

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

Before the Honorable Monica Bhattacharyya  
Administrative Law Judge

In the Matter of

CERTAIN LIGHT-BASED PHYSIOLOGICAL  
MEASUREMENT DEVICES AND  
COMPONENTS THEREOF

Inv. No. 337-TA-1276

**UPDATED JOINT PROPOSED CLAIM CONSTRUCTION CHART**

Pursuant to Ground Rule 6.3, Order No. 6 (Setting Procedural Schedule), and Order No. 12 (Granting Respondent's Motion for Leave to Supplement Identification of Terms for Claim Construction), Complainants Masimo Corporation and Cercacor Laboratories, Inc. and Respondent Apple Inc. hereby submit their post-hearing joint claim construction chart setting forth the post-hearing construction of the terms discussed at the February 17, 2022 *Markman* hearing.

**I. AGREED-UPON CONSTRUCTIONS**

The parties agree to the construction of the following term:

**U.S. Patent No. 7,761,127**

Term	Agreed Construction
"plurality of operating wavelengths" in Claim 7	"two or more operating wavelengths"

## II. TERMS FOR RESOLUTION DURING MARKMAN PROCEEDINGS

The parties have agreed that the following two terms should be considered by the Administrative Law Judge during the *Markman* hearing process, and have provided their respective post-hearing positions on the construction of these terms:

### U.S. Patent No. 10,912,501

Term	Complainants' Proposed Construction	Respondent's Proposed Construction
"bulk measurement" in Claim 13	"DC component" or "non-pulsatile measurement"	Indefinite as used in asserted claims ( <i>i.e.</i> , "wherein the one or more processors are further configured to process the one or more signals to determine a bulk measurement")

### U.S. Patent No. 10,912,502

Term	Complainants' Proposed Construction	Respondent's Proposed Construction
"bulk measurement" in Claim 12	"DC component" or "non-pulsatile measurement"	Indefinite as used in asserted claims ( <i>i.e.</i> , "wherein the one or more processors are further configured to calculate a bulk measurement")

### U.S. Patent No. 10,945,648

Term	Complainants' Proposed Construction	Respondent's Proposed Construction
"bulk measurement" in Claims 2 and 21	"DC component" or "non-pulsatile measurement"	Indefinite as used in asserted claims ( <i>i.e.</i> , "wherein the one or more processors are further configured to process the one or more signals to determine a bulk measurement")

**U.S. Patent No. 10,687,745**

<b>Term</b>	<b>Complainants’ Proposed Construction</b>	<b>Respondent’s Proposed Construction<sup>1</sup></b>
“second shape” in Claims 1 and 20	“A shape that is different from the first shape, where a difference in size, without any other difference, is not a shape different from the first shape”	Plain and ordinary meaning ( <i>i.e.</i> , a shape different than the first shape)

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<sup>1</sup> **Apple’s Note:** After the Markman hearing, Apple proposed in writing that the parties drop the term “second shape” from the list of terms requiring the ALJ’s construction because it could not discern what dispute remained between the parties. Apple explained that, as the parties’ briefs have made clear, both sides agree that a mere difference in size is neither necessary nor sufficient to change a first shape into a “second shape.” See Apple Rebuttal Br. at 1; Complainants’ Rebuttal Br. at 4. Apple also explained that, at the Markman hearing, Apple had agreed on the record with Complainants’ position that whether other differences in characteristics result in a change in shape should be an issue of fact for trial. See Complainants’ Rebuttal Br. at 4-5. Complainants did not agree to Apple’s proposal, but repeatedly refused to identify what remains in dispute.

**Masimo’s Note:** Masimo has maintained this term in the joint claim construction chart because Apple has not confirmed that it agrees with Masimo’s proposed construction. Absent agreement, this term remains in dispute.

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Respectfully submitted,

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**In the Matter of Certain Light-Based Physiological Measurement Devices  
and Components Thereof  
Inv. No. 337-TA-1276**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on February 23, 2022, I caused copies of the foregoing document to be filed and served as indicated below:

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The Honorable Lisa R. Barton Secretary to the Commission U.S. International Trade Commission 500 E Street, SW, Room 112 Washington, DC 20436	<input checked="" type="checkbox"/> Via Electronic Filing [EDIS] <input type="checkbox"/> Via hand delivery <input type="checkbox"/> Via Express Delivery <input type="checkbox"/> Not filed
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