

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Jeroen Poeze et al.
U.S. Patent No.: 10,588,553 Attorney Docket No.: 50095-0012IP2
Issue Date: March 17, 2020
Appl. Serial No.: 16/534,949
Filing Date: August 7, 2019
Title: MULTI-STREAM DATA COLLECTION SYSTEM FOR
NONINVASIVE MEASUREMENT OF BLOOD CONSTITU-
ENTS

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. 10,588,553 PURSUANT TO 35 U.S.C. §§ 311–319, 37 C.F.R. § 42**

TABLE OF CONTENTS

I.	MANDATORY NOTICES UNDER 37 C.F.R § 42.8(a)(1).....	3
A.	Real Party-In-Interest Under 37 C.F.R. § 42.8(b)(1).....	3
B.	Related Matters Under 37 C.F.R. § 42.8(b)(2).....	3
C.	Lead And Back-Up Counsel Under 37 C.F.R. § 42.8(b)(3).....	4
D.	Service Information	4
II.	PETITIONER HAS STANDING TO REQUEST IPR.....	4
III.	OVERVIEW OF THE '553 PATENT	5
A.	Brief Description.....	5
B.	Level of Ordinary Skill in the Art.....	7
C.	Claim Construction	7
IV.	APPLICATION OF PRIOR ART TO THE '553 PATENT CLAIMS.....	8
A.	Asserted Grounds and References	8
B.	GROUND 1: Claims 1-6, 9-18, 20-24, and 29 are obvious over Aizawa, Inokawa, and Ohsaki.....	9
1.	Overview of Aizawa.....	9
2.	Overview of Inokawa	12
3.	Overview of Ohsaki.....	15
4.	Combination of Aizawa, Inokawa, and Ohsaki	16
5.	Manner in which Aizawa-Inokawa-Ohsaki discloses Claims 1-6, 9-18, 20-24, and 29.....	32
C.	GROUND 2 – Claims 7 and 19 are obvious over Aizawa, Inokawa, Ohsaki, and Mendelson-2006	75
1.	Overview of Mendelson-2006.....	75
2.	Combination of Aizawa, Inokawa, Ohsaki, and Mendelson-2006	77
3.	Manner in which Aizawa, Inokawa, Ohsaki, and Mendelson-2006 render obvious Claims 7 and 19.....	83
D.	GROUND 3 – Claims 8 and 25-28 are obvious over Aizawa, Inokawa, Ohsaki, Mendelson-2006, and Sherman.....	94
1.	Overview of Sherman.....	94
2.	Combination of Aizawa, Inokawa, Ohsaki, Mendelson-2006, and Sherman.....	95
3.	Manner in which Aizawa, Inokawa, Ohsaki, Mendelson-2006, and Sherman render obvious Claims 8 and 25-28	98
V.	PTAB DISCRETION SHOULD NOT PRECLUDE INSTITUTION.....	101
E.	Factor 1: Institution Will Increase Likelihood of Stay	101

F. Factor 2: District Court Schedule	102
G. Factor 3: Apple’s Investment in IPR Outweighs Forced Investment in Litigation to Date	102
H. Factor 4: The Petition Raises Unique Issues	103
I. Factor 5: The Petition Enables the Board to Resolve Invalidity of Claims that Might Otherwise be Reasserted	104
J. Factor 6: Other Circumstances Support Institution	105
VI. CONCLUSION.....	105
VII. PAYMENT OF FEES – 37 C.F.R. § 42.103.....	105

EXHIBITS

APPLE-1001	US Patent No. 10,588,553
APPLE-1002	File History for U.S. Patent No. 10,588,553
APPLE-1003	Declaration of Dr. Kenny
APPLE-1004	Curriculum Vitae of Dr. Kenny
APPLE-1005	<i>Masimo Corporation, et al. v. Apple Inc.</i> , Complaint, Civil Action No. 8:20-cv-00048 (C.D. Cal.)
APPLE-1006	US Pub. No. 2002/0188210 (“Aizawa”)
APPLE-1007	JP Pub. No. 2006/296564 (“Inokawa”)
APPLE-1008	Certified English Translation of Inokawa and Translator’s Declaration
APPLE-1009	US Pub. No. 2001/0056243 (“Ohsaki”)
APPLE-1010	“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-1011	US Patent No. 4,941,236 (“Sherman”)
APPLE-1012	RESERVED
APPLE-1013	US Pub. No. 2004/0054291 (“Schulz”)
APPLE-1014-1018	RESERVED
APPLE-1019	Design of Pulse Oximeters, J.G. Webster; Institution of Physics Publishing, 1997 (“Webster”)

- APPLE-1020 QuickSpecs; HP iPAQ Pocket PC h4150 Series
- APPLE-1021 How to Do Everything with Windows Mobile, Frank McPherson; McGraw Hill, 2006 (“McPherson”)
- APPLE-1022 Master Visually Windows Mobile 2003, Bill Landon, et al.; Wiley Publishing, Inc., 2004 (“Landon”)
- APPLE-1023 “Stimulating Student Learning with a Novel ‘In-House’ Pulse Oximeter Design,” J. Yao and S. Warren; Proceedings of the 2005 American Society for Engineering Education Annual Conference & Exposition, 2005 (“Yao”)
- APPLE-1024 US Pub. No. 2008/0194932 (“Ayers”)
- APPLE-1025 U.S. Patent No. 7,031,728 (“Beyer”)
- APPLE-1026 US Pub. No. 2007/0145255 (“Nishikawa”)
- APPLE-1027-1030 RESERVED
- APPLE-1031 Scheduling Order, Masimo v. Apple et al., Case 8:20-cv-00048, Paper 37 (April 17, 2020)
- APPLE-1032 Stipulation by Apple
- APPLE-1033 Telephonic Status Conference, Masimo v. Apple et al., Case 8:20-cv-00048, Paper 78 (July 13, 2020)
- APPLE-1034 Joseph Guzman, “Fauci says second wave of coronavirus is ‘inevitable’”, TheHill.com (Apr. 29, 2020), available at: <https://thehill.com/changing-america/resilience/natural-disasters/495211-fauci-says-second-wave-of-coronavirus-is>
- APPLE-1035 “Tracking the coronavirus in Los Angeles County,” LATimes.com (Aug. 20, 2020), available at <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/los-angeles-county/>

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.