

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIFESCAN, INC.
Petitioner,

v.

FACET TECHNOLOGIES, LLC
Patent Owner.

Case No. IPR2023-00712
Patent No. 8,840,635

PETITIONER'S REQUEST FOR ORAL ARGUMENT

Pursuant to 37 C.F.R. § 42.70 and the Board’s September 1, 2023 Scheduling Order (Paper 14) (the “Scheduling Order”), Petitioner LifeScan, Inc. (“Petitioner”) respectfully requests oral argument in connection with this proceeding (IPR2023-00712). Per the Scheduling Order, the oral argument will take place on May 23, 2024.

While Petitioner requests and prefers that the hearing take place live in the USPTO’s Alexandria, Virginia location, Petitioner is also available to conduct the hearing via a suitable videoconferencing platform should the Board prefer that option.

Petitioner requests sixty (60) minutes in which to present its arguments for the IPR proceeding. Petitioner also notes that confidential information will likely be discussed during the hearing, so the hearing will likely need to be divided between public and confidential portions of the hearing. Petitioner respectfully directs the Board’s attention to Paper 74 at pages 3-4 of IPR2020-01512 for guidance as to a suitable way for structuring the oral argument to ensure that confidential information is properly protected.

To comply with 37 C.F.R. § 42.70(a)’s requirement that this request “must specify the issues to be argued,” and without waiving argument on any issue not

specifically identified below, Petitioner specifies at least the following issues to be argued:

- That per 35 U.S.C. § 102, claims 1-3, 5-8, 14, and 16-18 of U.S. Patent No. 8,840,635 are anticipated by U.S. Patent Application Publication 2004/0138588 to Saikley (“Saikley”);
- That per 35 U.S.C. § 103, claims 1-3, 5-8, 14, and 16-18 of U.S. Patent No. 8,840,635 are obvious over Saikley in view of U.S. Patent Application Publication 2006/0241669 to Stout (“Stout”);
- That per 35 U.S.C. § 103, claims 3 and 16 of U.S. Patent No. 8,840,635 are obvious over Saikley in view of the FreeStyle Blood Glucose Monitoring System Owner’s Booklet (“FreeStyle”);
- That per 35 U.S.C. § 102, claims 1-3, 5-8, 14, and 16-18 of U.S. Patent No. 8,840,635 are anticipated by U.S. Patent Application Publication 2005/0131441 to Iio (“Iio”);
- That per 35 U.S.C. § 103, claims 1-3, 5-8, 14, and 16-18 of U.S. Patent No. 8,840,635 are obvious over Iio in view of U.S. Patent No. 5,569,286 to Peckham et al.;
- That per 35 U.S.C. § 103, claims 3 and 16 of U.S. Patent No. 8,840,635 are obvious over Iio in view of FreeStyle;

- Rebuttal to issues raised by Patent Owner;
- Any other motions filed by either party; and
- Any other issues that the Board deems necessary for issuing a final written decision in this proceeding.

Dated: April 5, 2024

Respectfully Submitted,

/ Michael J. Lyons/

Michael J. Lyons, Reg. No. 37,386

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), lead counsel for Petitioner hereby certifies that on April 5, 2024 a copy of this PETITIONER'S REQUEST FOR ORAL ARGUMENT was served via email to the counsel of record:

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Dated: April 5, 2024

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