of Dr. Brian Anthony
APPLE-1004	U.S. Pat. No. 8,670,819 (“Iwamiya”)
APPLE-1005	U.S. Pat. No. 9,392,946 (“Sarantos”)
APPLE-1006	U.S. Pub. No. 2014/0275854 (“Venkataraman”)
APPLE-1007	U.S. Pat. No. 6,483,976 (“Shie”)
APPLE-1008	U.S. Pat. No. 6,801,799 (“Mendelson-799”)
APPLE-1009	U.S. Pub. No. 2015/0018647 (“Mandel”)
APPLE-1010	U.S. Pub. No. 2009/0275810 (“Ayers”)
APPLE-1011	PCT. Pub. No. 2011/051888 (“Ackermans”)
APPLE-1012	U.S. Pat. No. 6,158,245 (“Savant”)
APPLE-1013	Design of Pulse Oximeters, J.G. Webster; Institution of Physics Publishing, 1997 (“Webster”)
APPLE-1014	U.S. Pub. No. 2009/0054112 (“Cybart”)
APPLE-1015	U.S. Pat. No. 5,893,364 (“Haar”)
APPLE-1016	U.S. Pat. No. 5,952,084 (“Anderson”)

- APPLE-1017 U.S. Pat. No. 10,470,695 (the “’695 patent”)
- APPLE-1018 *Apple v. Masimo*, Case No. IPR2020-01722, Paper 29 (Final Written Decision) (PTAB May 5, 2022) (the “’695 FWD”)
- APPLE-1019 – APPLE-1030 RESERVED
- APPLE-1031 *Masimo Corporation, et al. v. Apple Inc.*, Redacted Complaint, ITC Inv. No. 337-TA-1276
- APPLE-1032 *Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation*, issued June 21, 2022 (“Interim Guidance”)

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.