IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:Poeze, et al.U.S. Patent No.:10,258,265Attorney Docket No.: 50095-0006IP1Issue Date:April 16, 2019Appl. Serial No.:16/212,440Filing Date:December 6, 2018Title:MULTI-STREAM DATA COLLECTION SYSTEM FOR NONIN-
VASIVE MEASUREMENT OF BLOOD CONSTITUENTS

Mail Stop Patent Board

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

PETITION FOR INTER PARTES REVIEW OF UNITED STATES PATENT NO. 10,258,265 PURSUANT TO 35 U.S.C. §§ 311–319, 37 C.F.R. § 42

DOCKET A L A R M Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

TABLE OF CONTENTS

I.	REQUIREMENTS FOR IPR UNDER 37 C.F.R. §42.1041
	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 Requested1
	C. Claim Construction under 37 C.F.R. §§42.104(b)(3)
	D. Level of Ordinary Skill in the Art
II.	SUMMARY OF THE '265 PATENT
11.	A. Brief Description
	B. Summary of the Prosecution History of the '265 Patent
III.	THE CHALLENGED CLAIMS ARE UNPATENTABLE
	A. [GROUND-1A] – Claims 1-4, 6-14, 16, 17, 19-23, and 26-29 are
	rendered obvious by Aizawa in view of Inokawa
	1. Overview of Aizawa
	2. Overview of Inokawa
	3. Combination of Aizawa and Inokawa13
	4. Analysis22
	B. [GROUND-1B] – Claims 1-4, 6-14, 16, 17, 19-23, and 26-29 are
	rendered obvious by Aizawa in view of Inokawa and Ohsaki48
	1. Overview of Ohsaki48
	2. Analysis
	C. [GROUND-1C] – Claims 23-24 are rendered obvious by Aizawa in
	view of Inokawa and Mendelson-200651
	1. Overview of Mendelson-2006
	2. Combination of Aizawa, Inokawa, and Mendelson-200653
	3. Analysis
	D. [GROUND-1D] – Claims 23-24 are rendered obvious by Aizawa in
	view of Inokawa, Goldsmith, and Lo57
	1. Overview of Goldsmith
	2. Overview of Lo
	3. Combination of Aizawa, Inokawa, Goldsmith, and Lo59
	4. Analysis
	E. [GROUND-1E] – Claim 25 is rendered obvious by Aizawa in view of
	Inokawa, Mendelson-2006, and Beyer
	F. [GROUND-2A] – Claims 1-4, 6-14, 16-22, and 26-30 are rendered
	obvious by Mendelson-1988 in view of Inokawa
	1. Overview of Mendelson-1988
	2. Combination of Mendelson-1988 and Inokawa67
	3. Analysis71

	G.	[GROUND-2B] – Claims 23-24 are rendered obvious by Mendelson- 1988 in view of Inokawa and Mendelson-2006	
	H.	2. Analysis	95 97 1
IV.	PA	YMENT OF FEES – 37 C.F.R. §42.10310)0
V.	A. B. C. D. E.	AB DISCRETION SHOULD NOT PRECLUDE INSTITUTION10 Factor 1: Institution will increase the likelihood of stay	00 00 01 02 03
VI.	CO	NCLUSION10)4
VII.	A. B. C.	ANDATORY NOTICES UNDER 37 C.F.R §42.8(a)(1)10 Real Party-In-Interest Under 37 C.F.R. §42.8(b)(1)10 Related Matters Under 37 C.F.R. §42.8(b)(2)10 Lead And Back-Up Counsel Under 37 C.F.R. §42.8(b)(3)10 Service Information)4)4)5

EXHIBITS

APPLE-1001	U.S. Patent No. 10,258,265 to Poeze, et al. ("the '265 patent")			
APPLE-1002	Excerpts from the Prosecution History of the '265 Patent ("the Prosecution History")			
APPLE-1003	Declaration of Dr. Thomas W. Kenny			
APPLE-1004	Curriculum Vitae of Dr. Thomas W. Kenny			
APPLE-1005	Masimo Corporation, et al. v. Apple Inc., Complaint, Civil Ac- tion 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 Dec- laration			
APPLE-1009	U.S. Pat. No. 7,088,040 ("Ducharme")			
APPLE-1010	U.S. Pat. No. 8,177,720 ("Nanba")			
APPLE-1011	RESERVED			
APPLE-1012	U.S. Pat. No. 6,853,304 ("Reisman")			
APPLE-1013	U.S. Pub. No. 2004/0220738 ("Nissila")			
APPLE-1014	U.S. Pub. No. 2001/0056243 ("Ohsaki")			
APPLE-1015	"Design and Evaluation of a New Reflectance Pulse Oximeter			
DOCKET A L A R M Find authenticated court documents without watermarks at <u>docketalarm.com</u> .				

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 "A Wearable Reflectance Pulse Oximeter for Remote Physiological Monitoring," Y. Mendelson, et al.; Proceedings of the 28th IEEE EMBS Annual International Conference, 2006; pp. 912-915 ("Mendelson-2006")
- APPLE-1017 Excerpt from Merriam-Webster Dictionary
- 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 U.S. Pat. No. 7,031,728 ("Beyer")
- APPLE-1020 U.S. Pat. No. 7,092,735 ("Osann, Jr.")
- APPLE-1021 U.S. Pat. No. 6,415,166 ("Van Hoy")
- APPLE-1022 QuickSpecs; HP iPAQ Pocket PC h4150 Series
- 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

DOCKF

RM

- APPLE-1027 U.S. Pub. No. 2007/0093786 ("Goldsmith")
- APPLE-1028 U.S. Pub. No. 2004/0138568 ("Lo")

DOCKET A L A R M



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.