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VIA EMAIL

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Re: *Facet Technologies, LLC v. LifeScan, Inc., Case No. 2:22-cv-1717-MCS-MAR*
(C.D. Cal.)

Dear Counsel:

I write regarding the above-captioned litigation (the “District Court Case”), and the related petition for *inter partes* review (IPR) in IPR2023-00712 that was filed today against certain claims of U.S. Patent No. 8,840,635.

Petitioner LifeScan, Inc. hereby stipulates that if the Patent Trial and Appeal Board (PTAB) institutes an IPR based on the grounds identified below, then it will (i) not pursue the grounds identified below in the District Court Case, and (ii) not pursue any other

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ground that reasonably could have been raised during the IPR (should it be instituted) in the District Court Case.

The grounds presented in the IPR petition are reproduced below for convenience:

Ground	Prior Art	Statutory Basis	Claims Challenged from U.S. Patent No. 8,840,635
1	Saikley	§ 102	1-3, 5-8, 14, and 16-18
2	Saikley and Stout	§ 103	1-3, 5-8, 14, and 16-18
3	Saikley and FreeStyle	§ 103	3 and 16
4	Iio	§ 102	1-3, 5-8, 14, and 16-18
5	Iio and Peckham	§ 103	1-3, 5-8, 14, and 16-18
6	Iio and FreeStyle	§ 103	3 and 16

In so stipulating, Petitioner LifeScan seeks to avoid multiple proceedings challenging the same claims on the same grounds. Consistent with Congressional intent, through this stipulation, Petitioner LifeScan expresses its intentions to have only the PTAB address the patentability of the challenged claims identified above on the grounds identified above. However, if the PTAB declines institution as to any grounds, then Petitioner LifeScan reserves the right to pursue any non-instituted grounds in the District Court Case.

This stipulation is not intended, and should not be construed, to limit Petitioner LifeScan's abilities to assert invalidity or unenforceability of U.S. Patent No. 8,840,635 in the District Court Case on any other ground not covered by this stipulation (e.g., indefiniteness, written-description issues, enablement, unenforceability issues, invalidity on grounds that reasonably could not have been raised during the IPR if instituted).

Sincerely,

/Michael J. Lyons/

Michael J. Lyons