

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner,

v.

MASIMO CORPORATION,  
Patent Owner.

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IPR2020-01524  
Patent 10,433,776 B2

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Record of Oral Hearing  
Held: January 19, 2022

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Before JOSIAH C. COCKS, ROBERT L. KINDER, and  
AMANDA F. WIEKER, *Administrative Patent Judges*.

IPR2020-01524  
Patent 10,433,776 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF PATENT OWNER:

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The above-entitled matter came on for hearing on Wednesday, January 19, 2022, commencing at 2:08 p.m., EDT, at the U.S. Patent and Trademark Office, by video/by telephone, before Chris Hofer, Notary Public.

1 PROCEEDINGS

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3 JUDGE COCKS: All right. Welcome back. I am Judge Cocks and  
4 again joined by Judge Wieker and Judge Kinder. This is session three of our  
5 lengthy oral hearing session today. This session we'll hear oral argument for  
6 IPR2020-01524 involving patent 10,433,776 and let's begin with  
7 introduction of counsel. Would counsel for Petitioner who will be arguing  
8 this session please introduce themselves.

9 MR. SMITH: This is Dan Smith for Petitioner Apple and I'm joined  
10 by my colleagues Karl Renner and Kim Leung.

11 JUDGE COCKS: All right. Thank you, Mr. Smith. And would  
12 counsel for Patent Owner please introduce themselves.

13 MR. STOWELL: Good afternoon, Your Honor. This is Josh Stowell  
14 of Knobbe, Martens on behalf of the Patent Owner Masimo.

15 JUDGE COCKS: All right. Thank you, Mr. Stowell, and before we  
16 start to aid our court reporter, when you speak if you could please identify  
17 yourself by name just so he can sort it out. Thank you. All right, Mr. Smith.  
18 We have provided 40 minutes for each side and as is the norm Petitioner will  
19 argue their case first and may reserve rebuttal time. Patent Owner will then  
20 argue their opposition to Petitioner's case and may reserve surrebuttal time  
21 and then we will conclude with rebuttal and surrebuttal. So, Mr. Smith,  
22 whenever you're ready the virtual podium is yours.

23 MR. SMITH: Thank you, Your Honor. Just at the top I'd like to say  
24 we'll reserve ten minutes for rebuttal. So good afternoon, Your Honors --

25 JUDGE COCKS: I'm sorry, you cut out --

1 MR. SMITH: -- and may it please the Board.

2 JUDGE COCKS: Mr. Smith, you cut out a little bit there.

3 MR. SMITH: Yes.

4 JUDGE COCKS: Did you say ten minutes?

5 MR. SMITH: Yes, ten minutes.

6 JUDGE COCKS: All right. Thank you.

7 MR. SMITH: (Indiscernible).

8 JUDGE COCKS: Yes.

9 MR. SMITH: Great. Good afternoon, Your Honors, and may it  
10 please the Court. As I said I'm Dan Smith on behalf of Apple and I'm joined  
11 by my colleagues Karl Renner and Kim Leung. Today during our  
12 presentation we're going to generally go in the order listed in the table of  
13 contents on slide 2. We'll start with a review of the '776 patent and the  
14 Richardson reference. We'll then move to selected issues raised with respect  
15 to the Richardson obviousness ground before turning to selected issues  
16 related to the combination of Richardson and Turcott.

17 If we could go to slide 4. The '776 patent may seem familiar  
18 throughout this presentation. It's a continuation of the '703 patent from the  
19 prior hearing and as a consequence the two patents share a common  
20 specification. Like the '703 the '776 is generally directed to techniques for  
21 operating a patient monitor, for example a pulse rate monitor, to reduce  
22 power consumption during operation.

23 On slide 5 we see representative claim 1. As shown here claim 1 is  
24 directed to a method for operating a patient monitor which is configured to  
25 monitor at least a pulse rate of a patient by processing signals responsive to

1 light attenuated by body tissue and I imagine this type of configuration is  
2 sounding familiar at this point. The device emits light into the tissue and  
3 measures physiological parameters based on how the light is attenuated by  
4 the tissue.

5 So, the claim contemplates operating the patient monitor according to  
6 two different control protocols, the first and a second. When operating in  
7 the first control protocol the patient monitor generally adds two attributes. It  
8 operates a control protocol light source according to a first duty cycle and it  
9 calculates measurement and values of the pulse rate of the patient based on  
10 received light signals.

11 When operating in the second control protocol the patient monitor is  
12 similar. It has two attributes. It operates a control protocol light source  
13 according to a second duty cycle and it calculates measurement values of the  
14 pulse rate of the patient based on the received light signals. The claim also  
15 calls for a transition from the first to the second control protocol based on a  
16 trigger signal that is generated responsive to, for example, signal quality  
17 characteristics of signals received from the detector. The claim also  
18 specifies that the power consumption of the control protocol light source  
19 when operating according to the first source when operating according to the  
20 first duty cycle is different than the power consumption of the light source  
21 when operating according to the second duty cycle, and finally the claims  
22 clear that each of the first and second control protocol light sources include  
23 one or more of a plurality of light sources making clear that it's not limited  
24 to just a single LED or single other, you know, type of light emitting  
25 component. We'll discuss each of these features in the context of the issues.

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