

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

MASIMO CORPORATION,
Petitioner

v.

APPLE INC.,
Patent Owner

Case No. *To Be Assigned*
U.S. Patent No. D735,131

DECLARATION OF JOEL DELMAN

I declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

I reserve the right to supplement my opinions in the future to respond to any arguments or positions Apple may raise, taking account of new information as it becomes available to me.

Dated: 4/10/23

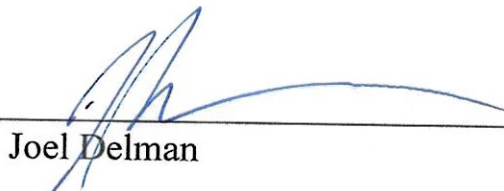

Joel Delman

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I, Joel Delman, declare and state as follows:

I. INTRODUCTION

1. I have been retained by Knobbe, Martens, Olson & Bear, LLP, counsel for Masimo Corporation (“Masimo”). I am making this declaration at the request of Masimo in connection with Masimo’s petition for *inter partes* review (“IPR”) of the design claimed by (the “Challenged Claim” of) U.S. Patent D735,131 (the “D’131 Patent”). I understand that this Declaration is being submitted in the above-captioned proceeding as Exhibit 1003.

2. I am being compensated for my work in this matter at my standard hourly rate for expert consulting services. My compensation in no way depends on the outcome of this proceeding.

II. INFORMATION AND MATERIALS CONSIDERED

3. I have been asked to provide expert opinions relating to the validity of the Challenged Claim of the D’131 Patent. In conducting the analyses and forming the opinions set forth in this Declaration, I have reviewed and considered the D’131 Patent’s claim, specification, and file history, as well as numerous prior art references and other documents. I have reviewed and considered at least the following materials in preparing this Declaration:

- The D’131 Patent, including its claim, specification, and file history;

- Masimo’s IPR petition regarding the Challenged Claim of the D’131 Patent;
- The references relied upon herein, including but not limited to Lee-616, CN-470, Murray, Chiang;
- The complaint from the parties’ parallel design patent litigation in Delaware District Court (Exhibit 1005);
- The Declaration of R. James Duckworth, Ph.D. (Exhibit 1014);
- Apple’s public opening post-hearing brief from the parties’ parallel ITC Investigation (Exhibit 1017);
- The public hearing transcript from the parties’ parallel ITC Investigation (Exhibit 1021);
- Any materials referenced directly or indirectly in my Declaration; and
- The information and materials identified in the following table:

Exhibit No.	Description
1001	U.S. Patent No. D735,131 (“the D’131 Patent”)
1002	File History of U.S. Patent No. D735,131
1004	<i>Curriculum Vitae</i> of Joel Delman
1005	<i>Apple Inc. v. Masimo Corporation, et al.</i> , Complaint, No. 1:22-cv-01377 (D. Del.)

Exhibit No.	Description
1006	United Kingdom Design Reg. No. 4032616, https://www.registered-design.service.gov.uk/find/4032616 (last visited Mar. 28, 2023) (“Lee-616”)
1007	Certified English Translation of Chinese Design Reg. No. 302864470 (“CN-470”)
1008	U.S. Patent No. D718,236 (“Murray”)
1009	U.S. Patent No. D720,289 (“Chiang”)
1010	Certified English Translation of Korean Registered Design No. 30-0645410
1011	Chinese Design Reg. No. 302864470
1012	WIPO Global Design Database Entry for Chinese Design Reg. No. 302864470
1013	Korean Registered Design No. 30-0645410
1014	Declaration of R. James Duckworth, Ph.D.
1015	<i>Curriculum Vitae</i> of R. James Duckworth, Ph.D.
1016	GOV.UK Designs Journal Entry for Lee-616, https://www.registered-design.service.gov.uk/view/2013/11/215 (last visited Mar. 28, 2023)
1017	<i>Masimo Corp. et al. v. Apple Inc.</i> , Apple’s September 14, 2022 Public Second Corrected Post-Hearing Brief, ITC Inv. No 337-TA-1276
1018	Application for United Kingdom Design Reg. No. 4032616
1019	Copy of YouTube Video titled “GMYLE(R) Qi Wireless Charger Review (Nexus 5),” https://www.youtube.com/watch?v=EvJ4Jkvj_R8 (last visited Mar. 28, 2023)
1020	Screenshot of https://www.youtube.com/watch?v=EvJ4Jkvj_R8 (last visited Mar. 28, 2013)

Exhibit No.	Description
1021	<i>Masimo Corp. et al. v. Apple Inc.</i> , June 6-10, 2022 Public Hearing Transcript, ITC Inv. No 337-TA-1276
1022	“Charge Apple Watch,” https://support.apple.com/guide/watch/charge-apple-watch-apd2b717523a/watchos (last visited Mar. 6, 2023)
1023	“Apple Watch Magnetic Charging Cable (1 m),” https://www.apple.com/shop/product/MX2E2AM/A/apple-watch-magnetic-charging-cable-1m (last visited Mar. 6, 2023)
1024	U.S. Patent No. 9,460,846 (“’846 patent”)
1025	U.S. Pat. No. 10,627,783 (“’783 patent”)
1026	U.S. Pat. No. D645,818
1027	U.S. Pat. No. D620,884
1028	U.S. Pat. No. D718,324
1029	U.S. Pat. No. D718,233
1030	U.S. Pat. Appl. Pub. No. 2014/0117926
1031	U.S. Pat. Appl. Pub. No. 2014/0104999
1032	U.S. Pat. No. D694,182
1033	U.S. Pat. No. D697,027
1034	U.S. Pat. No. D704,634
1035	“Apple Watch – Technology,” archived on September 11, 2014 by the Internet Organization’s “Wayback Machine” at https://web.archive.org/web/20140911003437/http://www.apple.com/watch/technology/
1036	“Apple Unveils Apple Watch—Apple’s Most Personal Device Ever,” https://www.apple.com/newsroom/2014/09/09Apple-Unveils-Apple-Watch-Apples-Most-Personal-Device-Ever/ (last visited Mar. 31, 2023)

Exhibit No.	Description
1041	“Apple Watch Teardown – iFixit,” https://www.ifixit.com/Teardown/Apple+Watch+Teardown/40655 (last visited Apr. 3, 2023)

4. In preparing this Declaration, I have considered my own knowledge and experience, including my work in the field of industrial design and product development; my experience working with others involved in the field; and the materials identified herein. I understand my analyses and opinions, including my review of any materials cited herein, should be made from the perspective of a designer of ordinary skill in the art related to the D’131 Patent at the relevant time (i.e., a “DOSA”). I understand the relevant time is August 11, 2014. Accordingly, my analyses and opinions are made from that relevant perspective. My testimony herein refers to the knowledge of a DOSA as of August 11, 2014, unless indicated otherwise.

5. Any figures appearing in this Declaration were prepared with the assistance of counsel and reflect my understanding of the D’131 Patent and the materials discussed herein. Coloring and colored annotations to figures in my Declaration have been added unless I have indicated otherwise.

III. EXPERIENCE AND QUALIFICATIONS

6. I have been an industrial designer, design strategist, and inventor for more than 28 years. I have a Master of Industrial Design from Pratt Institute in New York.

7. Starting in 1999, I began working with the design consultancy Product Development Technologies LLC (“PDT”). I served as PDT’s Los Angeles Creative Director from 2007 until PDT was acquired at the end of 2018.

8. Since PDT’s acquisition, I have continued my design practice through my consultancy, Informed Innovation Inc. My work encompasses a broad range of activities related to industrial and product design and development, including strategic user research (e.g., guiding clients toward optimal design solutions), aesthetic and functional innovation, and high-level program management. I also provide expert witness and litigation support services in matters related to patent and trade dress litigation.

9. I also currently serve as Chair of the Industrial Designer’s Society of America’s (IDSA) Design Protection Committee, and as an Associate Professor at ArtCenter College of Design in Pasadena, California.

10. Prior to joining PDT, from 1993 to 1995, I worked as a staff designer at the New York-based design consultancies Henry Dreyfuss Associates and Cousins Design. I then moved to Chicago, where I worked as a Senior Designer with Zenith

Electronics Corporation from 1995 to 1997. From 1997 until joining PDT in 1999, I was the Design Director for TwentyTwentyThinking Incorporated.

11. Throughout my 28 year career in industrial design and product development, I have been engaged to assist clients with a wide variety of design challenges, including numerous programs focused on the design of portable consumer electronics, medical devices, and wearables. My clients for such industrial design work have included Motorola, Nokia, Blackberry/RIM, LG Electronics, Qualcomm, Dell, L3Harris, General Dynamics, Baxter, Novartis, Roche, Carefusion, Cardinal Health, Cynvenio Bio, and Medtronic, among others, for whom I have designed everything from handheld and tablet computers, home use diagnostic devices, cell phones, ruggedized communications, tools relied upon by surgeons for lifesaving procedures, and more. Overall, I have been thoroughly involved in the design of portable electronic devices for approximately 24 years, and a significant focus of my industrial design work since 1999 has been portable consumer and other (e.g., military and industrial) electronic devices.

12. On a personal level, I have been an avid watch collector for at least the past twenty years. My collection, currently comprising over 70 pieces, includes watches dating from the 60's through the present day, with a range of unique digital, jump hour, and electronic timepieces, as well as examples of more traditional mechanical designs. My collection has been carefully curated with an eye for

exceptionally well-designed and unique watches, with many featuring transparent “exhibition” case backs to allow for appreciation of their complex and beautiful mechanisms.

13. For the above projects (and all design programs on which I have been engaged), I gained a comprehensive understanding of the intended users for each product I design, how they will use the product, and how my designs will be compared to other designs that consumers evaluate in their purchasing decisions.

14. I have been named as inventor on over 40 U.S. utility and design patents and patent publications. The complete list of these patents and patent publications is included with my curriculum vitae, which is attached as Exhibit 1004.

15. My design work has received awards and recognition from the Industrial Designers Society of America (which awards include, among others, the “IDSA 20/20 Award” recognizing twenty designers who contributed to the advancement of the design profession in 2020), the Chicago Athenaeum, the Consumer Electronics Association, the Toy Industry Association, ID Magazine, and the Wall Street Journal, and has been featured in books aimed at educating design students about the industrial design profession.

16. In addition to my work in product design consulting, I have frequently offered my expertise as a mentor and advisor to technology and hardware-focused start-up companies through Los Angeles-based incubator and accelerator programs,

and served as a member of the Board of Directors for the medical device manufacturer MetaMason Inc. for five years.

17. Given the range of professional and personal experience described above, I am well-qualified to opine on the matters covered in this declaration, including how a designer of ordinary skill in the art in August 2014 would perceive the overall visual impression of the design claimed in the D'131 Patent and designs disclosed in the pertinent prior art, and to testify as a designer of ordinary skill in the art with respect to the D'131 Patent and prior art issue in this proceeding.

18. During the previous five years, I have served as expert witness in over twenty cases related to design patents and trade dress, and I have testified by deposition and/or at trial in fourteen cases. A complete list of the matters in which I have testified in the previous five years is included with my curriculum vitae (Exhibit 1004).

19. During the previous 10 years, I have authored approximately 26 articles and publications. A complete list of my articles and publications is included with my curriculum vitae (Exhibit 1004).

20. Prior to entering the profession of industrial design, I graduated from Harvard Law School and practiced corporate and securities law. I have not practiced law or been barred as an attorney for the last 27 years. I am an industrial designer, not an expert in patent law, and therefore I have been advised of certain principles

of patent law applicable in this matter, which I applied in forming the opinions set forth in this Declaration.

21. Above, I have provided a concise summary of my experience and qualifications that I believe is most relevant to the analyses and opinions I have expressed in this Declaration. A copy of my curriculum vitae, which describes in further detail my qualifications, responsibilities, employment history, honors, awards, professional associations, and more, is included as Exhibit 1004.

IV. SUMMARY OF OPINIONS

22. I have conducted analyses leading to the opinions expressed in this Declaration. To summarize those opinions, it is my conclusion, from the perspective of a designer of ordinary skill in the relevant art at the time of the D'131 Patent in August 2014, that the Challenged Claim of the D'131 Patent would have been obvious to a designer of ordinary skill in the art based on the grounds identified herein (i.e., Grounds 1-7 in Masimo's IPR petition). Specifically, it is my opinion that:

- (Ground 1) Lee-616 is an appropriate primary and secondary reference, and the Challenged Claim of the D'131 Patent would have been obvious to a designer of ordinary skill in the art based on Lee-616 alone;
- (Ground 2) Lee-616 is an appropriate primary reference, Chiang is an appropriate secondary reference to combine with Lee-616, and the

- Challenged Claim of the D'131 Patent would have been obvious to a designer of ordinary skill in the art based on Lee-616 and Chiang;
- (Ground 3) CN-470 is an appropriate primary reference and secondary reference, and the Challenged Claim of the D'131 Patent would have been obvious to a designer of ordinary skill in the art based on CN-470 alone;
 - (Ground 4) CN-470 is an appropriate primary reference, Chiang is an appropriate secondary reference to combine with CN-470, and the Challenged Claim of the D'131 Patent would have been obvious to a designer of ordinary skill in the art based on CN-470 and Chiang;
 - (Ground 5) Murray is an appropriate primary and secondary reference, and the Challenged Claim of the D'131 Patent would have been obvious to a designer of ordinary skill in the art based on Murray alone;
 - (Ground 6) Murray is an appropriate primary reference, Chiang is an appropriate secondary reference to combine with Murray, and the Challenged Claim of the D'131 Patent would have been obvious to a designer of ordinary skill in the art based on Murray and Chiang; and
 - (Ground 7) Chiang is an appropriate primary reference if the functional aspects of the claimed design are not considered, Chiang is an appropriate secondary reference, and the Challenged Claim of the D'131 Patent would

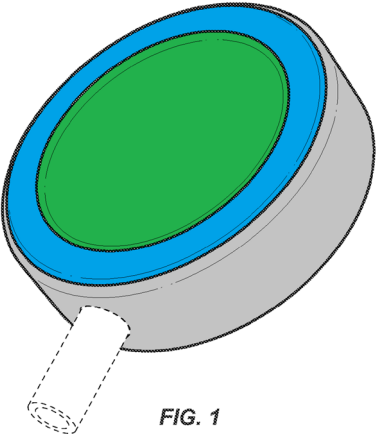
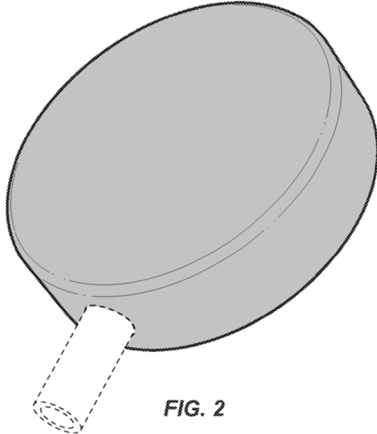
have been obvious to a designer of ordinary skill in the art based on Chiang alone.

23. Below, I provide the complete analyses supporting my opinions.

V. THE D'131 PATENT

A. Overview of the D'131 Patent

24. The D'131 Patent is titled “Charger” and includes Figures 1-11. Exhibit 1001. The D'131 Patent claims “[t]he ornamental design for a charger, as shown and described” in its figures. *Id.*, claim. As shown in the following table, the D'131 Patent claims the design of a charger having a cylindrical shape (colored gray for clarity), a ring (colored blue for clarity) on the cylinder’s top surface, and a recessed center portion (colored green for clarity) that is surrounded by the top surface’s ring.

D'131 Patent Figures and Descriptions (Exhibit 1001)	
 FIG. 1 “FIG. 1 is a bottom front perspective view of a charger[.]”	 FIG. 2 “FIG. 2 is a bottom rear perspective view thereof.”

D'131 Patent Figures and Descriptions (Exhibit 1001)

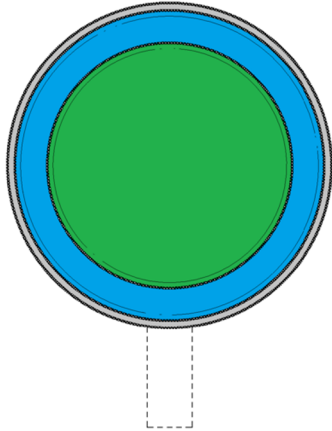


FIG. 3

“FIG. 3 is a front view thereof.”

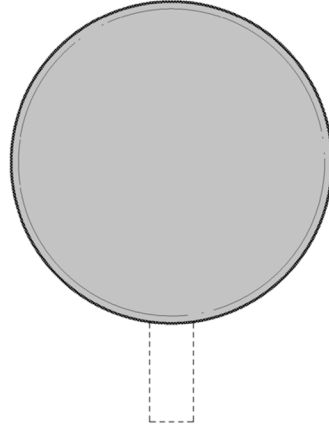


FIG. 4

“FIG. 4 is a rear view thereof.”

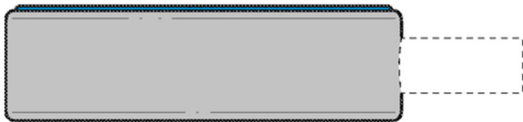


FIG. 5

“FIG. 5 is a left side view thereof.”

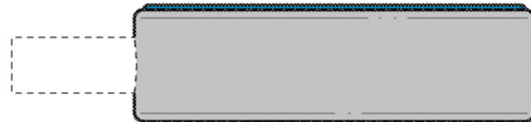


FIG. 6

“FIG. 6 is right side view thereof.”

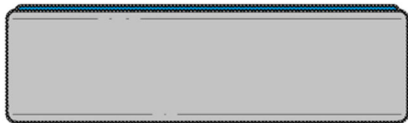


FIG. 7

“FIG. 7 is a top view thereof.”



FIG. 8

“FIG 8 is a bottom view thereof.”

D'131 Patent Figures and Descriptions (Exhibit 1001)

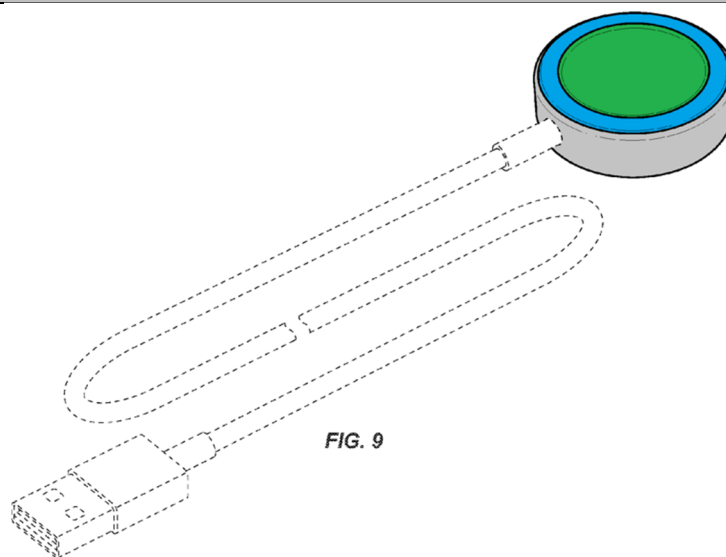


FIG. 9

“FIG. 9 is a perspective view thereof showing the charger in an environment in which it may be used.”

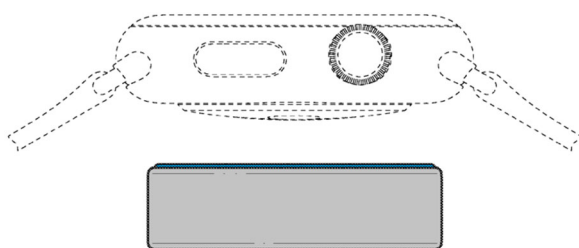


FIG. 10

“FIG. 10 is a perspective view thereof showing the charger in another environment in which it may be used.”

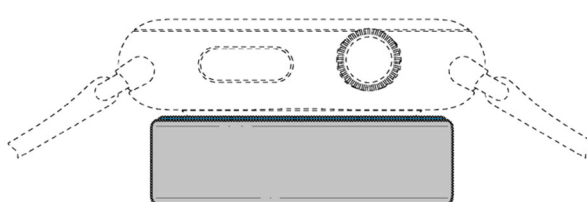


FIG. 11

“FIG. 11 is a perspective view thereof showing the charger in another environment in which it may be used.”

The D'131 Patent expressly states that “[t]he broken lines in the Figures ... form no part of the claimed design.” *Id.*, description.

B. Prosecution History of the D'131 Patent

25. The D'131 Patent issued from U.S. Patent Application No. 29/498,998 (the “’998 Application”), which was filed on August 11, 2014. Exhibit 1001, cover. The ’998 Application included Figures 1-70B. Exhibit 1002, 123-159. The

Applicant (Apple) filed a preliminary amendment to the '998 Application on January 9, 2015, thereby “cancel[ing] Figures 1 through 70B . . . and replac[ing] them with new Figures 1 through [11].” *Id.*, 62-63. On May 12, 2015, the '998 Application was allowed without any rejections. *Id.*, 20-24. Further, on July 28, 2015, the '998 Application issued as the D'131 Patent. Exhibit 1001, cover.

VI. LEVEL OF ORDINARY SKILL IN THE RELEVANT ART

26. I understand that the D'131 Patent was purportedly filed on August 11, 2014. The D'131 Patent claims the design of a “charger,” specifically the design of Apple Watch’s charger, as explained below in Section VIII. As of August 2014, a designer of ordinary skill in the art related to the D'131 Patent (a “DOSA”) would have had an undergraduate or graduate degree in industrial and/or product design, along with at least two years of relevant work experience in the field of industrial and/or product design of portable electronic devices.

27. A DOSA would not have to be familiar with the electrical engineering, physics, or other advanced technical concepts employed by or involved in the portable electronic device being designed by the DOSA. Instead, a DOSA would have consulted or collaborated with a person of ordinary skill in the art related to the D'131 Patent (a “POSITA”) regarding technical concepts outside of the DOSA’s areas of expertise. As an industrial designer, I have always worked closely with engineers (including mechanical, electrical, and software engineers) in a synergetic

way. When designing products for mass production, it is critical that designers collaborate with engineers from the earliest stages of a project to ensure the proper functionality and manufacturability of a device within the aesthetic parameters defined by the industrial design team. I understand that R. James Duckworth, Ph.D. qualifies as a POSITA and is submitting a declaration (Exhibit 1014) in connection with this matter. Accordingly, I have relied on Dr. Duckworth's technical discussions, analyses, and opinions regarding technical concepts outside of my areas of expertise to support the discussions, analyses, and opinions set forth herein in my Declaration.

28. Through my decades of experience as an industrial designer, I understand the knowledge, experience, skill, and creativity of a DOSA in August 2014 very well and am qualified to provide the discussions, analyses, and opinions I have presented in this Declaration, which are from the perspective of a DOSA as of that relevant time.

VII. APPLICABLE LEGAL STANDARDS

29. I am an industrial designer by training and profession. The opinions I express in this Declaration involve the application of my knowledge and experience to the evaluation of the D'131 Patent and certain prior art to the D'131 Patent.

30. Although I have been involved as an industrial design expert in patent matters before, I am not an expert in patent law. Therefore, I have been advised of

certain principles of patent law applicable in this matter, which I have used in arriving at my determinations and opinions. The paragraphs below express my understanding of the legal requirements I have used in forming my opinions.

A. Claim Construction

31. I understand that in an *inter partes* review, a design claim should be construed in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art in view of the solid lines shown in the patent's figures, the description of those figures, and the prosecution history pertaining to the patent.

32. I understand that, while the preferable course for design patent claim construction is not to provide a detailed verbal description, using verbal or written guidance is beneficial in certain circumstances. I understand that using verbal or written guidance to describe a claimed design is often helpful to point out various features of the claimed design as they relate to the prior art. I understand that a design patent, unlike a utility patent, limits protection to the ornamental design of an article of manufacture. It is my experience that most articles and designs sold into the stream of commerce have some function or purpose. Where a design patent contains functional and ornamental elements, I understand that the scope of the claimed design is limited to the ornamental aspects alone and does not extend to functional elements. I further understand that, where a design contains both

functional and non-functional (i.e., ornamental) elements, the scope of the design claim must be construed to identify the non-functional aspects of the claimed design. I understand that using verbal or written guidance to describe a claimed design is helpful to outline the distinction between ornamental and functional elements of the claimed design. I also understand that a claim to a design with numerous functional elements requires a narrow construction. I further understand that functional aspects may be factored out of the claimed design, and that claim construction and the design obviousness analysis should focus on only the non-functional aspects of the claimed design.

33. While I understand that a particular test has not been mandated for assessing the functionality of a claimed design, I understand that there are numerous factors to be considered in evaluating functionality. First, I understand that the availability of comparable alternative designs is an important if not dispositive factor in evaluating the functionality of a claimed design. I also understand that if other designs would not produce the same or similar functional capabilities, or would not properly function with the claimed design, such other designs are not comparable alternative designs. Second, I understand that there are various other factors useful for assessing claim construction functionality, including: whether the claimed design represents the best design; whether alternative designs would adversely affect the article's utility; whether there are any concomitant utility patents; whether

advertising touts particular design features as having specific utility; and whether there are any design elements or an overall appearance clearly not dictated by function. I also understand that where an element of a claimed design has been specifically designed to fit into, or mate with, some other article, the design element has been deemed functional.

B. Obviousness

34. I understand that a patent is invalid as obvious if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious, before the effective date of the claimed invention, to a person of ordinary skill in the art. I further understand that the obviousness analysis assesses (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) secondary considerations nonobviousness (if present). For design patents, I understand that the ultimate obviousness inquiry asks whether the claimed design would have been obvious to a designer of ordinary skill in the art who designs articles of the type involved in the design patent at issue (a “DOSA”).

35. In a design patent obviousness inquiry, I understand that the first step is to identify a single, “primary” reference with design characteristics that are “basically the same” as the claimed design. I understand that a primary reference need not be identical to the claimed design, and that designs with missing elements

or multiple differences from the claimed design have previously been found to be suitable primary references. I understand that once a primary reference is found, secondary references may be used to modify the primary reference to create a design that has the same overall visual appearance as the claimed design. I understand that secondary references may only be used to modify the primary reference if they are so related to the primary reference that the appearance of certain ornamental features in one would suggest the application of those features to the other. I further understand that when a secondary reference is “so related” to the primary reference, the similarity in appearance among them is enough to motivate a designer of ordinary skill to combine features from one with features from the other. In addition to the relatedness of the prior art and claimed designs, I understand that other reasons could have motivated a designer of ordinary skill in the art to combine the features from a secondary reference with the features of the primary reference. Once the primary and secondary references have been combined, I understand that the design obviousness analysis asks whether the combination design has the same overall visual appearance as the claimed design. I understand that comparing the prior art and claimed designs as a whole is what is important, and that *de minimis* or trivial differences between the claimed and combination designs cannot prevent a finding of obviousness. I also understand that the teachings of the prior art as a whole, not just prior art figures and illustrations, may be considered as part of the obviousness

inquiry. I further understand that a determination of obviousness does not require a prior art combination to disclose or suggest a design that is identical to the claimed design.

36. Further, I understand that secondary considerations of nonobviousness should be considered if evidence of such considerations is present, and that such secondary considerations cannot overcome a strong case of obviousness.

37. I understand that an assessment of what a reference discloses or teaches—for purposes of an obviousness analysis—must be conducted from the perspective of one of ordinary skill in the art at the time of the invention. I also understand that something is only “inherent in,” and therefore taught by, the prior art if it necessarily flows from the explicit disclosure of the prior art.

38. Applying these legal standards to the Challenged Claim of the D’131 Patent, it is my opinion that the Challenged Claim would have been obvious based on the grounds identified herein (i.e., Grounds 1-7 in Masimo’s IPR petition).

VIII. CLAIM CONSTRUCTION FOR THE D’131 PATENT

39. As shown in the following colorized images, the D’131 Patent claims the design of a charger having (1) a cylindrical shape with a flat bottom surface (gray); (2) a short, flat ring (blue) on the cylinder’s top surface that has a smaller outer diameter than the cylindrical charger; and (3) a recessed center portion (green) that is surrounded by the top surface’s ring.

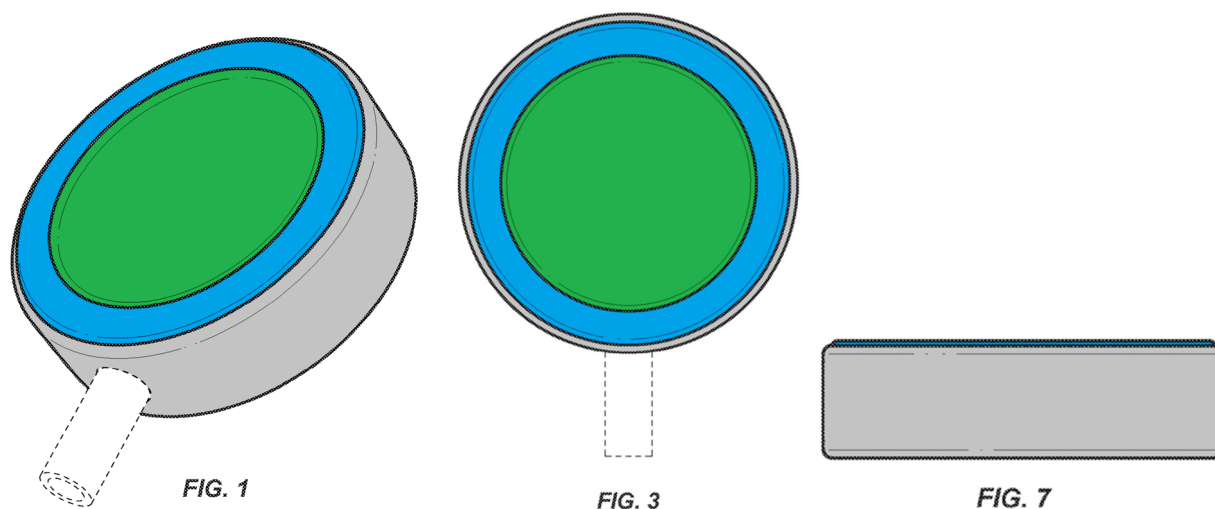
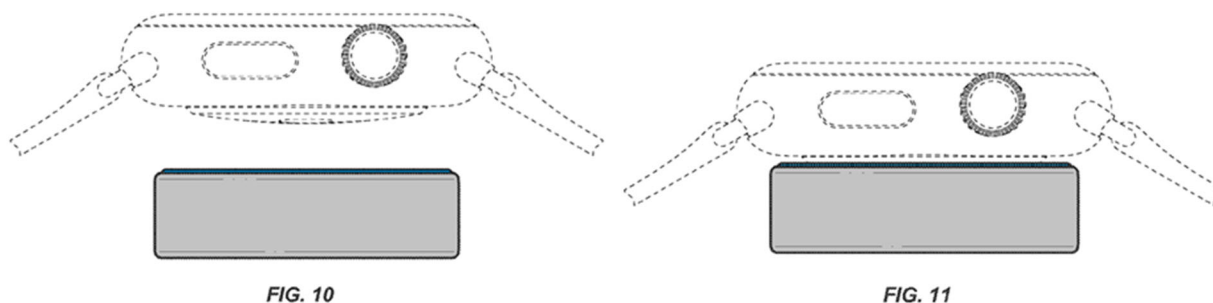


Exhibit 1001, FIGS. 1, 3, 7. The top and bottom edges of the cylinder, and the outer edge of the ring, are very slightly rounded (i.e., are what DOSA would also refer to as slightly “radiused” edges), as shown in FIG. 7 above. *Id.*, FIG. 7. In FIGS. 10-11 (reproduced below), the D’131 Patent shows that, when the charger is used, the charger’s recessed center portion and short, flat ring receive the bottom surface of an Apple Watch and align the Watch with the charger:

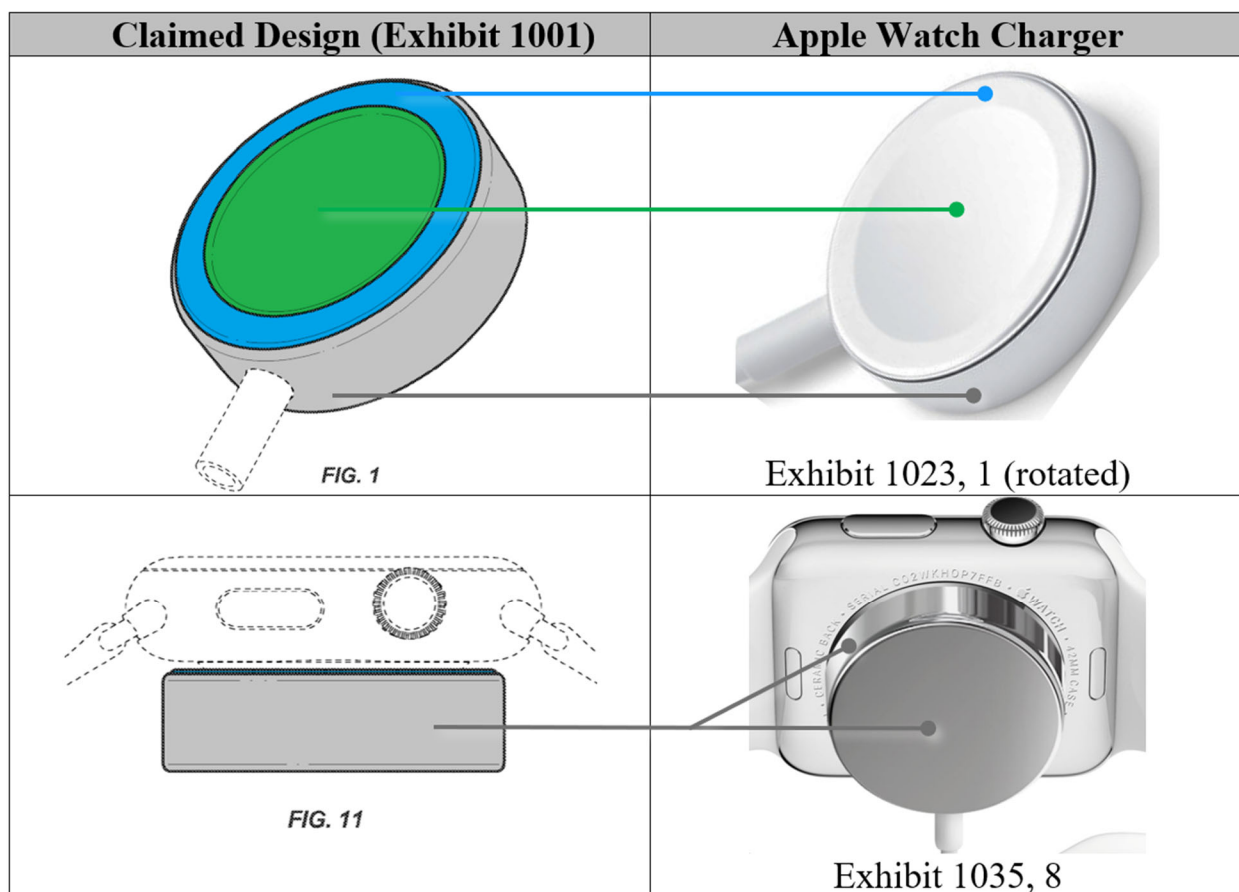


Id., FIGS. 10-11.

40. The D’131 Patent was purportedly filed on August 11, 2014. *Id.*, cover. Apple announced the upcoming release of the original Apple Watch shortly

thereafter, in September 2014, Exhibit 1036, 1, and then released the original Apple Watch (also called “Series 0”) in early 2015. Exhibit 1021, 46:22-23.

41. The charger claimed by the D’131 Patent depicts the charger used with the original (and every subsequent) Apple Watch. Specifically, as shown in the below comparison, the D’131 Patent claims the charger’s cylindrical shape (gray), short, flat top surface ring (blue), and recessed center portion (green) surrounded by the top surface ring.



Thus, the Apple Watch charger is the article underlying the claimed design. Every Apple Watch model is used with a charging having the claimed design (Exhibit

1023, 1-2 (showing claimed charger design is used with all eleven models of Apple Watch released to date)), and Apple agrees that the D'131 Patent covers the Apple Watch charger's design. Exhibit 1005 ¶¶17-18, 67 (Apple arguing that the D'131 Patent covers the design of Apple Watch's charger).

A. The Claimed Design Includes Numerous Functional Elements

42. As explained above in Section VI, a DOSA would have consulted or collaborated with a POSITA regarding technical concepts outside of the DOSA's areas of expertise. Assessing whether elements of the claimed design are functional encompasses a variety of such technical concepts. Therefore, in my Declaration, I have relied on Dr. Duckworth's technical discussions, analyses, and opinions regarding the functionality of the claimed design.

1. The Recessed Center Protrusion Is Functional

43. I understand that Dr. Duckworth opined that the recessed center portion claimed by the D'131 Patent is a functional element because: (1) the recessed center portion was designed for the underlying Apple Watch charger to perform its intended functions of mating snugly with the complementary surface on the back of the Apple Watch and aligning with the Apple Watch for efficient wireless charging; (2) an alternative design to the claimed recessed center portion was unavailable because a different design would not mate snugly or properly align with the back of the Apple Watch for efficient wireless charging; (3) the claimed recessed center portion

represents the best design because it allows the charger to mate snugly and properly align with the complementary shape of the device it was intended to charge (i.e., every Apple Watch); (4) using a different shape for the claimed recessed center portion would adversely affect the utility of the underlying article by hindering the charger's ability to properly mate and align with the corresponding shape of Apple Watch, thereby impeding the charger's ability to recharge the Apple Watch; (5) Apple's website touts the claimed recessed center portion as being useful to properly align the charger with its Apple Watch; (6) two utility patents from Apple show that the claimed recessed center portion is functional, and (7) Apple keeping the claimed recessed center portion in the design of the charger used with every Apple Watch model indicates that the claimed design is the most useful design for mating and aligning the charger with the Apple Watch. Exhibit 1014, Section VIII.A.

44. While I am not a POSITA and offer no opinions from the perspective of a POSITA, my industrial design experience makes me qualified to address standard industrial design issues such as connections between components (e.g., whether an alternative design to the claimed recessed center portion would mate snugly with the convex mating surface on the back of every Apple Watch). The claimed recessed center portion is the precise complementary shape to the convex surface protruding from the back of every Apple Watch, such that the protruding

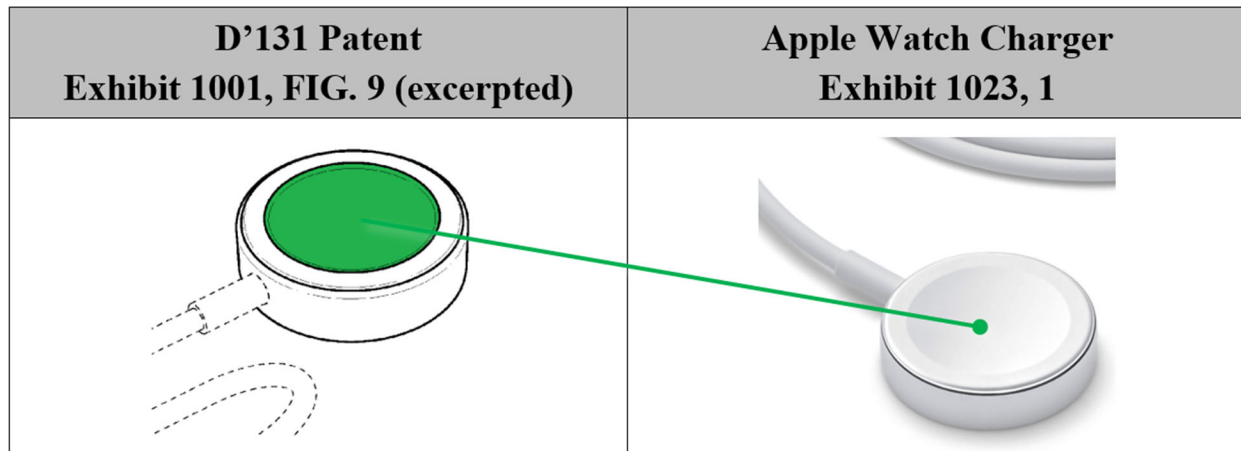
convex surface on the back of every Apple Watch mates perfectly with the claimed Apple Watch charger design, as shown in the example below.



Exhibit 1005, 7; Exhibit 1023, 2 (showing that every Apple Watch uses charger design above); *see also* Exhibit 1001, FIGS. 10-11 (showing claimed charger mating with back surface of Apple Watch). Therefore, I agree with Dr. Duckworth that a comparable alternative design for the recessed center portion of the claimed charger does not exist because a different center portion design (A) would not mate snugly or properly align with the back of the Apple Watch for efficient wireless charging; and (B) would render the charger incompatible with the convex surface on the back of the Apple Watch.

45. Further, by marketing that “the concave end of the charging cable ... aligns [Apple Watch] properly” with its charger, Apple markets the utility of the charger’s recessed center portion that ensures this proper Watch-charger connection.

Exhibit 1022, 1-3. As shown below in green, the recessed center portion claimed by the D'131 Patent is the recessed center portion enabling the marketed Watch-charger connection.



Therefore, I agree with Dr. Duckworth that Apple's website presents the recessed center portion claimed by the D'131 Patent as having a particular utility.

46. Also, I know from my industrial design experience that inadequately performing product features are typically either removed or improved in subsequent product generations. Therefore, I agree with Dr. Duckworth that Apple reusing the claimed charger design, which includes the claimed recessed center portion, for the charger used with every Apple Watch (which is, to date, eleven different Apple Watch models) indicates that the claimed design is the most useful design for this functional feature. Exhibit 1023, 1-2 (showing claimed charger design used with Apple Watch 1st generation, Apple Watch Series 1, 2, 3, 4, 5, 6, 7, 8, Apple Watch Ultra, and Apple Watch SE).

2. The Short, Flat Ring on the Top Surface Is Functional

47. I understand that Dr. Duckworth opined that the claimed short, flat ring on the charger's top surface is a functional element because it is designed to perfectly surround the convex surface on the back of the Apple Watch and align that surface with the complementary recessed center portion of the claimed charger design; (2) a comparable alternative design is unavailable because designs with a smaller diameter, larger diameter, shorter height, or taller height would impose shortcomings that are avoided by the claimed short, flat ring design; and (3) Apple keeping the claimed short, flat ring in the design of the charger used with every Apple Watch indicates that the claimed design is the most useful design for mating and aligning the charger with the Apple Watch. Exhibit 1014, Section VIII.B.

48. Assuming Dr. Duckworth is technically correct that the Apple Watch and charger must be aligned for efficient wireless charging, I agree with Dr. Duckworth that using a different diameter for the charger's top surface ring would not be a suitable alternative design because designs with a different diameter would not mate perfectly with the underside of the Apple Watch and therefore, compared to the claimed design, ring designs with a different diameter not permit the charger and Apple Watch to be mated as snugly or be as properly aligned for efficient wireless charging.

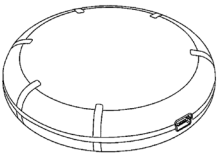
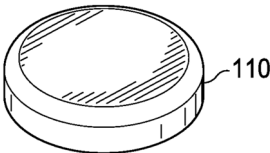
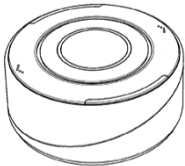
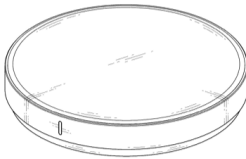
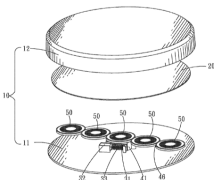
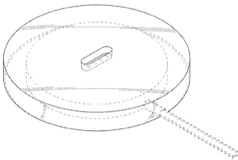
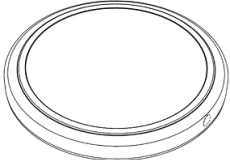
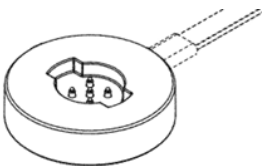
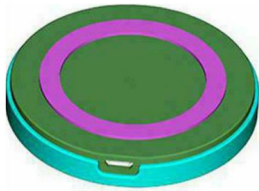
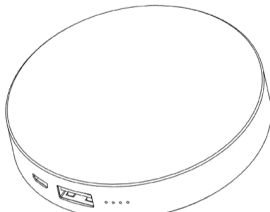
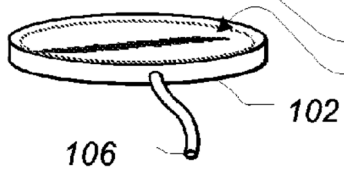
49. Additionally, as explained above, my industrial design experience informs me that inadequately performing product features are typically either removed or improved in subsequent product generations. Thus, I agree with Dr. Duckworth that Apple reusing the claimed charger design, which includes the claimed short, flat ring, for the charger used with every Apple Watch indicates that the claimed design is the most useful design for this functional feature. Exhibit 1023, 1-2 (showing claimed charger design used with Apple Watch 1st generation, Apple Watch Series 1, 2, 3, 4, 5, 6, 7, 8, Apple Watch Ultra, and Apple Watch SE).

3. The Overall Cylindrical Shape is Functional

50. I understand that Dr. Duckworth opined that the claimed charger's overall cylindrical shape, including the flat bottom surface and very slightly rounded edges on the top and bottom cylinder edges and the flat ring's outer edge, are functional. Exhibit 1014, Section VIII.C. Regarding the claimed overall cylindrical shape, I understand that Dr. Duckworth opined that: (1) the functionality of the overall cylindrical shape of the claimed design is confirmed by the ubiquitous use of cylindrical shapes for prior art chargers; (2) prior art chargers commonly used cylindrical power transmission coils, and an overall cylindrical charger shape most efficiently houses such a cylindrical charging coil with minimal wasted space; and (3) Apple using the claimed overall cylindrical shape for the design of the charger used with every Apple Watch indicates that the claimed design is the most useful

design for mating with the Apple Watch and housing the claimed Watch charger's internal components. Exhibit 1014, Section VIII.C.

51. My industrial design experience also makes me qualified to address product form factor considerations. I agree with Dr. Duckworth that an overall cylindrical charger shape is the most efficient shape for housing a cylindrical charging coil with minimal wasted space. Further, as shown below, cylindrical charger designs were ubiquitous in the prior art.

2009  Exhibit 1026, FIG. 1	2010  Exhibit 1027, FIG. 1	2010  Exhibit 1031, FIG. 1
2012  Exhibit 1033, FIG. 1	2012  Exhibit 1010, Perspective View	2012  Exhibit 1032, FIG. 1
2012  Exhibit 1030, FIG. 1	2013  Exhibit 1006, Side View	2013  Exhibit 1028, FIG. 1
2013  Exhibit 1029, FIG. 1	2013  Exhibit 1008, FIG. 1	2013  Exhibit 1034, FIG. 1
2014  Exhibit 1007, Three-dimensional View	2014  Exhibit 1009, FIG. 1	2014  Exhibit 1024, FIG. 1A

The prevalence of cylindrical shapes for prior art chargers, some of which are shown above, supports my opinion that an overall cylindrical charger shape is the most efficient charger shape. Also, as explained above, I know from my industrial design

experience that inadequately performing product features are typically either removed or improved in subsequent product generations. Therefore, I agree with Dr. Duckworth that Apple reusing the claimed overall cylindrical shape for the charger used with every generation of Apple Watch (which is, to date, eleven different Apple Watch models) indicates that the claimed design is the most useful design for this functional feature. Exhibit 1023, 1-2 (showing claimed charger design used with Apple Watch 1st generation, Apple Watch Series 1, 2, 3, 4, 5, 6, 7, 8, Apple Watch Ultra, and Apple Watch SE).

52. Regarding the claimed flat bottom surface, I understand that Dr. Duckworth opined the flat bottom surface of the claimed charger design is dictated by the functions of making the charger usable on flat surface and facilitating proper alignment (for efficient wireless charging) between the charger and device (e.g., Apple Watch) it was intended to charge. Exhibit 1014, Section VIII.C. I agree with Dr. Duckworth that the claimed flat bottom surface of the charger facilitates using the charger on a flat surface. I also agree with Dr. Duckworth that the claimed flat bottom surface would support the proper alignment of the Apple Watch and charger that I understand (as explained above) is needed for efficient wireless charging.

53. Regarding the slightly rounded edges, I understand that Dr. Duckworth opined that the claimed slightly rounded edges are dictated by the function of improving user comfort when handling the charger. Exhibit 1014, Section VIII.C.

My industrial design experience makes me qualified to address product comfort considerations, and I agree with Dr. Duckworth that the claimed slightly rounded edges, which a DOSA would also refer to as radiused edges, would generally be the most comfortable design for handling the charger because rounded edges lack corners that could cut, abrade, or otherwise needlessly irritate the skin.

IX. THE CHALLENGED CLAIM WOULD HAVE BEEN OBVIOUS TO A DESIGNER OF ORDINARY SKILL IN THE ART

A. Overview of the Prior Art

54. In my opinion, the Challenged Claim would have been obvious to a DOSA over each of the grounds addressed herein and in Masimo's Petition (i.e., Ground 1-7). Below is a brief summary of each of these prior art references.

1. Lee-616 (Exhibit 1006)

55. Lee-616 discloses the "wireless mini charging pad" shown below.

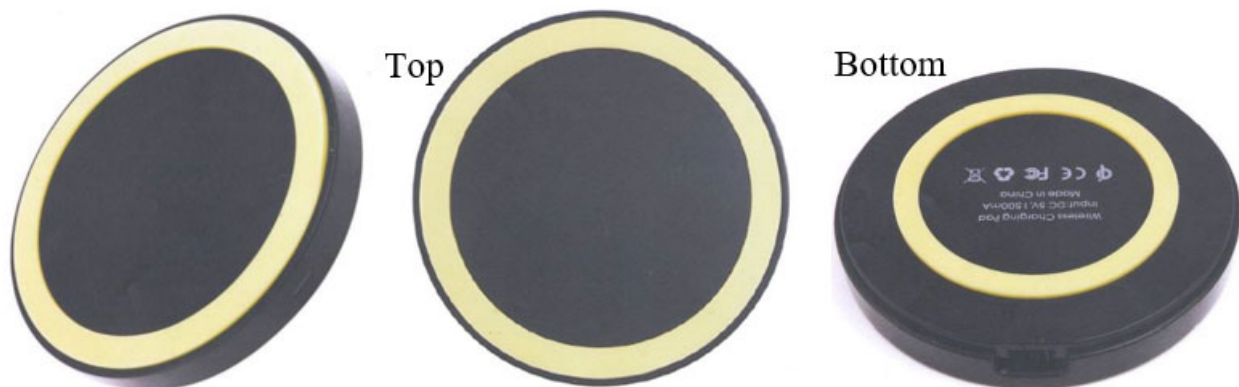
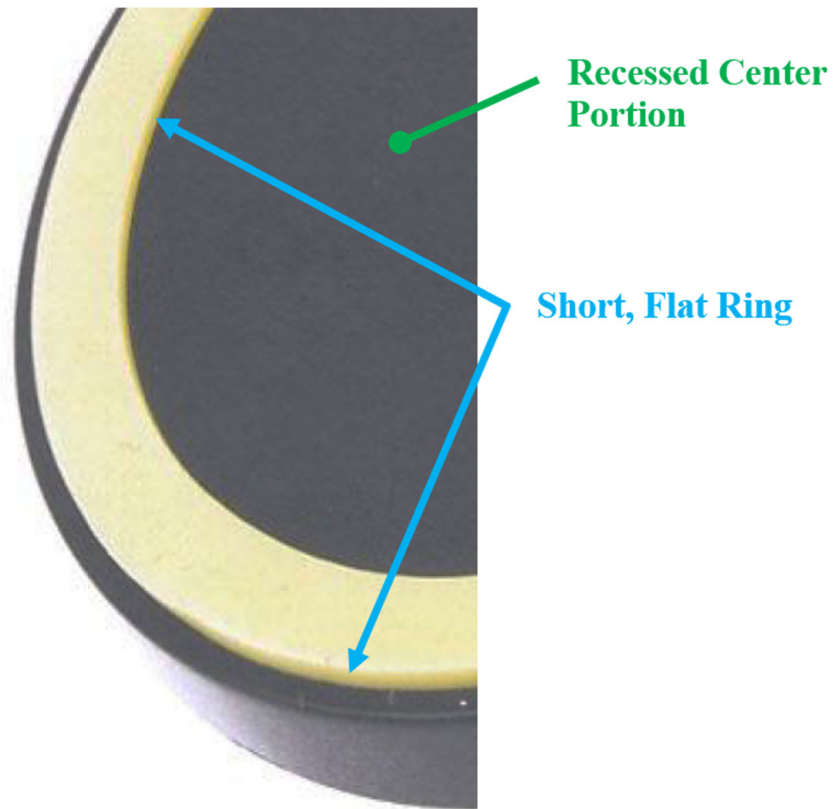


Exhibit 1006, 1, FIGS. 3 (left, rotated), 2 (center), 4 (right).

56. As shown above, Lee-616 discloses a charger having (1) a cylindrical shape with a flat bottom surface; (2) a short, flat ring (yellow) on the cylinder's top surface that is smaller in diameter than the cylinder; and (3) a recessed center portion that is surrounded by the top surface's ring. *Id.* As shown below, the flat ring (yellow) of Lee-616 protrudes a short height from the top surface of the charger and surrounds the recessed center portion.



The flat bottom surface of the Lee-616 charger also has a short, flat ring, as shown in FIG. 4 of Lee-616. *Id.*, FIG. 4.

57. The design of the Lee-616 charger is also disclosed in a November 28, 2013 YouTube video, screenshots of which are included below.



Exhibit 1019; *compare* Exhibit 1006, 4-8 *with* Exhibit 1019, 0:15 (packaging), 1:11 (side), 1:16 (top), 2:57 (bottom), 3:52 (perspective).

2. CN-470 (Exhibit 1007)

58. CN-470 discloses the “wireless charging transmitter” shown below.

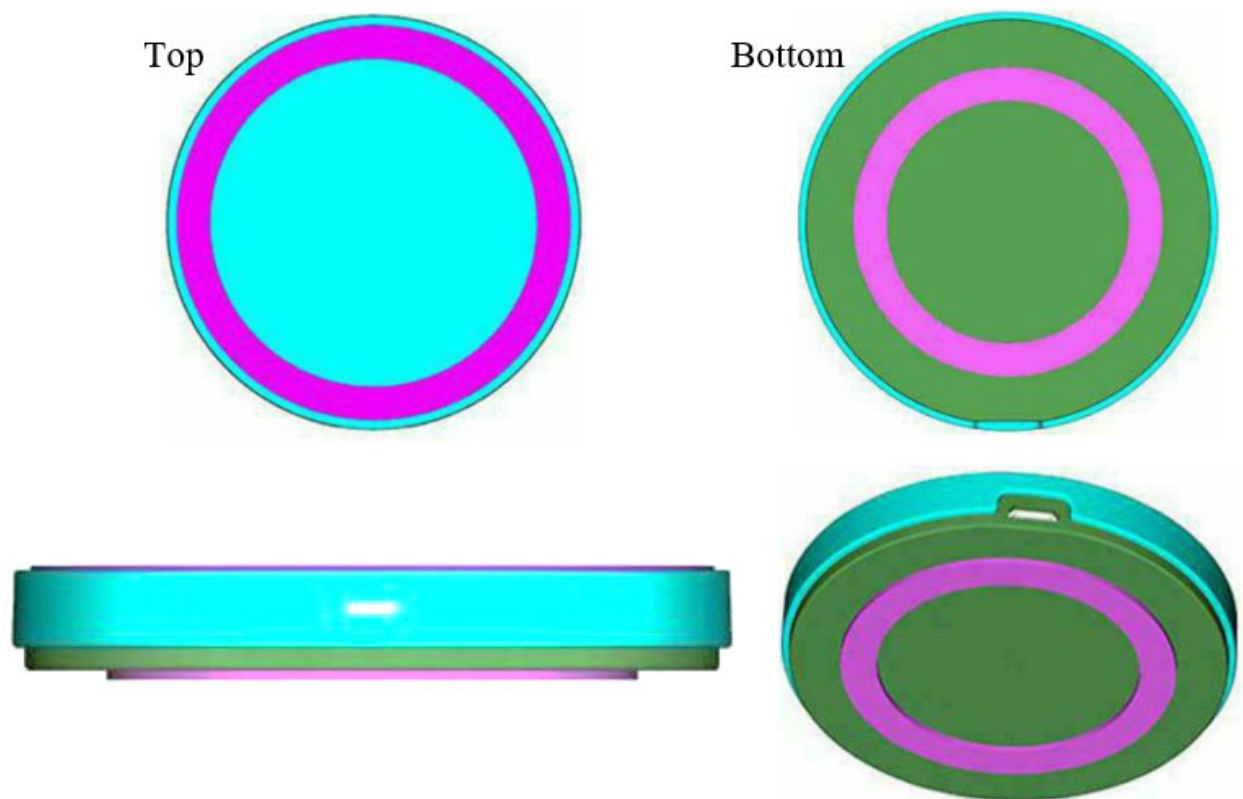


Exhibit 1007, Abstract, FIGS. 4 (top-left), 3 (top-right), 5 (rotated, bottom-left), 8 (rotated, bottom-right).¹ As shown above, CN-470 discloses a charger having (1) a cylindrical shape with a flat bottom surface (green); (2) a short, flat ring (pink) on the top surface of the cylinder that has a diameter smaller than the cylinder; and (3) a recessed center portion surrounded by the top surface's ring. *Id.* The flat bottom surface of the CN-470 charger also has a short, flat ring, as shown above. *Id.*

¹ For clarity and conciseness, references in my Declaration to the figures of CN-470 (Exhibit 1007) are to the figure appearing on the corresponding page of the reference. For example, the figure on page 5 of CN-470 is referred to herein as Exhibit 1007, FIG. 5.

3. **Murray (Exhibit 1008)**

59. Murray discloses the “charger” shown below.

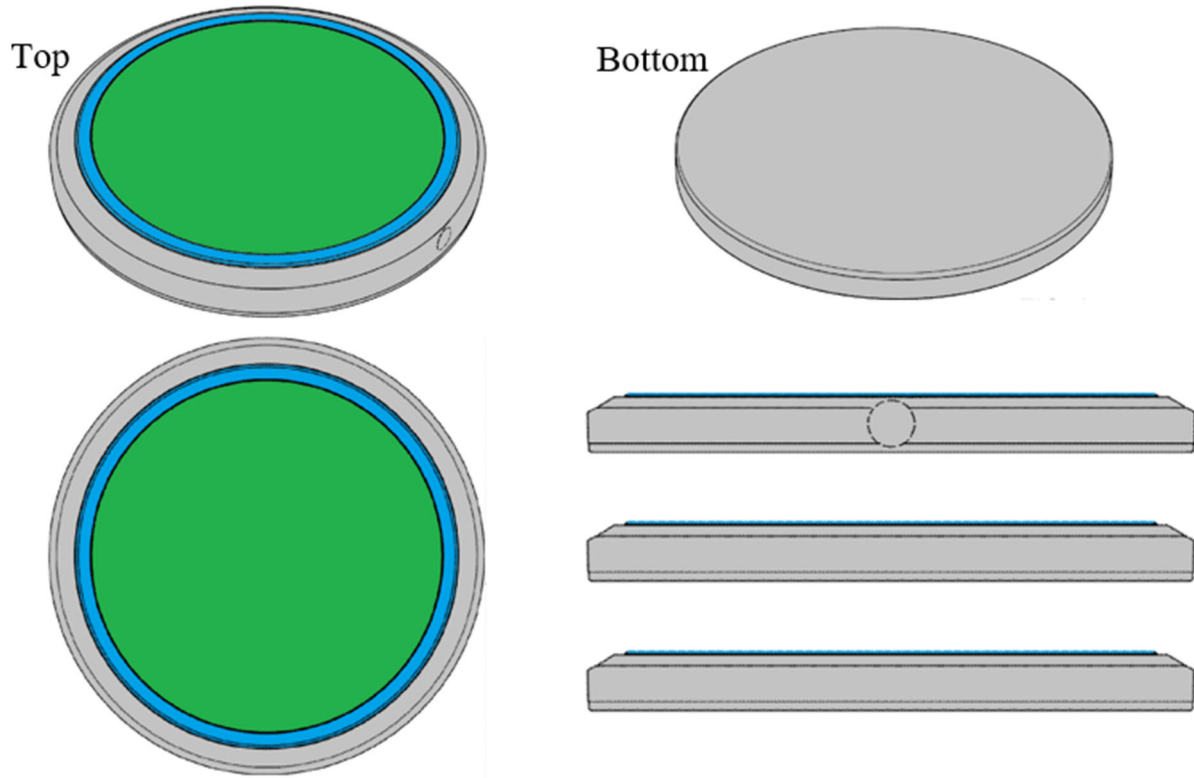


Exhibit 1008, FIGS. 1, 2, 3-5 (rotated 180°), 6. A DOSA would have readily understood that Murray’s side views depict the charger upside down, with the charger’s flat bottom surface (FIGS. 2, 7) on the top. Exhibit 1008, FIGS. 1-7, Description. Therefore, Murray’s side views (FIGS. 3-5, above, bottom-right) have been rotated 180° throughout this Declaration to show Murray’s charger right side up, with the charger’s bottom on the bottom of each side view figure. As shown above, Murray discloses a charger having (1) a cylindrical shape with a flat bottom surface (gray); (2) a short, flat ring (blue) on the top surface of the cylinder that is

smaller than the diameter of the cylinder; and (3) a recessed center portion (green) surrounded by the top surface's ring. *Id.*

4. Chiang (Exhibit 1009)

60. Chiang discloses the “power bank” shown below.

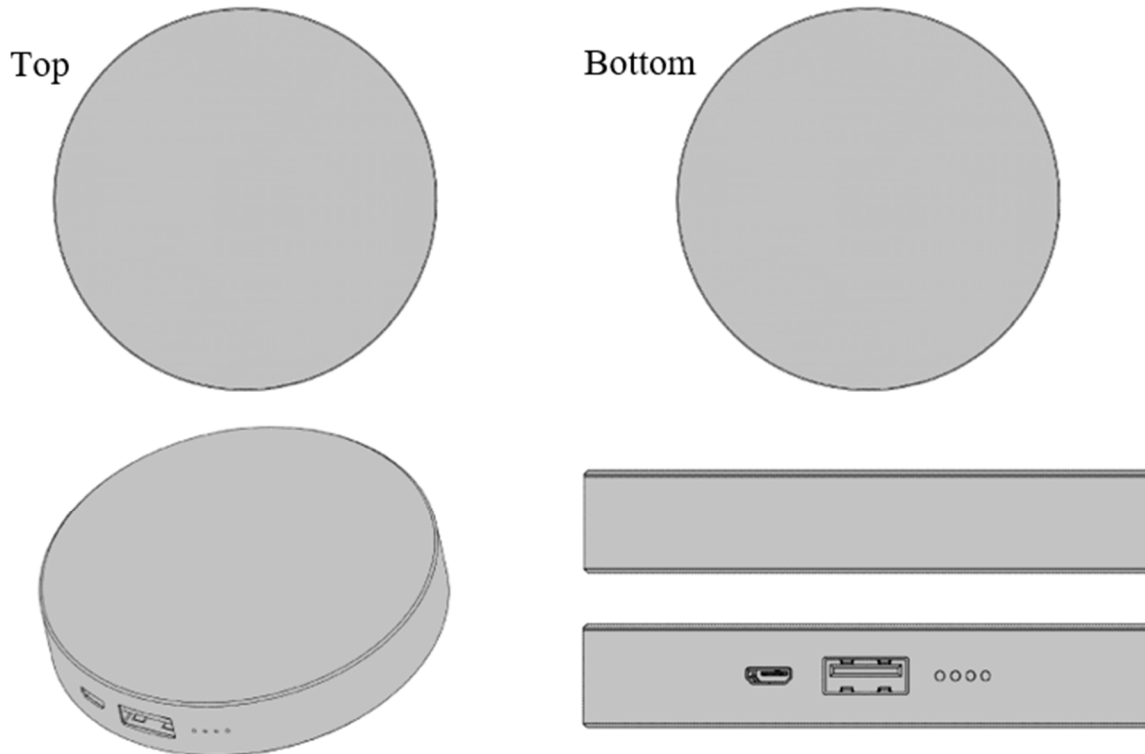
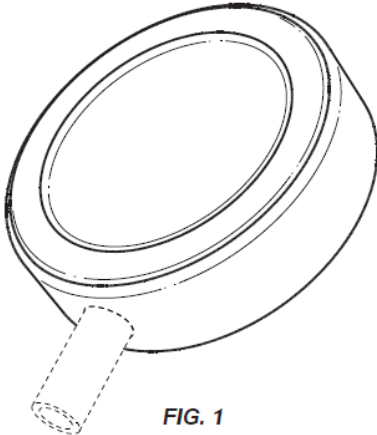
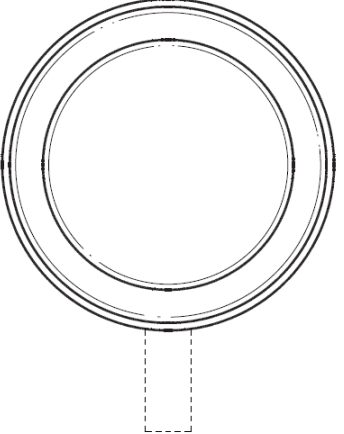
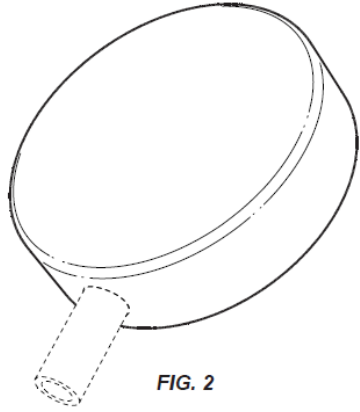


Exhibit 1009, FIGS. 1-3, 6-7. As shown above, Chiang discloses a power bank having a cylindrical shape (gray) with a flat bottom surface and smoothed edges. *Id.*

B. [Ground 1] The Challenged Claim of the D’131 Patent Would Have Been Obvious Over Lee-616

1. Lee-616 Is A Primary Reference for the D’131 Patent

61. As shown in the comparison below, the design characteristics of Lee-616 are basically the same as the claimed design:

D'131 Patent (Exhibit 1001)	Lee-616 (Exhibit 1006)
 FIG. 1	 FIG. 3 (rotated)
 FIG. 3	 FIG. 2
 FIG. 2	 FIG. 4

D'131 Patent (Exhibit 1001)	Lee-616 (Exhibit 1006)
 FIG. 7	 Exhibit 1006, Composite of FIGS. 2-4²
 FIG. 8	 Exhibit 1006, Composite of FIGS. 2-4³

Exhibit 1001, FIGS. 1-3; Exhibit 1006, FIGS. 2-4. The above comparison demonstrates that Lee-616 is an appropriate primary reference because its design conveys basically the same overall visual impression as the claimed design. *Id.* Additionally, the following comparison of the respective design aspects of Lee-616 and the claimed design demonstrates the overall visual similarity between these designs.

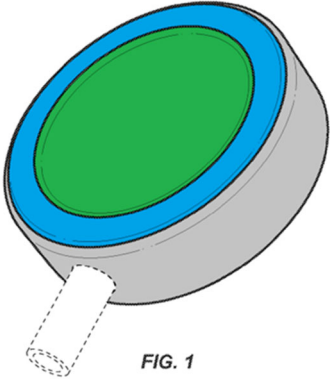
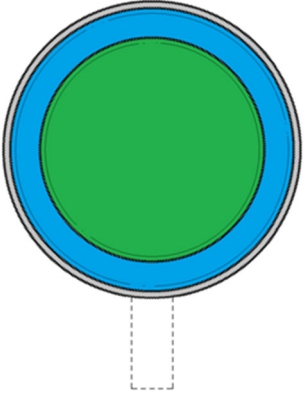
a. Cylindrical Shape, Flat Bottom Surface, Rounded Edges

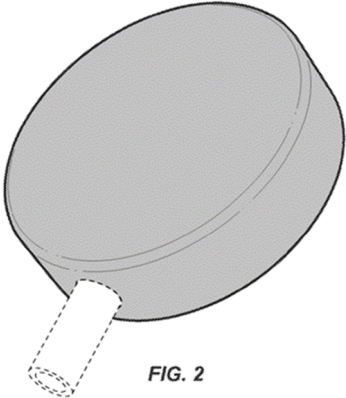
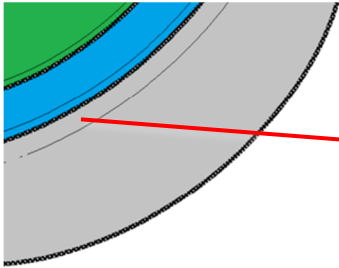
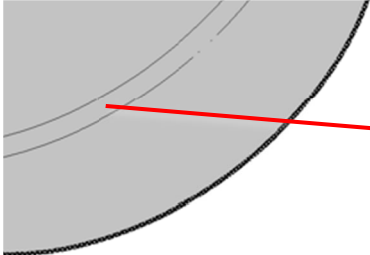
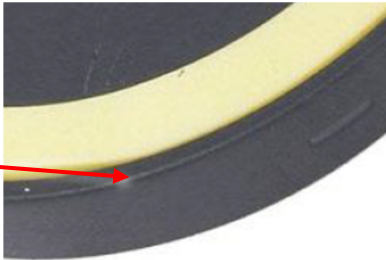
62. As explained above in Section VIII.A.3, the claimed cylindrical shape, flat bottom surface, and rounded edges are functional elements. Therefore, I understand these aspects should be disregarded in the obviousness analysis.

² A DOSA would have understood that Lee-616's charger, when viewed from the front side (with respect to FIG. 3), would appear as shown in this composite figure. Exhibit 1006, FIGS. 2-4.

³ A DOSA would have understood that Lee-616's charger, when viewed from the rear side (i.e., the side opposite the side visible in FIG. 3), would appear as shown in this composite figure. Exhibit 1006, FIGS. 2-4.

63. If the claimed cylindrical shape, flat bottom surface, and rounded edges are considered, the cylindrical shape with a flat bottom surface and rounded edges of Lee-616 and the D'131 Patent provide the same overall visual impression, as shown below. Exhibit 1001, FIGS. 1-3; Exhibit 1006, FIGS. 2-4.

D'131 Patent (Exhibit 1001)	Lee-616 (Exhibit 1006)
 FIG. 1	 FIG. 3 (rotated)
 FIG. 3	 FIG. 2

D'131 Patent (Exhibit 1001)	Lee-616 (Exhibit 1006)
 FIG. 2	 FIG. 4
 FIG. 1 (excerpted)  FIG. 4 (excerpted)	 FIG. 3 (rotated, excerpted)  FIG. 4 (excerpted)

As shown above (right), the Lee-616 cylinder has a slightly larger width-to-height ratio than the claimed design, but that difference, or any difference in the dimensions or proportions of the cylindrical shapes of Lee-616 and the claimed design, does not change the overall visual similarity between those designs. Exhibit 1001, FIGS. 1-3; Exhibit 1006, FIGS 2-4.

64. There is also a step transition between the sidewall of Lee-616's cylinder and the bottom surface, and there is a flat ring on Lee-616's flat bottom surface. Exhibit 1006, FIG. 4. However, such differences do not change the overall visual similarity between those designs, both of which have overall cylindrical shapes with flat bottom surfaces and slightly rounded edges. Exhibit 1001, FIGS. 2, 4; Exhibit 1006, FIGS. 2-4. The flat ring on Lee-616's bottom surface is a slight difference to the overall charger design that does not change the overall visual impression provided by Lee-616 and the claimed design. *Id.*

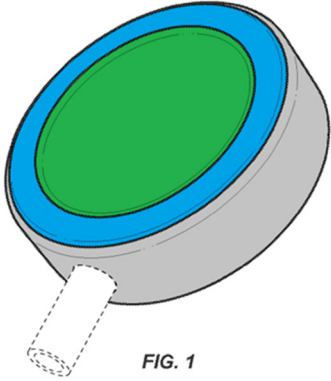
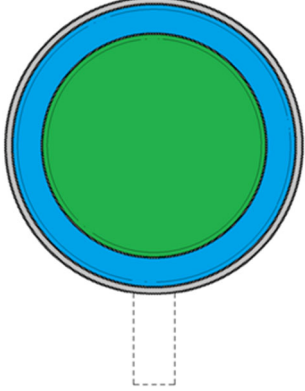
65. Lee-616's cylinder has a rectangular portion for connecting a cable. Exhibit 1006, FIG. 4. But the cable connection to the charger cylinder is not claimed and should not be considered because it is depicted in broken lines. Exhibit 1001, FIGS. 1-2, 5-6, 8-9, Description (“[B]roken lines ... form no part of the claimed design.”). Even if that aspect was claimed, Lee-616's cylinder provides the same overall visual impression as the claimed design, as I have shown above. Exhibit 1001, FIGS. 1-3; Exhibit 1006, FIGS. 2-4.

66. Any differences between the claimed design and Lee-616 would have been changes that a DOSA would have been motivated to make, as I have explained in Sections IX.B.2 and IX.C.3 below. Accordingly, in my opinion, Lee-616 discloses a cylindrical shape with a flat bottom surface and rounded edges with basically the same design characteristics as the claimed design.

b. Ring

67. As explained above in Section VIII.A.2, the claimed short, flat ring on the cylinder's top surface is a functional element. Therefore, I understand this aspect should be disregarded in the obviousness analysis.

68. If the short, flat ring (yellow) of Lee-616 and the claimed design (blue) is considered, the below figures show that Lee-616 and the claimed design each have a ring that provides the same overall visual impression. Exhibit 1001, FIGS. 1, 3; Exhibit 1006, FIGS. 2-3.

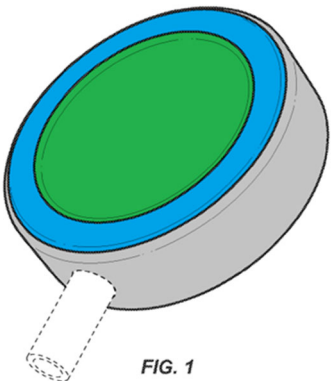
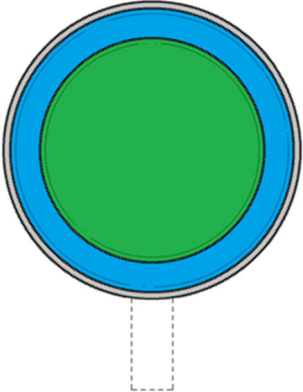
D'131 Patent (Exhibit 1001)	Lee-616 (Exhibit 1006)
 FIG. 1	 FIG. 3 (rotated)
 FIG. 3	 FIG. 2

A DOSA would have understood that any differences between the design of Lee-616 and the claimed design would not change the overall visual similarity of Lee-616 and the claimed design as a whole. Exhibit 1001, FIGS. 1, 3; Exhibit 1006, FIGS. 2-3. Accordingly, in my opinion, Lee-616 discloses a short, flat ring with basically the same design characteristics as the claimed design.

c. Recessed Center Portion

69. As explained above in Section VIII.A.1, the claimed recessed center portion is a functional element. Therefore, I understand that the recessed center portion should be disregarded in the obviousness analysis.

70. If the recessed center portion is considered, the figures below show that the recessed center portion of Lee-616 (surrounded by the yellow ring) and the claimed design (green) provide the same overall visual impression. Exhibit 1001, FIGS. 1, 3; Exhibit 1006, FIGS. 2-3.

D'131 Patent (Exhibit 1001)	Lee-616 (Exhibit 1006)
 FIG. 1	 FIG. 3 (rotated)
 FIG. 3	 FIG. 2

A DOSA would have understood that any differences between the design of Lee-616 and the claimed design would not change the overall visual similarity of Lee-616 and the claimed design as a whole. Exhibit 1001, FIGS. 1, 3; Exhibit 1006, FIGS. 2-3. Accordingly, in my opinion, Lee-616 discloses a recessed center portion with basically the same design characteristics as the claimed design.

71. Accordingly, in my opinion, Lee-616 discloses a design with the same basic design characteristics as the claimed design.

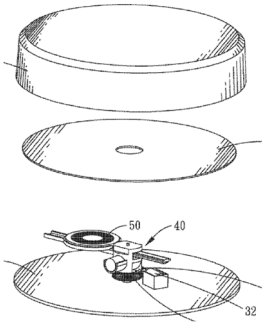
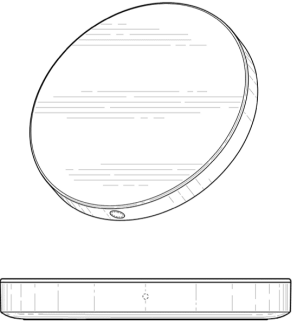
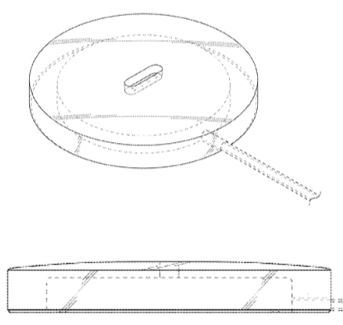
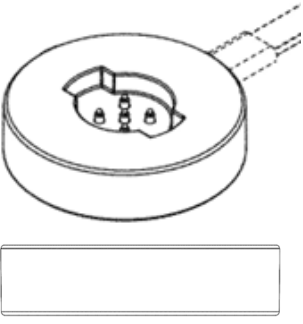
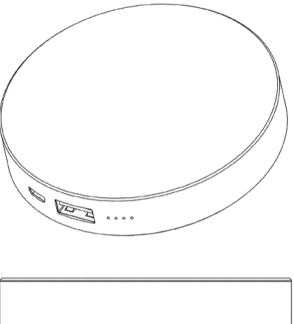
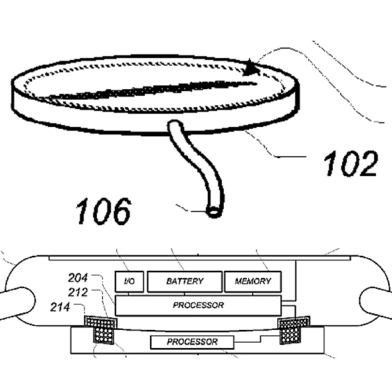
72. Overall, for the reasons above, it is my opinion that Lee-616 is an appropriate primary reference because it discloses basically the same visual impression as the claimed design. As shown above, Lee-616's only differences compared to the claimed design are that Lee-616's design includes (1) a step transition between the cylinder's sidewall and bottom surface and (2) a flat ring on the cylinder's flat bottom surface. However, as shown below, these differences would have been obvious to a DOSA in view of Lee-616 alone or in combination with other references. Indeed, removing Lee-616's step transition and bottom ring (Ground 1), and combining Lee-616 and Chiang (Ground 2) to produce the same result, creates a charger design with the same overall visual appearance as the claimed Apple Watch charger design.

2. The Challenged Claim of the D'131 Patent Would Have Been Obvious to a DOSA Over Lee-616

73. The Challenged Claim would have been obvious to a DOSA over Lee-616 alone. Specifically, a DOSA would have been motivated to modify the charger of Lee-616 to create a charger design that provided the same overall visual impression as the design claimed in the D'131 Patent.

74. Any differences between Lee-616 and the claimed design are changes that a DOSA would have understood were suggested by the prior art. For example, a DOSA would have understood that any differences between the charger dimensions and proportions of Lee-616 and the claimed design would have been a

routine change that was suggested by the prior art and well within the knowledge, experience, skill, and creativity of a DOSA, because, as I have demonstrated above in Section VIII.A.3, cylindrical chargers of various sizes and proportions were ubiquitous in the prior art. Additionally, as shown in the following table, cylindrical chargers with both (1) a continuous sidewall between the top and bottom cylinder surfaces (i.e., a flat, vertical sidewall with no step transition) and (2) a flat bottom surface were commonly used design features in the prior art.

2012  Exhibit 1030, FIG. 2	2013  Exhibit 1028, FIGS. 1, 6	2013  Exhibit 1029, FIGS. 1-2
2013  Exhibit 1034, FIGS. 1, 4	2014  Exhibit 1009, FIGS. 1, 3	2014  Exhibit 1024, FIGS. 1A, 1C

Similarly, a DOSA would have been motivated to use rounded edges to transition between charger surfaces and features, because a DOSA would have understood

from the abundant use of this design aspect in the prior art that rounded edges provided a more visually appealing and refined transition between charger surfaces and components. *See, e.g.*, Exhibit 1026, FIG. 1; Exhibit 1031, FIG. 1; Exhibit 1010, Front, Rear, Left side, Right side views; Exhibit 1033, FIGS. 2-5; Exhibit 1006, FIGS. 3-4; Exhibit 1028, FIGS. 4-7; Exhibit 1008, FIGS. 3-5; Exhibit 1034, FIGS. 4-5; Exhibit 1007, Right, Top, Bottom, Three-dimensional views.

75. In addition, a DOSA would have understood from the many prior art examples of cylindrical chargers with a continuous sidewall that modifying a charger's sidewall as proposed (i.e., by removing the step transition of Lee-616's sidewall, leaving a continuous (i.e., flat) sidewall) would produce a design that was both more refined and visually appealing. *See, e.g.*, Exhibit 1009, FIGS. 1, 3; Exhibit 1034, FIGS. 1, 4; Exhibit 1029, FIGS. 1-2. A DOSA, therefore, would have been motivated to remove the step transition in Lee-616's sidewall to achieve a design with a continuous sidewall between the top and bottom surfaces of the Lee-616 charger that was smoother, simpler, and more visually appealing than the existing sidewall of Lee-616, which is undesirably jagged and disjointed. Also, a DOSA would have readily understood that the step transition in the sidewall of Lee-616's charger created an undesirable crevice (seen in Exhibit 1006, FIG. 4) into which dust, contaminants, or other unwanted matter would accumulate. Exhibit 1006, FIG. 4. Therefore, a DOSA would have been motivated to incorporate a

continuous sidewall between the top and bottom surfaces of the Lee-616 charger as proposed to avoid creating such a crevice. Further, it was conventional for manufacturing seams or joints to be located not on the charger's exposed sidewall, but on the charger's bottom surface so that they were not visible, or at least less visible, to the user when the charger was used. *See, e.g.*, Exhibit 1028, FIGS. 1, 4-7; Exhibit 1029, FIGS. 1-5; Exhibit 1030, FIGS. 1-2; Exhibit 1034, FIGS. 4-7. A DOSA would have therefore been further motivated to incorporate a continuous sidewall as proposed to hide any manufacturing seams or joints by moving such seams or joints to the charger's bottom surface. Moreover, a DOSA would have known how to remove the step transition in the sidewall and incorporate a continuous sidewall between the top and bottom surfaces of the Lee-616 charger as proposed. Specifically, a DOSA would have understood the proposed modification could be done by simply (1) extending the outermost cylinder sidewall of Lee-616 from the top surface to the bottom surface of the cylinder, (2) increasing the diameter of the lower part of the charger such that it matched the diameter of the upper part of the charger to create a continuous sidewall, or (3) decreasing the diameter of the upper part of the charger such that it matched the diameter of the lower part of the charger to create a continuous sidewall.

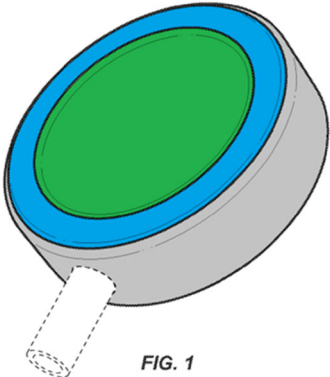
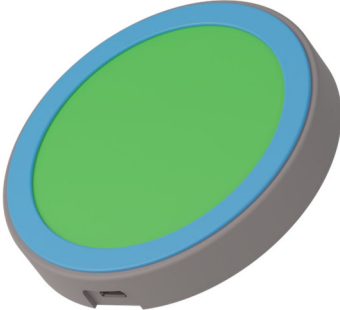
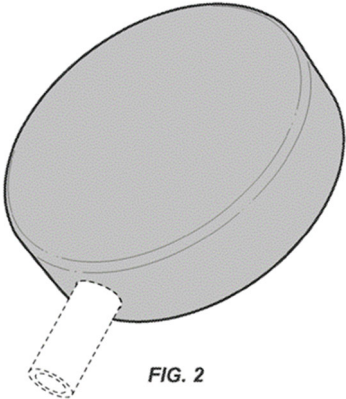
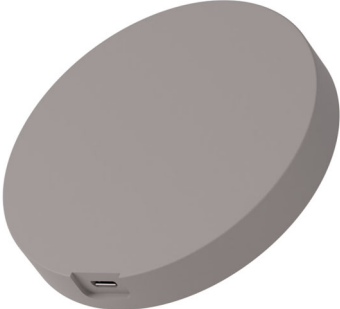
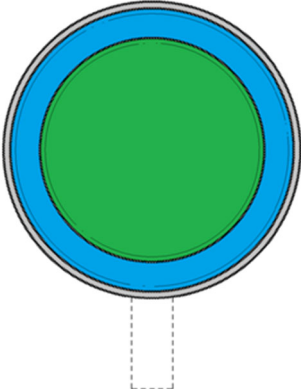
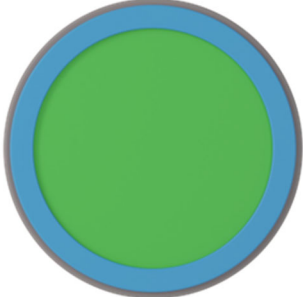
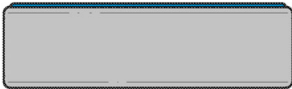
76. A DOSA would have been motivated to remove the flat ring from the already flat bottom surface of Lee-616's charger to achieve a design with a

completely flat bottom surface (shown below), that was simpler and more visually appealing while also being easier and less expensive to manufacture due to the reduction of components. Exhibit 1006, FIG. 4 (ring removed).



Indeed, a DOSA would have understood that prior art chargers commonly included a simpler flat bottom surface with no ring, as shown in the table above in this section. Further, a DOSA would have understood that texturing the bottom surface of Lee-616's charger or applying a grippy or rubberized coating to that surface would provide a grip-enhancing benefit between the charger and surface on which it was used. Therefore, a DOSA would have been motivated to remove the bottom surface ring of Lee-616 as proposed.

77. Accordingly, in my opinion, a DOSA would have been motivated to modify Lee-616 to create a charger with the same overall visual appearance as the claimed design, as shown below.

D'131 Patent (Exhibit 1001)	Lee-616 (Modified)
 FIG. 1	
 FIG. 2	
 FIG. 3	
 FIG. 7	

Thus, in my opinion, the Apple Watch charger design claimed by the D'131 Patent would have been obvious to a DOSA over Lee-616.

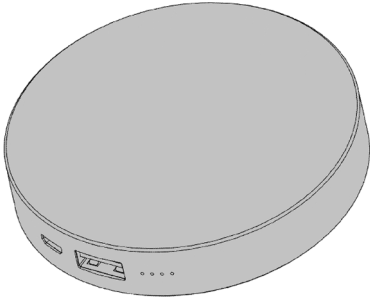
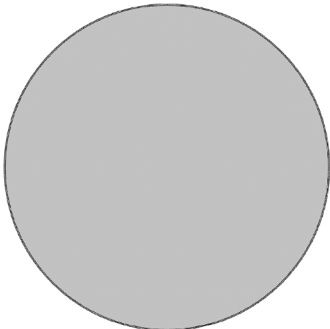
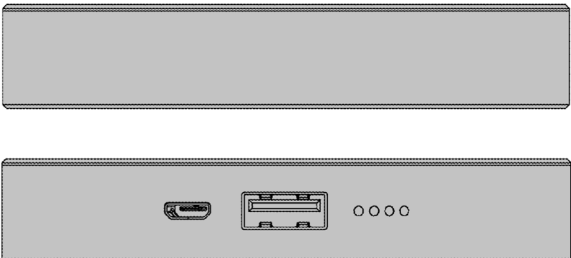
C. [Ground 2] The Challenged Claim of the D'131 Patent Would Have Been Obvious Over Lee-616 Combined With Chiang

1. Lee-616 Is A Primary Reference for the D'131 Patent

78. As shown in Section IX.B.1 above, Lee-616 is a primary reference.

2. Chiang is an Appropriate Secondary Reference to Combine with Lee-616

79. As shown below, the design of Chiang is so related to Lee-616's design that the appearance of Chiang's and Lee-616's charger would have suggested that a DOSA combine their features. Exhibit 1006, FIGS. 2-4; Exhibit 1009, 1-3, 7.

Lee-616 (Primary)	Chiang (Secondary)
 Exhibit 1006, FIG. 3 (rotated)	 Exhibit 1009, FIG. 1
 Exhibit 1006, FIG. 4	 Exhibit 1009, FIG. 7
 Exhibit 1006, Composites of FIGS. 2-4⁴	 Exhibit 1009, FIGS. 2-3

80. Chiang is closely related to Lee-616 because Chiang provides a simple cylindrical design that a DOSA would have understood is suitable for Lee-616's

⁴ As explained above, a DOSA would have understood that Lee-616's charger would appear as shown in these composite figures when viewed from the front side and the rear side, respectively.

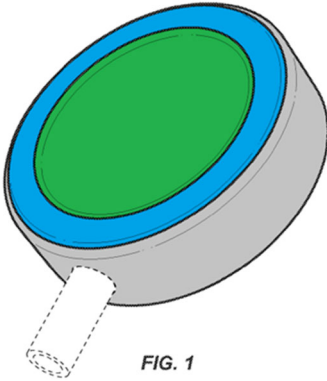
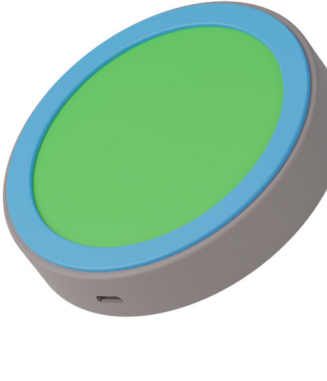
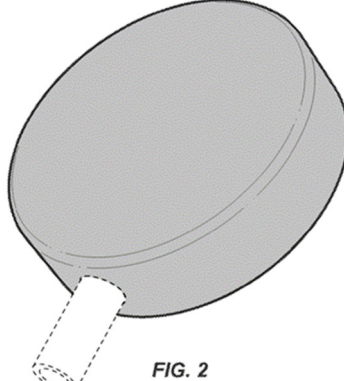
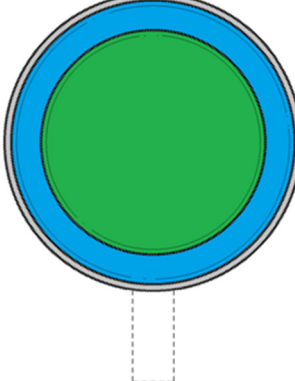
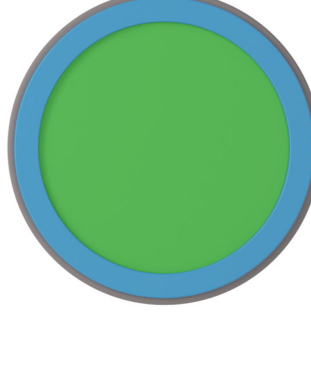
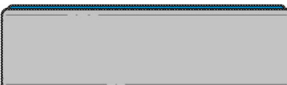
charger. As shown above, Chiang's power bank has a cylindrical shape with a continuous cylinder sidewall and a flat bottom surface. Exhibit 1009, FIGS. 1-3, 7. Chiang's cylinder body has a width-to-height ratio similar to that of Lee-616. *Compare* Exhibit 1006, FIGS. 2-3, Composites (above, bottom-left) *with* Exhibit 1009, FIGS. 1-3, 7. The similarity between the cylindrical shape and proportions of the designs of Chiang and Lee-616 would have suggested using the continuous cylinder sidewall and flat bottom surface of Chiang's design as the cylinder sidewall and bottom surface for Lee 616's charger, respectively. Exhibit 1006, FIGS. 2-4; Exhibit 1009, 1-3, 7. Moreover, the pervasive use in the prior art of cylindrical chargers with a flat bottom surface and a continuous sidewall between the cylinder's top and bottom surfaces, as in Chiang and as shown above in Section VIII.A.3, would have suggested using those aspects of Chiang's design as the sidewall and bottom surface for Lee-616's charger.

81. Therefore, given the relatedness and similarity of Lee-616 and Chiang's designs, the appearance of Chiang's power bank would have suggested the application of its features, including its continuous cylinder sidewall and flat bottom surface, to the design of Lee-616's charger. As such, it is my opinion that Chiang is an appropriate secondary reference to combine with Lee-616.

3. The Challenged Claim of the D'131 Patent Would Have Been Obvious to a DOSA Over Lee-616 Combined with Chiang

82. In my opinion, a DOSA would have been motivated to combine Lee-616's charger with Chiang's cylinder sidewall and flat bottom surface. As explained in Section IX.B.2 above, combining Chiang's cylinder sidewall and flat bottom surface with Lee-616 would have been a change that was suggested by the prior art and well within the knowledge, experience, skill, and creativity of a DOSA. And for the same reasons explained above in Section IX.B.2 with respect to modifying Lee-616 alone, a DOSA would have been motivated to modify Lee-616's charger to incorporate Chiang's cylinder sidewall and flat bottom surface. Also, any differences between the proposed combination of Lee-616 with Chiang and the claimed design would have been changes that were suggested by the prior art and a DOSA would have been motivated to make, as explained above in Section IX.B.2.

83. Therefore, for the foregoing reasons, it is my opinion that a DOSA would have been motivated to combine Lee-616 with Chiang's cylinder sidewall and flat bottom surface, as shown in the composite figures below, to create a charger with the same overall visual appearance as the design claimed by the D'131 Patent. The following composite figures accurately reflect my analysis above and show how a DOSA would have combined Lee-616 with Chiang.

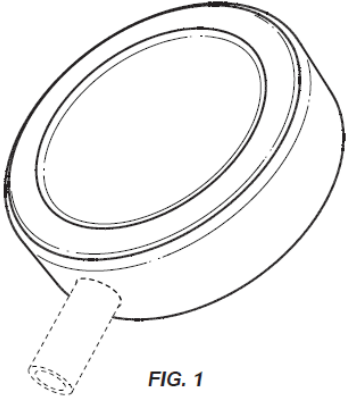
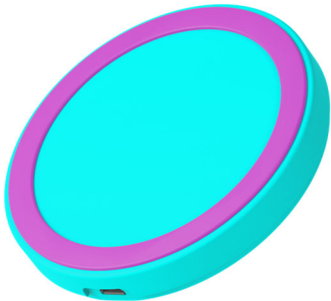
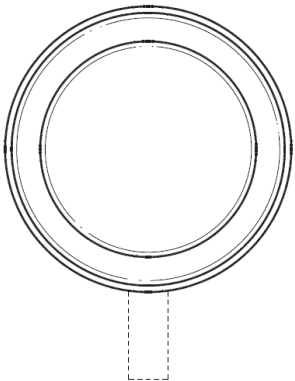
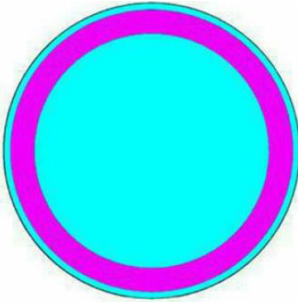
D'131 Patent (Exhibit 1001)	Lee-616 Combined with Chiang
 FIG. 1	
 FIG. 2	
 FIG. 3	
 FIG. 7	

It is thus my opinion that the design claimed by the D'131 Patent would have been obvious to a DOSA over Lee-616 and Chiang.

D. [Ground 3] The Challenged Claim of the D'131 Patent Would Have Been Obvious Over CN-470

1. CN-470 Is A Primary Reference for the D'131 Patent

84. As shown in the comparison below, the design characteristics of CN-470 are basically the same as the claimed design:

D'131 Patent (Exhibit 1001)	CN-470 (Exhibit 1007)
 FIG. 1	 Composite of FIGS. 4-8⁵
 FIG. 3	 FIG. 4

⁵ A DOSA would have understood that CN-470's charger, when viewed from a top-rear perspective (with respect to FIG. 4 (top) and FIG. 6 (rear)), would appear as shown in this composite figure. Exhibit 1007, FIGS. 1-8.

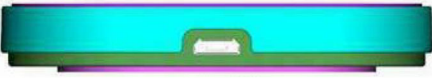
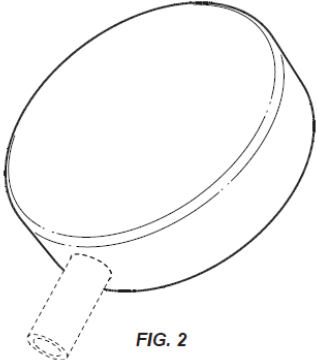
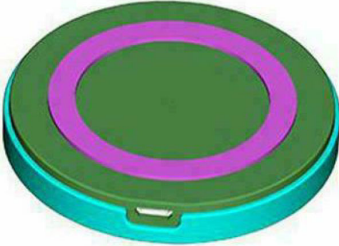
D'131 Patent (Exhibit 1001)	CN-470 (Exhibit 1007)
 FIG. 7  FIG. 8	 FIG. 6  FIG. 7 (rotated)
 FIG. 2	 FIG. 8

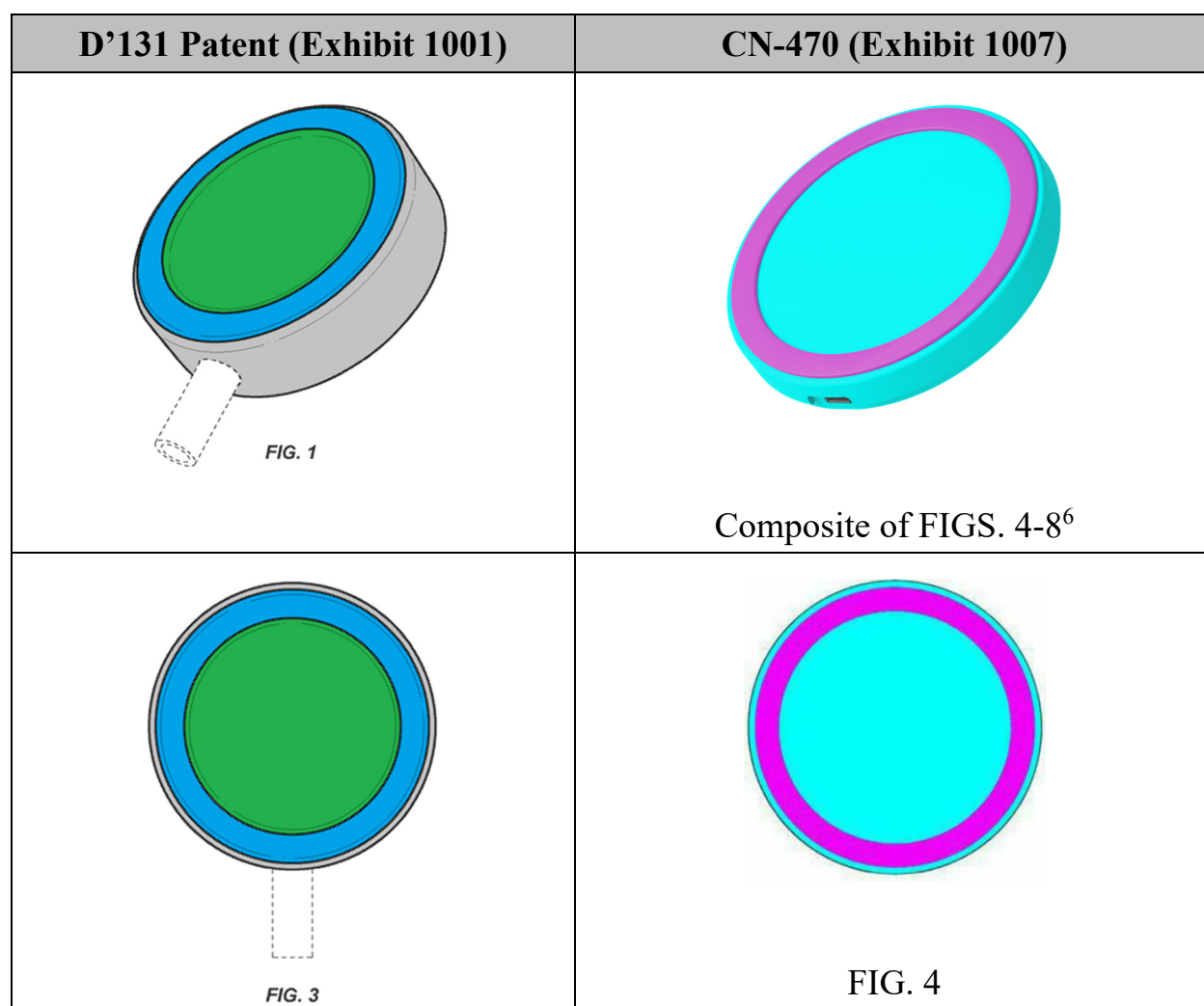
Exhibit 1001, FIGS. 1-3, 7-8; Exhibit 1007, FIGS. 4-8. CN-470 is an appropriate primary reference because, as is demonstrated by the above comparison, CN-470's design conveys basically the same overall visual impression as the claimed design. Additionally, the following comparison of the respective design aspects of CN-470 and the claimed design demonstrates the overall visual similarity between these designs.

a. Cylindrical Shape, Flat Bottom Surface, Rounded Edges

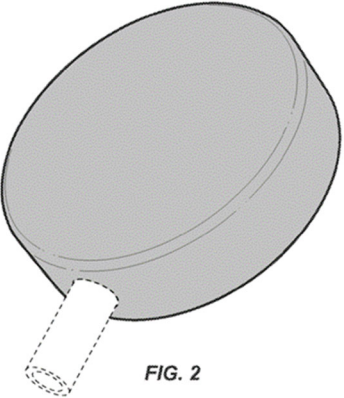
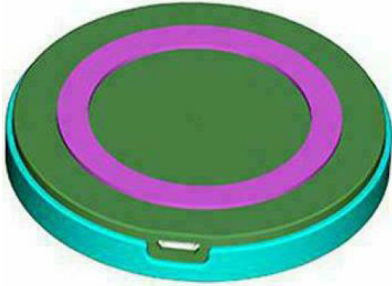
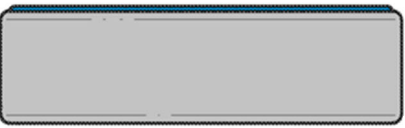
85. As explained above in Section VIII.A.3, the claimed cylindrical shape, flat bottom surface, and rounded edges of the claimed charger are functional

elements. Therefore, I understand these aspects should be disregarded in the obviousness analysis.

86. If the claimed cylindrical shape, flat bottom surface, and rounded edges are considered, the designs of CN-470 and the D'131 Patent provide the same overall visual impression, as shown below. Exhibit 1001, FIGS. 1-3, 7; Exhibit 1007, FIGS. 4-8.



⁶ As explained above, a DOSA would have understood that CN-470's charger would appear as shown in this composite figure when viewed from a top-rear perspective.

D'131 Patent (Exhibit 1001)	CN-470 (Exhibit 1007)
 FIG. 2	 FIG. 8
 FIG. 7	 FIG. 5 (rotated, excerpted)

CN-470's charger has an overall cylindrical shape with a slightly larger width-to-height ratio than the claimed design. However, as I explained above in Section IX.B.1.a, any difference in the dimensions or proportions of the two cylindrical chargers, including any difference in the width-to-height ratio of CN-470 and the claimed design, does not change the overall visual similarity between those designs. Exhibit 1001, FIGS. 1-3, 8; Exhibit 1007, FIGS 4, 5, and 8.

87. CN-470's cylinder includes a step transition cylinder sidewall and the charger's bottom surface, and there is also a flat ring on CN-470's flat bottom surface. Exhibit 1007, FIGS. 6-8. However, such differences do not change the

overall visual similarity between CN-470 and the claimed design, for the same reasons explained above in Section IX.B.1.a with respect to Lee-616.

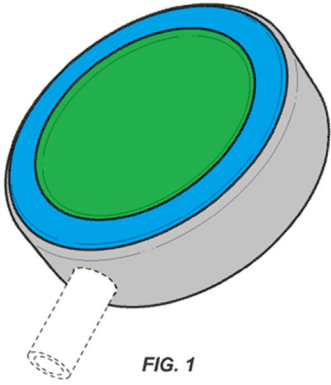
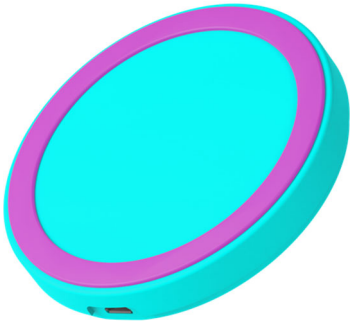
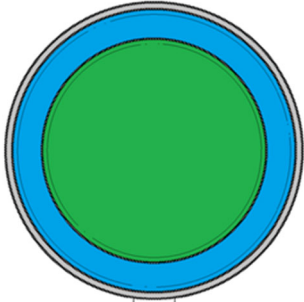
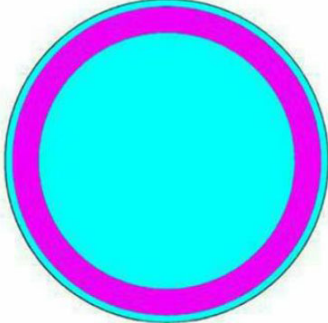
88. CN-470's cylinder also has a rectangular portion on its charger cylinder for connecting a cable. Exhibit 1007, FIG. 7. But the cable connection to the charger cylinder is not claimed and should not be considered because it is depicted in broken lines. Exhibit 1001, FIGS. 1-2, 5-6, 8-9, Description ("[B]roken lines ... form no part of the claimed design."). Even if that aspect was claimed, CN-470's cylinder provides the same overall visual impression as the claimed design, as I have shown above. Exhibit 1001, FIGS. 1-3; Exhibit 1007, FIGS. 4-8.

89. Any differences between the claimed design and CN-470 would have been changes that a DOSA would have been motivated to make, as I have explained in Sections IX.D.2 and IX.E.3 below. Accordingly, in my opinion, CN-470 discloses a cylindrical shape with a flat bottom surface and rounded edges with basically the same design characteristics as the claimed design.

b. Ring

90. As explained above in Section VIII.A.2, the claimed short, flat ring on the cylinder's top surface is a functional element. Therefore, I understand this aspect should be disregarded in the obviousness analysis.

91. If the short, flat ring is considered, the below figures show that CN-470's ring (pink) and the claimed design's ring (blue) provide the same overall visual impression. Exhibit 1001, FIGS. 1, 3; Exhibit 1007, FIGS. 4-8.

D'131 Patent (Exhibit 1001)	CN-470 (Exhibit 1007)
 FIG. 1	 Composite of FIGS. 4-8⁷
 FIG. 3	 FIG. 4
 FIG. 7	 FIG. 6

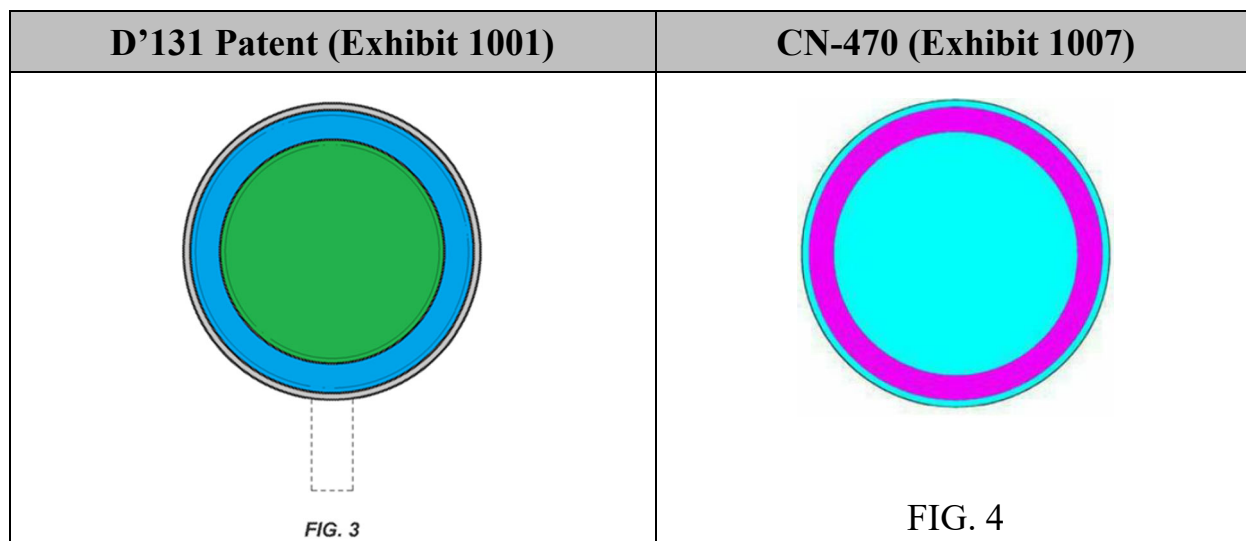
⁷ As explained above, a DOSA would have understood that CN-470's charger would appear as shown in this composite figure when viewed from a top-rear perspective.

92. A DOSA would have understood that any differences between the design of CN-470 and the claimed design would not change the overall visual similarity of CN-470 and the claimed design as a whole. Exhibit 1001, FIGS. 1, 3; Exhibit 1007, FIGS. 4-8. Accordingly, in my opinion, CN-470 discloses a short, flat ring with basically the same design characteristics as the claimed design.

c. Recessed Center Portion

93. As explained above in Section VIII.A.1, the claimed recessed center portion is a functional element. Therefore, I understand that the recessed center portion should be disregarded in the obviousness analysis.

94. If the recessed center portion is considered, the figures below show that the recessed center portion of CN-470 (surrounded by the pink ring) and the claimed design (green) provide the same overall visual impression. Exhibit 1001, FIG. 3; Exhibit 1007, FIG. 4.



A DOSA would have understood that any differences between the design of CN-470 and the claimed design would not change the overall visual similarity of CN-470 and the claimed design as a whole. Exhibit 1001, FIG. 3; Exhibit 1007, FIG. 4. Therefore, in my opinion, CN-470 discloses a recessed center portion with basically the same design characteristics as the claimed design.

95. Accordingly, in my opinion, CN-470 discloses a design with the same basic design characteristics as the claimed design.

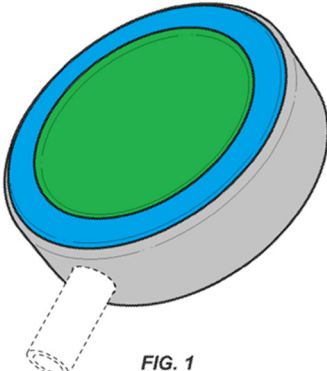
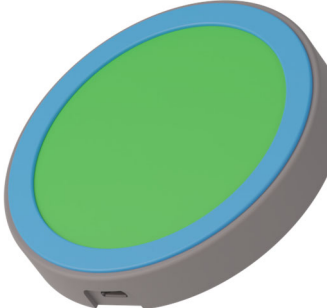
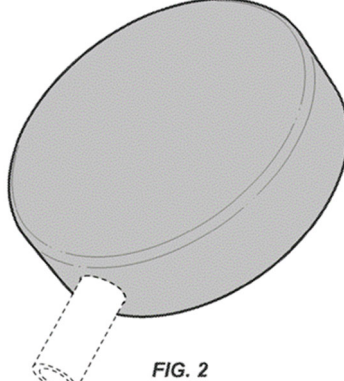
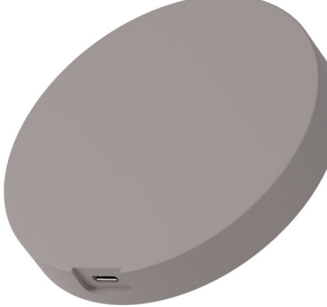
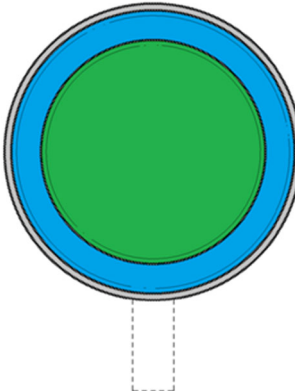
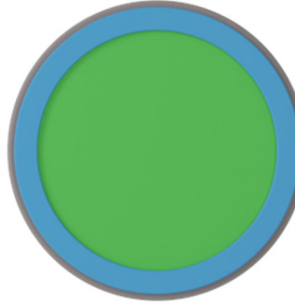
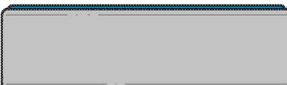
96. Overall, for the reasons above, it is my opinion that CN-470 is an appropriate primary reference because it discloses basically the same visual impression as the claimed design. As shown above, CN-470's only differences compared to the claimed design are that CN-470's design includes (1) a step transition between the cylinder's sidewall and bottom surface and (2) a flat ring on the cylinder's flat bottom surface. However, as shown below, these differences would have been obvious to a DOSA in view of CN-470 alone or in combination with other references. Indeed, removing CN-470's step transition and bottom ring (Ground 3), and combining CN-470 and Chiang (Ground 4) to produce the same result, creates a charger design with the same overall visual appearance as the claimed Apple Watch charger design.

2. The Challenged Claim of the D'131 Patent Would Have Been Obvious to a DOSA Over CN-470

97. The Challenged Claim would have been obvious to a DOSA over CN-470 alone. Specifically, a DOSA would have been motivated to modify the charger of CN-470 to create a charger design providing the same overall visual impression as the design claimed in the D'131 Patent.

98. As explained above in Section IX.B.2, using a continuous cylinder sidewall and a flat bottom surface with CN-470's charger would have been a change that was suggested by the prior art and well within the knowledge, experience, skill, and creativity of a DOSA. And a DOSA would have been motivated to modify CN-470's charger to include a continuous cylinder sidewall and flat bottom surface for the reasons explained above in Section IX.B.2 with respect to making the same modifications based on Lee-616 alone. Further, a DOSA would have understood that any differences between CN-470 and the claimed design would have been changes that were suggested by the prior art and a DOSA would have been motivated to make, for the same reasons explained above in Section IX.B.2 with respect to the ground based on Lee-616 alone.

99. Accordingly, in my opinion, a DOSA would have been motivated to modify CN-470 to create a charger with the same overall visual appearance as the claimed design, as shown below.

D'131 Patent (Exhibit 1001)	CN-470 (Modified)
 FIG. 1	
 FIG. 2	
 FIG. 3	
 FIG. 7	

Thus, in my opinion, the Apple Watch charger design claimed by the D'131 Patent would have been obvious to a DOSA over CN-470.

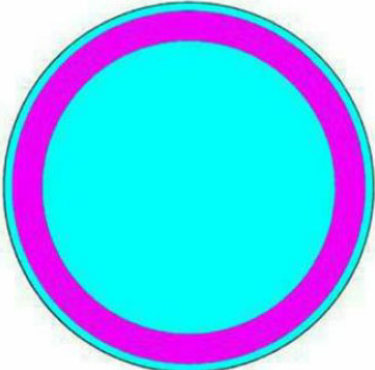
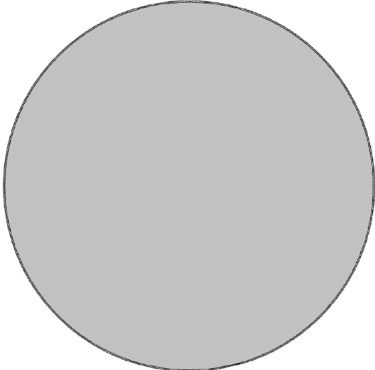
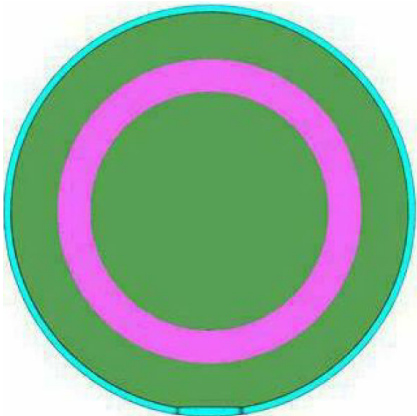
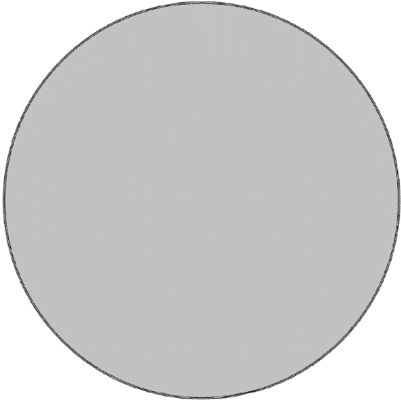
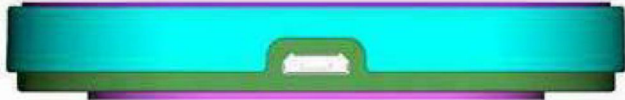
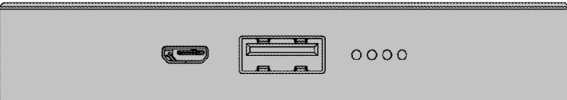
E. [Ground 4] The Challenged Claim of the D'131 Patent Would Have Been Obvious Over CN-470 Combined With Chiang

1. CN-470 is a Primary Reference for the D'131 Patent

100. As shown above in Section IX.D.1, CN-470 is a primary reference.

2. Chiang is an Appropriate Secondary Reference To Combine With CN-470

101. As shown below, the design of Chiang is so related to CN-470's design that the appearance of Chiang's and CN-470's charger would have suggested that a DOSA combine their features. Exhibit 1007, FIGS. 4, 6-7; Exhibit 1009, FIGS. 1-3, 6-7.

CN-470 (Primary)	Chiang (Secondary)
 Exhibit 1007, FIG. 4	 Exhibit 1009, FIG. 6
 Exhibit 1007, FIG. 7	 Exhibit 1009, FIG. 7
 Exhibit 1007, FIG. 6  Exhibit 1007, FIG. 7 (rotated)	  Exhibit 1009, FIGS. 2-3

102. Chiang is closely related to CN-470 because Chiang provides a simple cylindrical design that a DOSA would have understood is suitable for CN-470's charger. As shown above, Chiang's power bank has a cylindrical shape with a

continuous cylinder sidewall and a flat bottom surface. Exhibit 1009, FIGS. 1-3, 7. Chiang's cylinder body has a width-to-height ratio similar to that of CN-470. *Compare* Exhibit 1007, FIGS. 4, 6-7 *with* Exhibit 1009, FIGS. 1-3, 6-7. The similarity between the cylindrical shape and proportions of the designs of Chiang and CN-470 would have suggested using the continuous cylinder sidewall and flat bottom surface of Chiang's design as the cylinder sidewall and bottom surface for CN-470's charger, respectively. Exhibit 1007, FIGS. 4-7; Exhibit 1009, 1-3, 6-7. Moreover, the pervasive use in the prior art of cylindrical chargers with a flat bottom surface and a continuous sidewall between the cylinder's top and bottom surfaces, as in Chiang and as shown above in Section VIII.A.3, would have suggested using those aspects of Chiang's design as the sidewall and bottom surface for CN-470's charger.

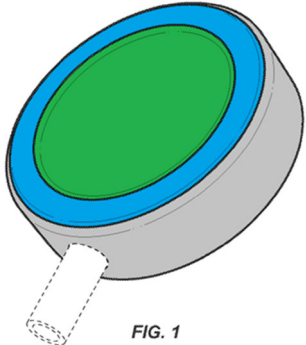
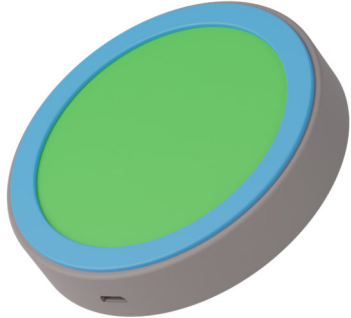
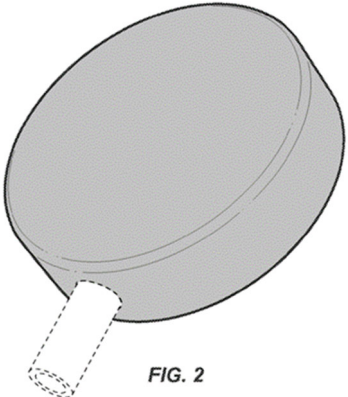
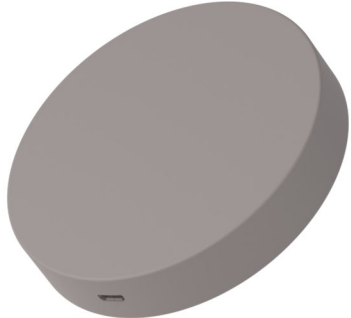
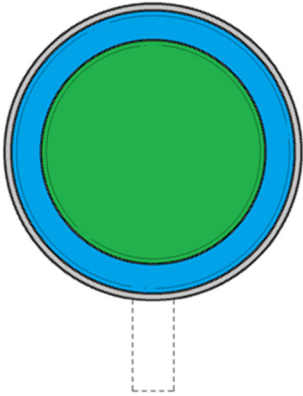
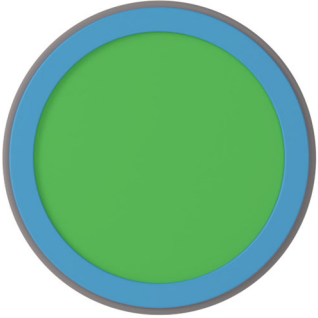
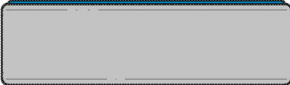
103. Therefore, given the relatedness and similarity of CN-470 and Chiang's designs, the appearance of Chiang's power bank would have suggested the application of its features, including its continuous cylinder sidewall and flat bottom surface, to the design of CN-470's charger. As such, it is my opinion that Chiang is an appropriate secondary reference to combine with CN-470.

3. The Challenged Claim of the D'131 Patent Would Have Been Obvious to a DOSA Over CN-470 Combined with Chiang

104. In my opinion, a DOSA would have been motivated to combine CN-470's charger with Chiang's cylinder sidewall and flat bottom surface. For the same

reasons explained above in Section IX.B.2, combining Chiang's cylinder sidewall and flat bottom surface with CN-470 would have been a change that was suggested by the prior art and well within the knowledge, experience, skill, and creativity of a DOSA. And for the same reasons explained above in Section IX.B.2 with respect to modifying Lee-616 alone, a DOSA would have been motivated to modify CN-470's charger to incorporate Chiang's cylinder sidewall and flat bottom surface. Further, any differences between the proposed combination of CN-470 with Chiang and the claimed design would have been changes that were suggested by the prior art and a DOSA would have been motivated to make, as explained above in Section IX.B.2.

105. Therefore, for the foregoing reasons, it is my opinion that a DOSA would have been motivated to combine CN-470 with Chiang's cylinder sidewall and flat bottom surface, as shown in the composite figures below, to create a charger with the same overall visual appearance as the design claimed by the D'131 Patent. The following composite figures accurately reflect my analysis above and show how a DOSA would have combined CN-470 with Chiang.

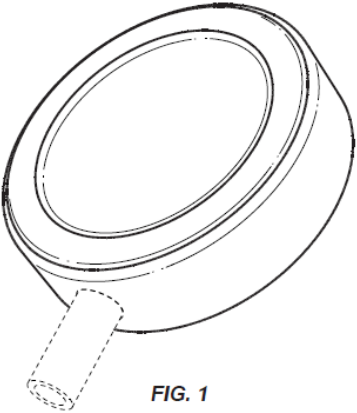
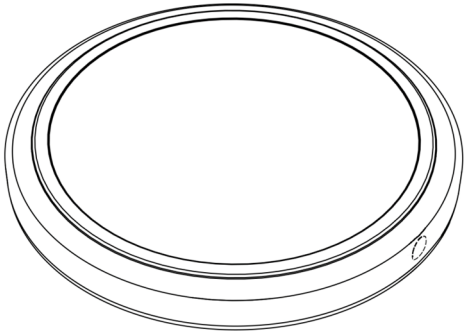
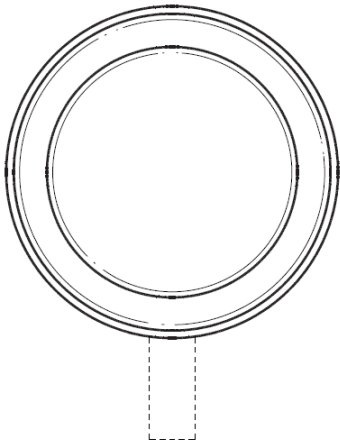
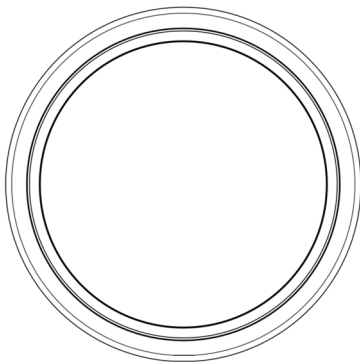
D'131 Patent (Exhibit 1001)	CN-470 Combined with Chiang
 FIG. 1	
 FIG. 2	
 FIG. 3	
 FIG. 7	

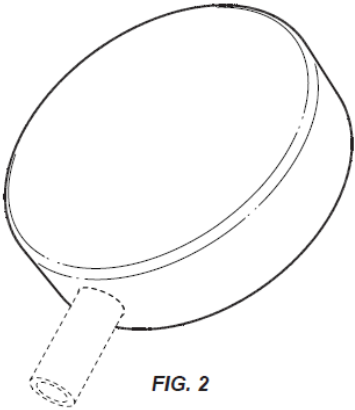
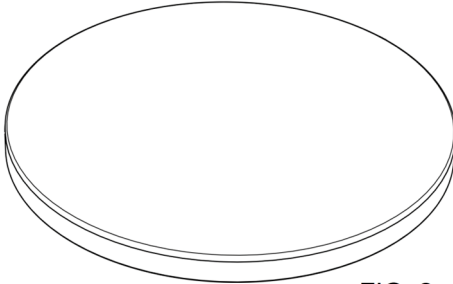
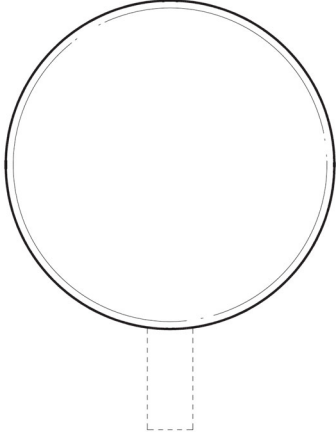
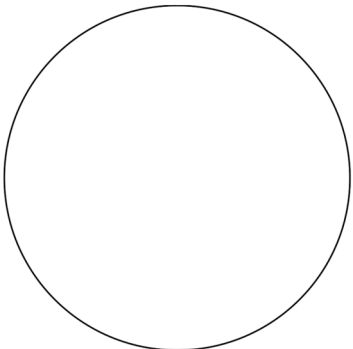
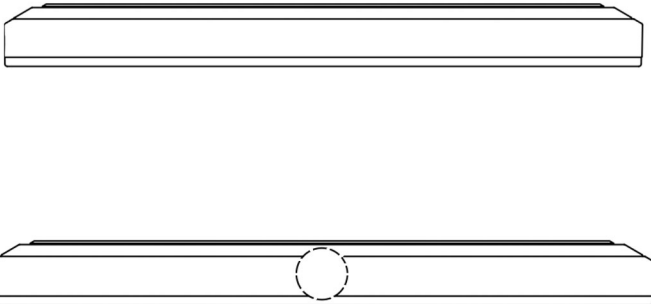
It is thus my opinion that the design claimed by the D'131 Patent would have been obvious to a DOSA over CN-470 and Chiang.

F. [Ground 5] The Challenged Claim of the D’131 Patent Would Have Been Obvious to a DOSA Over Murray

1. Murray is a Primary Reference for the D’131 Patent

106. As shown in the comparison below, the design characteristics of Murray are basically the same as the claimed design:

D’131 Patent (Exhibit 1001)	Murray (Exhibit 1008)
 FIG. 1	 FIG. 1
 FIG. 3	 FIG. 6

D'131 Patent (Exhibit 1001)	Murray (Exhibit 1008)
 FIG. 2	 FIG. 2
 FIG. 4	 FIG. 7
 FIG. 7  FIG. 8	 FIGS. 3-4 (rotated)⁸

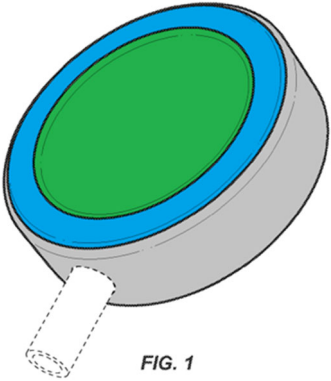
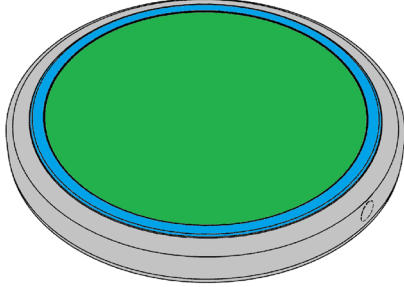
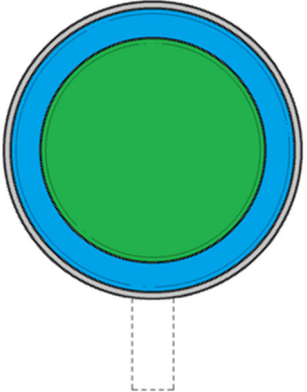
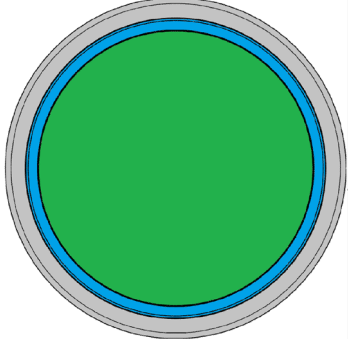
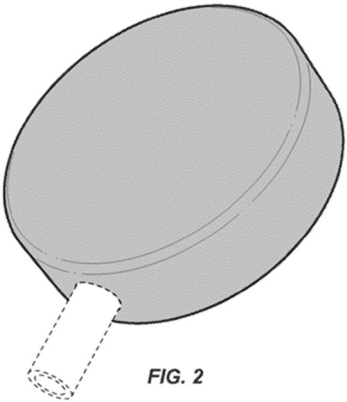
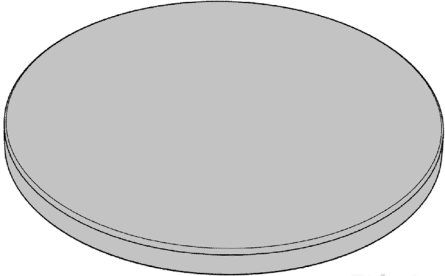
⁸ As explained above in Section IX.A.3, Murray's side views (FIGS. 3-5) have been rotated 180° throughout this Declaration to show Murray's charger right side up.

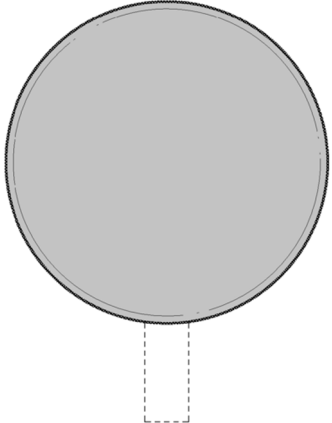
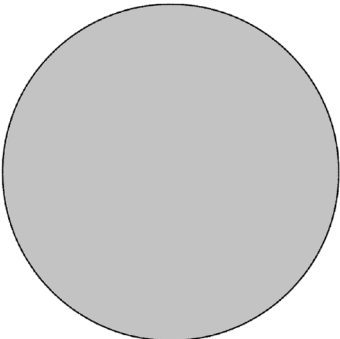
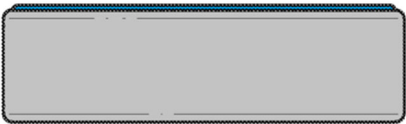
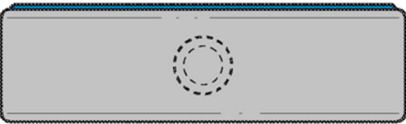
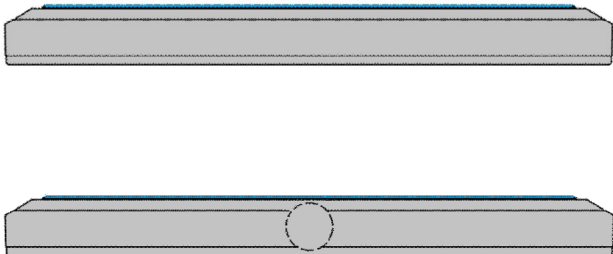
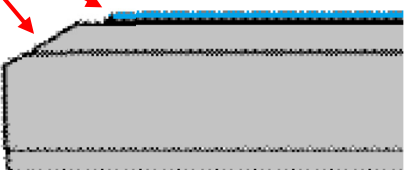
Exhibit 1001, FIGS. 1-4, 7-8; Exhibit 1008, FIGS. 1-7. The above comparison demonstrates that Murray is an appropriate primary reference because its design conveys basically the same overall visual impression as the claimed design. Additionally, the following comparison of the respective design aspects of Murray and the claimed design demonstrates the overall visual similarity between these designs.

a. Cylindrical Shape, Flat Bottom Surface, Rounded Edges

107. As explained above in Section VIII.A.3, the claimed cylindrical shape, flat bottom surface, and rounded edges of the claimed charger are functional elements. Therefore, I understand these aspects should be disregarded in the obviousness analysis.

108. If the claimed cylindrical shape, flat bottom surface, and rounded edges are considered, the designs of Murray and the D’131 Patent provide the same overall visual impression, as shown below Exhibit 1001, FIGS. 1-4, 7-8; Exhibit 1008, FIGS. 1-4, 6, 7.

D'131 Patent (Exhibit 1001)	Murray (Exhibit 1008)
 FIG. 1	 FIG. 1
 FIG. 3	 FIG. 6
 FIG. 2	 FIG. 2

D'131 Patent (Exhibit 1001)	Murray (Exhibit 1008)
 FIG. 4	 FIG. 7
 FIG. 7  FIG. 8	 FIGS. 3-4 (rotated)⁹
 Rounded Top Edges Rounded Bottom Edge FIG. 7 (excerpted)	 Chamfered Top Edges FIG. 4 (rotated, excerpted)

⁹ As explained above in Section IX.A.3, Murray's side views (FIGS. 3-5) have been rotated 180° throughout this Declaration to show Murray's charger right side up.

Murray's charger has an overall cylindrical shape body which has a slightly larger width-to-height ratio than the claimed design. As I explained above in Section IX.B.1.a, any difference in the dimensions or proportions of these cylindrical chargers, including any difference in the width-to-height ratio of Murray and the claimed design, does not change the overall visual similarity of these designs. Exhibit 1001, FIGS. 1-4, 7-8; Exhibit 1008, FIGS 1-7.

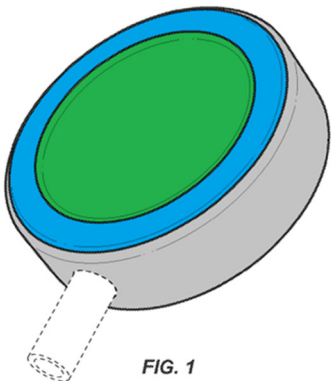
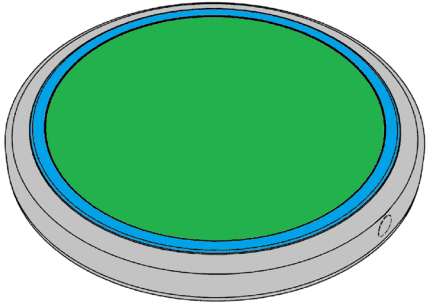
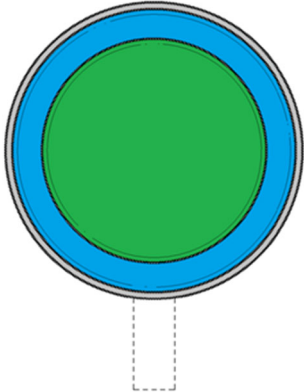
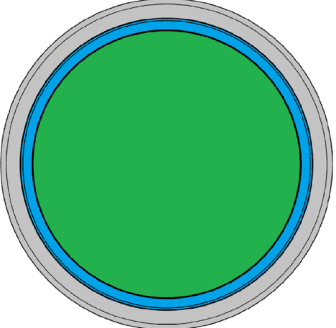
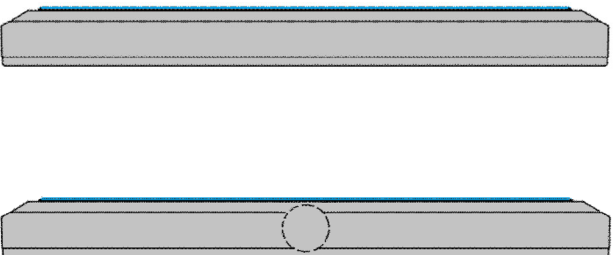
109. Both Murray and the claimed design have a rounded bottom cylinder edge, but Murray's top cylinder edge is chamfered instead of rounded, as shown above. Exhibit 1008, FIG. 4. However, this slight difference does not change the overall visual similarity between Murray and the claimed design, especially since a DOSA would have understood that both rounded and chamfered edges were common transitions for smoothing edges on chargers. *See, e.g.*, Exhibit 1034, FIG. 4 (rounded edge); Exhibit 1029, FIG. 5 (chamfered edge).

110. Any other differences between the claimed design and Murray would have been changes that a DOSA would have been motivated to make, as I have explained in Sections IX.F.2 and IX.G.3 below. Accordingly, in my opinion, Murray discloses a charger design having a cylindrical shape with a flat bottom surface and rounded edges with basically the same design characteristics as the claimed design.

b. Ring

111. As explained above in Section VIII.A.2, the claimed short, flat ring on the cylinder's top surface is a functional element. Therefore, I understand this aspect should be disregarded in the obviousness analysis.

112. If the short, flat ring (blue) of Murray and the claimed design (blue) is considered, the below figures show that Murray and the claimed design each have a ring that provides the same overall visual impression. Exhibit 1001, FIGS. 1, 3, 7-8; Exhibit 1008, FIGS. 1, 3-6.

D'131 Patent (Exhibit 1001)	Murray (Exhibit 1008)
 FIG. 1	 FIG. 1
 FIG. 3	 FIG. 6
 FIG. 7  FIG. 8	 FIGS. 3-4 (rotated)¹⁰

¹⁰ As explained above in Section IX.A.3, Murray's side views (FIGS. 3-5) have been rotated 180° throughout this Declaration to show Murray's charger right side up.

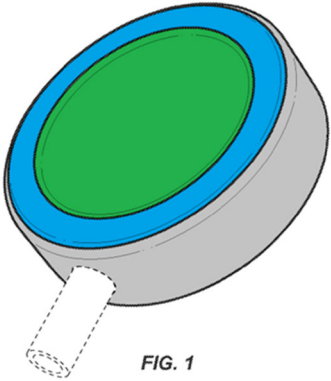
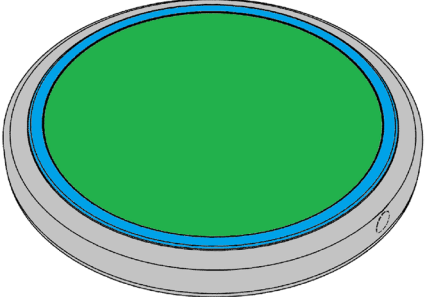
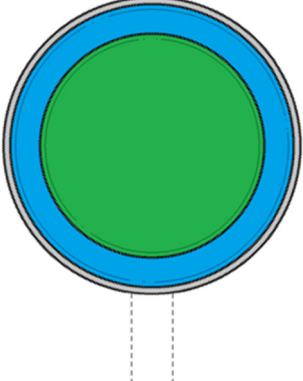
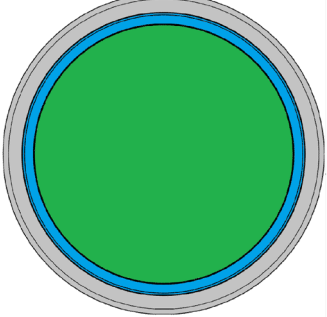
113. Murray's ring is slightly farther from the outermost cylinder sidewall and, in plan view, is slightly narrower (i.e., Murray's ring is thinner) than the claimed design, but those differences, or any difference in the placement or dimensions of the rings of Murray and the claimed design, do not change the overall visual similarity of these designs. Exhibit 1001, FIGS. 1, 3, 7-8; Exhibit 1008, FIGS. 1, 3-6.

114. A DOSA would have understood that any differences between the design of Murray and the claimed design would not change the overall visual similarity of Murray and the claimed design as a whole. Exhibit 1001, FIGS. 1, 3, 7-8; Exhibit 1008, FIGS. 1, 3-6. Therefore, in my opinion Murray discloses a short, flat ring with basically the same design characteristics as the claimed design.

c. Recessed Center Portion

115. As explained above in Section VIII.A.1, the claimed recessed center portion is a functional element. Therefore, I understand that the recessed center portion should be disregarded in the obviousness analysis.

116. If the recessed center portion is considered, the figures below show that the recessed center portion of Murray and the claimed design provide the same overall visual impression. Exhibit 1001, FIGS. 1, 3; Exhibit 1008, FIGS. 1, 6.

D'131 Patent (Exhibit 1001)	Murray (Exhibit 1008)
 FIG. 1	 FIG. 1
 FIG. 3	 FIG. 6

As is reflected in the above comparison table, a DOSA would have understood that any differences between the design of Murray and the claimed design would not change the overall visual similarity of Murray and the claimed design as a whole. Exhibit 1001, FIGS. 1, 3; Exhibit 1008, FIGS. 1, 6. Therefore, in my opinion, Murray discloses a recessed center portion with basically the same design characteristics as the claimed design.

117. Accordingly, in my opinion, Murray discloses a design with the same basic design characteristics as the claimed design.

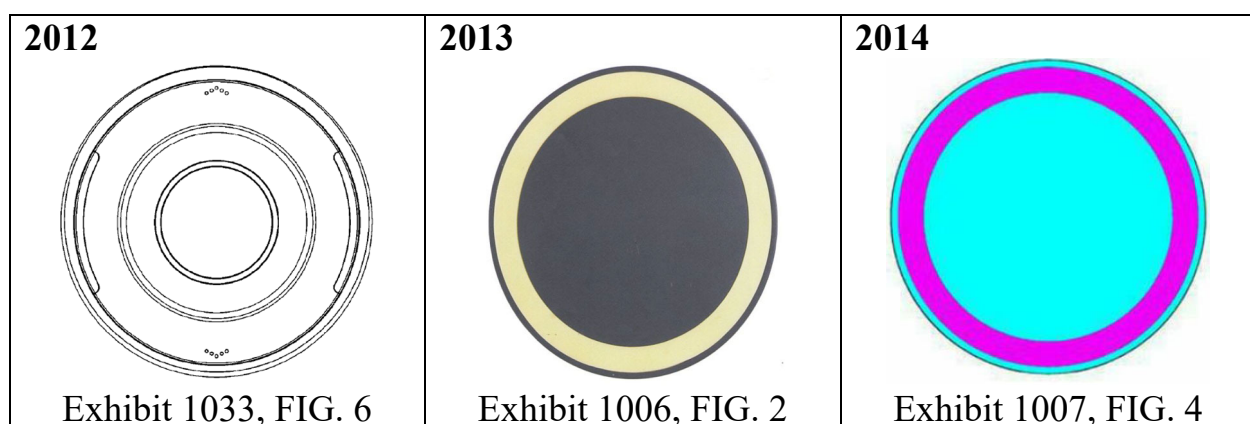
118. Overall, for the reasons above, it is my opinion that Murray is an appropriate primary reference because it discloses basically the same visual impression as the claimed design. As shown above, Murray's only differences compared to the claimed design are that Murray's ring is slightly narrower (less ring thickness) in plan view, and farther from the charger cylinder's outermost edge. However, as shown below, these differences would have been obvious to a DOSA in view of Murray. Indeed, modifying Murray's cylinder sidewall (Ground 5), and combining Murray and Chiang (Ground 6), creates a charger design with the same overall visual appearance as the claimed Apple Watch charger design.

2. The Challenged Claim of the D'131 Patent Would Have Been Obvious to a DOSA Over Murray

119. The Challenged Claim would have been obvious to a DOSA over Murray alone. Specifically, a DOSA would have been motivated to modify the charger of Murray to create a charger design providing the same overall visual impression as the design claimed in the D'131 Patent.

120. For the same reasons explained above in Section IX.B.2, a DOSA would have known to use a continuous cylinder sidewall between the cylinder's top surface and bottom surface with Murray's charger, since it would have been a change that was suggested by the prior art and well within the knowledge, experience, skill, and creativity of a DOSA. And for the same reasons explained above in Section IX.B.2 with respect to modifying Lee-616 alone, a DOSA would have been

motivated to modify Murray's charger to include a continuous cylinder sidewall between the top and bottom cylinder surfaces. Further, modifying Murray's ring to have a greater width (i.e., ring thickness) in plan view would have been a routine change within the knowledge, experience, skill, and creativity of a DOSA because cylindrical chargers with wider (i.e., thicker in plan view) top surface rings like the claimed design were well-known in the art, as shown below.



121. Moreover, a DOSA would have understood that the appropriate width (i.e., thickness, in plan view) of Murray's ring would depend on the surface geometry of the device that Murray's charger was intended to charge, to ensure that the ring enabled the charger to mate and align with the device for optimal wireless charging efficiency. Exhibit 1014 ¶62. Therefore, a DOSA would have been motivated to slightly increase the width (i.e., thickness) in plan view of Murray's ring as needed to enable sufficient mating and alignment with the device intended to be charged. *Id.* Indeed, a DOSA would have understood the need to use an appropriately sized ring from Apple's own prior art patent (below, left), which discloses a charger (gray)

having a flat ring (blue) with approximately the same width as the claimed charger design (below, right). *Id.* Accordingly, a DOSA would have been motivated to modify the ring on Murray’s charger to arrive at a ring width (i.e., thickness) in plan view that provided the same visual impression as the claimed design.

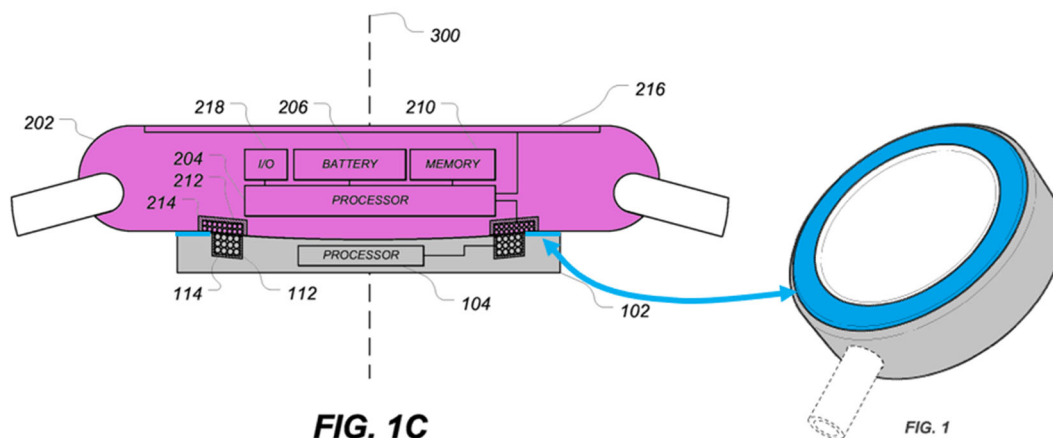


FIG. 1C
Prior Art
(EX1024, FIG. 1C)

FIG. 1
Claimed Design
(EX1001, FIG. 1)

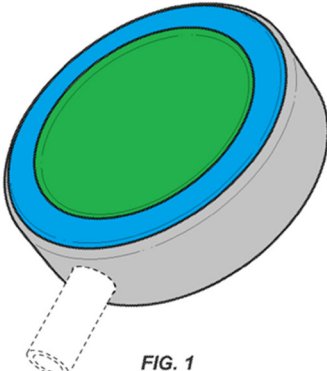
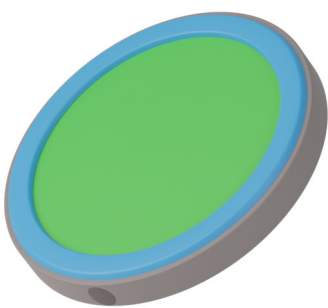
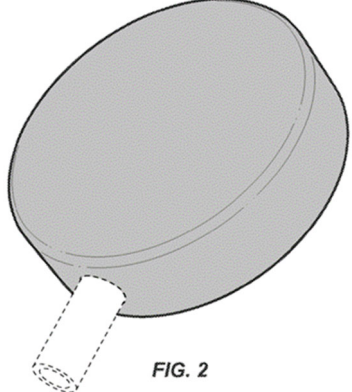
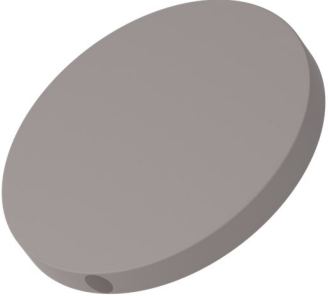
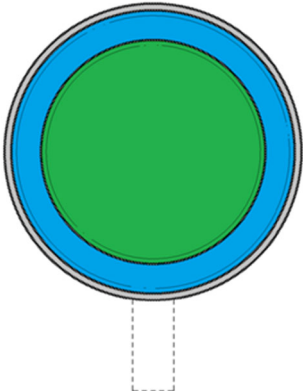
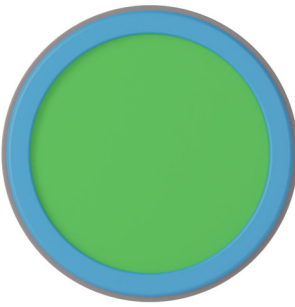
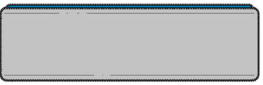
122. For example, Apple’s prior art patent teaches that the above-left (FIG. 1C) charger design allows the charger (gray) to properly mate and align with the device being charged (pink) for efficient charging. Exhibit 1024, FIG. 1C; 8:37-41 (“Preferably, the inductive power transmitter [i.e., charger] 102 and the inductive power receiver [i.e., device being charged] 202 are aligned along a mutual axis 300, as shown in FIG. 1C.”), 8:29-32 (“[P]ower transfer efficiency between the [charger] 102 and the [device being charged] 202 may be optimized when the receive coil 212 [of the device 202] is aligned with the transmit coil 112 [of the charger 102] along a mutual axis.”), 7:14-18 (teaching that the “interface surface 108” of the charger

should be “configured in a particular shape that mates with a complementary shape of the [device] 202”); Exhibit 1014 ¶62. Thus, a DOSA would have understood the mating and alignment benefits of making the short, flat ring of Murray’s charger wider as needed to correctly mate and align with the device being charged.

123. A DOSA also would have been motivated to slightly modify the width of Murray’s short, flat ring as proposed to increase the ring surface area available to support the surface geometry of the device being charged, thereby improving the stability of the device-charger connection.

124. Furthermore, any other differences between Murray and the claimed design would have been changes that were suggested by the prior art and a DOSA would have been motivated to make, for the same reasons explained above in Section IX.B.2.

125. Accordingly, in my opinion, a DOSA would have been motivated to modify Murray to create a charger with the same overall visual appearance as the claimed design, as shown below.

D'131 Patent (Exhibit 1001)	Murray (Modified)
 FIG. 1	
 FIG. 2	
 FIG. 3	
 FIG. 7	

Thus, in my opinion, the Apple Watch charger design claimed by the D'131 Patent would have been obvious to a DOSA over Murray.

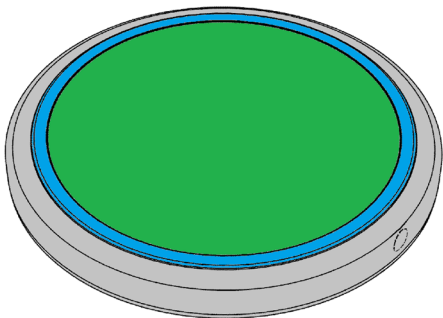
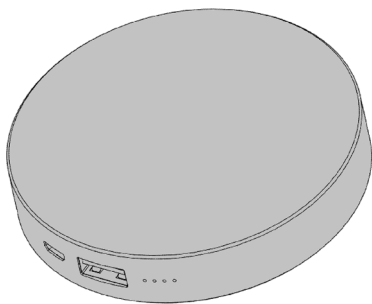
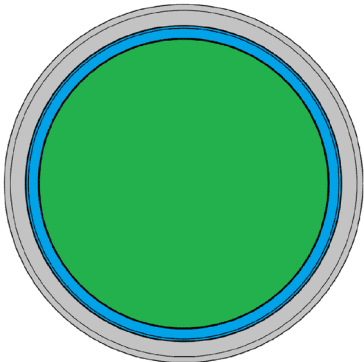
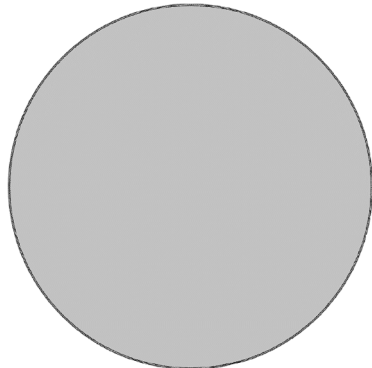
G. [Ground 6] The Challenged Claim of the D’131 Patent Would Have Been Obvious Over Murray and Chiang

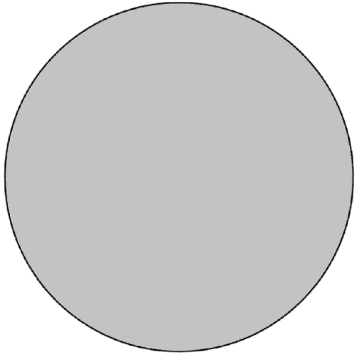
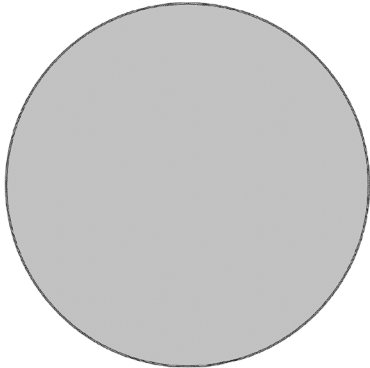
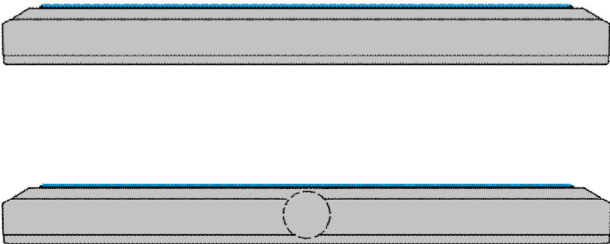
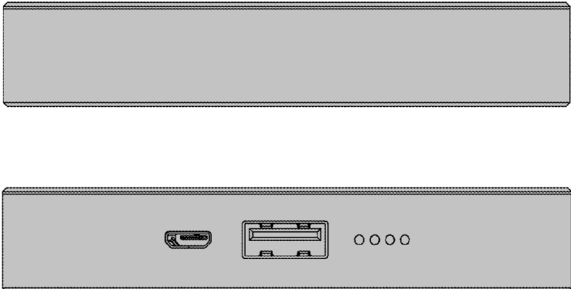
1. Murray Is A Primary Reference for the D’131 Patent

126. As shown above in Section IX.F.1, Murray is a primary reference.

2. Chiang is an Appropriate Secondary Reference To Combine With Murray

127. As shown below, Chiang’s design is so related to Murray’s design that the appearance of Chiang and Murray’s designs would have suggested that a DOSA combine their features. Exhibit 1008, FIGS. 1-8; Exhibit 1009, 1-3, 6-7.

Murray (Primary)	Chiang (Secondary)
 Exhibit 1008, FIG. 1	 Exhibit 1009, FIG. 1
 Exhibit 1008, FIG. 6	 Exhibit 1009, FIG. 6

Murray (Primary)	Chiang (Secondary)
 Exhibit 1008, FIG. 7	 Exhibit 1009, FIG. 7
 FIGS. 3-4 (rotated)¹¹	 Exhibit 1009, FIGS. 2-3

128. Chiang is closely related to Murray because Chiang provides a simple cylindrical design that a DOSA would have understood is suitable for Murray's charger. As shown above, Chiang's power bank and Murray's charger each have a cylindrical shape with a flat bottom surface. Exhibit 1009, 1-3, 6-7; Exhibit 1008, FIGS. 1, 3-4, 6-7. Chiang's cylinder also has a width-to-height ratio similar to that of Murray. *Compare* Exhibit 1009, FIGS. 1-3 *with* Exhibit 1008, FIGS. 1, 3-5. Therefore, the similarity between the cylindrical shape and proportions of the

¹¹ As explained above in Section IX.A.3, Murray's side views (FIGS. 3-5) have been rotated 180° throughout this Declaration to show Murray's charger right side up.

designs of Chiang and Murray would have suggested using the continuous sidewall of Chiang's design as the cylinder sidewall of Murray's charger. Exhibit 1008, FIGS. 1, 3-4, 6-7; Exhibit 1009, 1-3, 6-7. Moreover, the pervasive use in the prior art of cylindrical chargers with a sidewall extending directly from the cylinder's top surface to its bottom surface, as in Chiang and as shown above in Section VIII.A.3, would have suggested using that aspect of Chiang's design as the sidewall for Murray's charger.

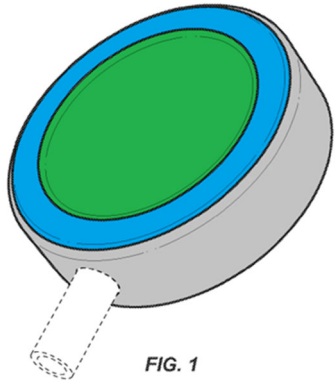
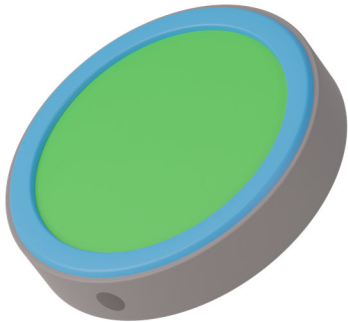
129. Therefore, given the relatedness and similarity of Murray and Chiang's designs, the appearance of Chiang's power bank would have suggested the application of its features, including its continuous cylinder sidewall, to the design of Murray's charger. As such, it is my opinion that Chiang is an appropriate secondary reference to combine with Murray.

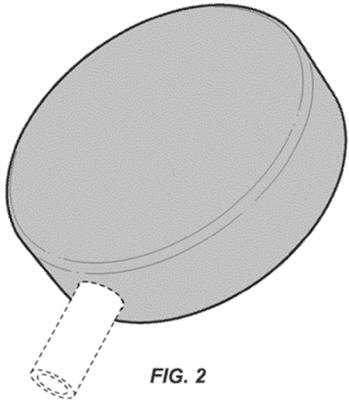
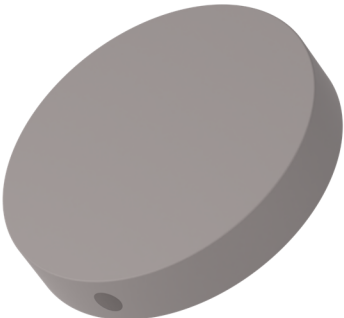
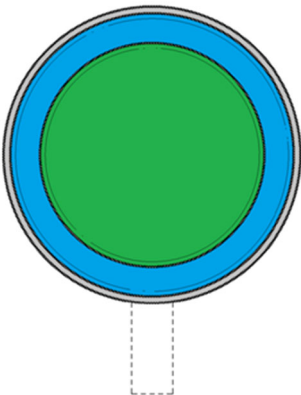
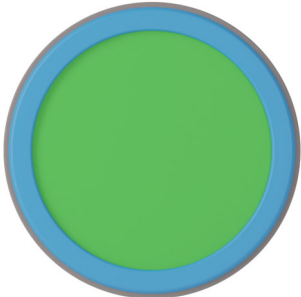
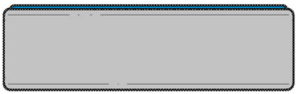
3. The Challenged Claim of the D'131 Patent Would Have Been Obvious to a DOSA Over Murray Combined with Chiang

130. In my opinion, a DOSA would have been motivated to combine Murray's charger with Chiang's continuous cylinder sidewall, as explained below. Combining Chiang's cylinder sidewall with Murray would have been a change that was suggested by the prior art and well within the knowledge, experience, skill, and creativity of a DOSA, for the same reasons explained above in Section IX.B.2. And for the same reasons explained above in Section IX.B.2 with respect to modifying Lee-616 alone, a DOSA would have been motivated to combine Chiang's cylinder

sidewall with Murray's charger. A DOSA would have been further motivated to combine Chiang's cylinder sidewall with Murray's charger as proposed to achieve a design that was simpler and more visually appealing than the long chamfered top edge of Murray. Exhibit 1009, FIG. 3; Exhibit 1008, FIGS. 3-5 (rotated). Any other differences between the proposed combination of Murray and Chiang and the claimed design would have been modifications that were suggested by the prior art and a DOSA would have been motivated to make, for the same reasons explained above in Section IX.B.2.

131. Therefore, for the foregoing reasons, it is my opinion that a DOSA would have been motivated to combine Murray with Chiang's continuous cylinder sidewall, as shown in the composite figures below, to create a charger with the same overall visual appearance as the design claimed by the D'131 Patent. The following composite figures accurately reflect my analysis above and show how a DOSA would have combined Murray with Chiang.

D'131 Patent (Exhibit 1001)	Murray Combined with Chiang
 FIG. 1	

D'131 Patent (Exhibit 1001)	Murray Combined with Chiang
 FIG. 2	
 FIG. 3	
 FIG. 7	

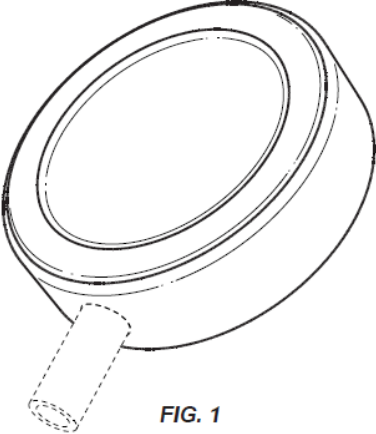
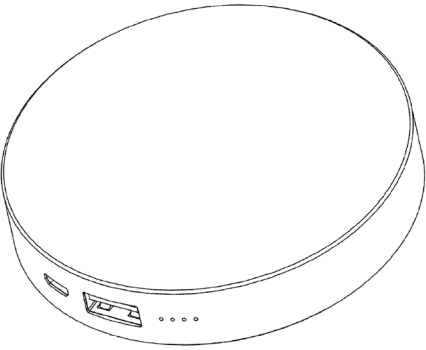
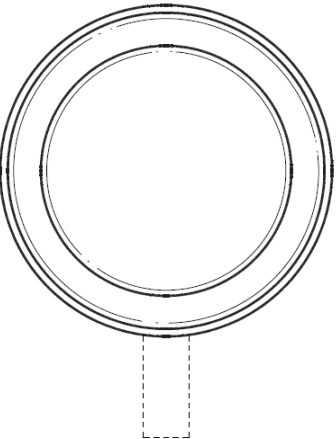
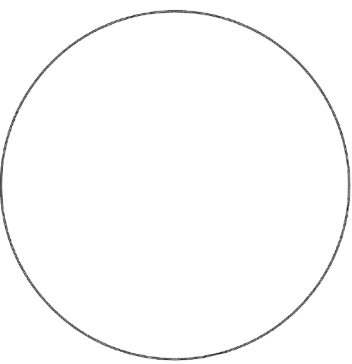
It is thus my opinion that the design claimed by the D'131 Patent would have been obvious to a DOSA over Murray and Chiang.

H. [Ground 7] The Challenged Claim of the D'131 Patent Would Have Been Obvious Over Chiang

1. Chiang is a Primary Reference for the D'131 Patent

132. The claimed Apple Watch charger design includes numerous functional aspects, as explained above in Section VIII.A. If those functional aspects are not

considered, the following table shows that Chiang’s design provides the same overall visual appearance as the claimed design’s non-functional aspects. The following table also shows that any differences between Chiang and the claimed design do not change the overall visual similarity between Chiang and the non-functional aspects of the claimed design.

D’131 Patent (Exhibit 1001)	Chiang (Exhibit 1009)
 FIG. 1	 Exhibit 1009, FIG. 1
 FIG. 3	 FIG. 6

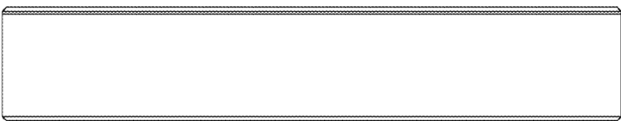
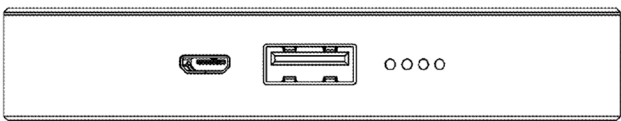
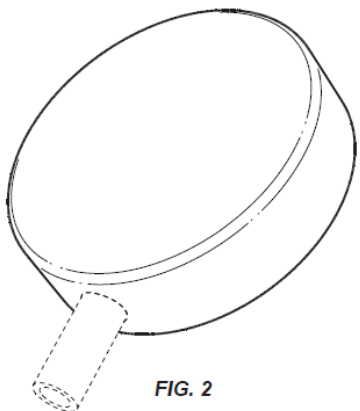
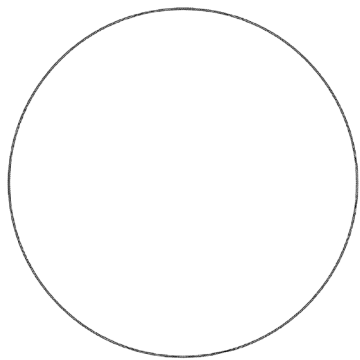
D'131 Patent (Exhibit 1001)	Chiang (Exhibit 1009)
 FIG. 7  FIG. 8	 FIG. 3  FIG. 2
 FIG. 2	 FIG. 7

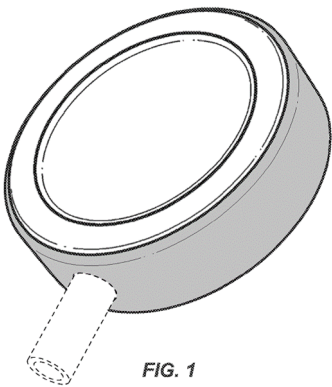
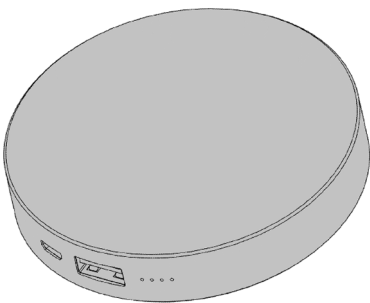
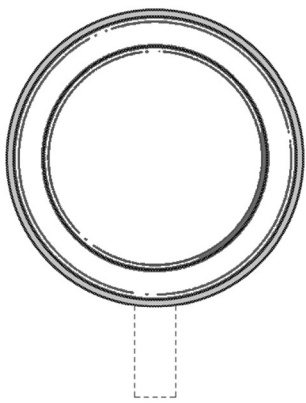
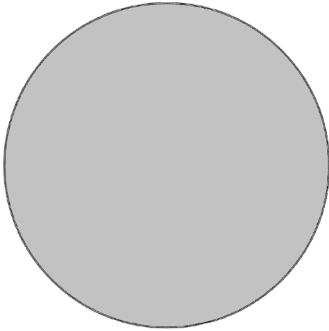
Exhibit 1001, FIGS. 1-3, 7-8; Exhibit 1009, FIGS. 1-7. Chiang is an appropriate primary reference because the above comparison demonstrates that, if the functional aspects of the claimed design are not considered, Chiang's design conveys basically the same overall visual impression as the claimed design. Additionally, the below comparison of Chiang and the non-functional design characteristics of the claimed design demonstrates the overall visual similarity between these designs.

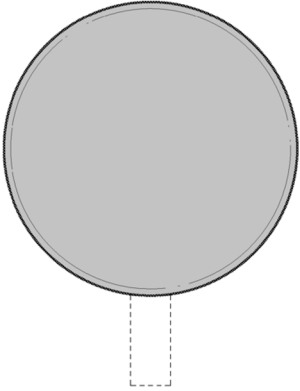
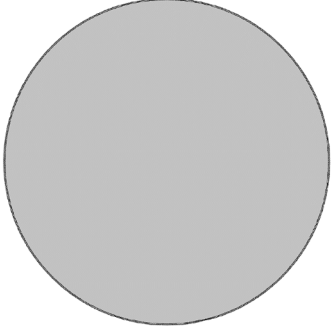
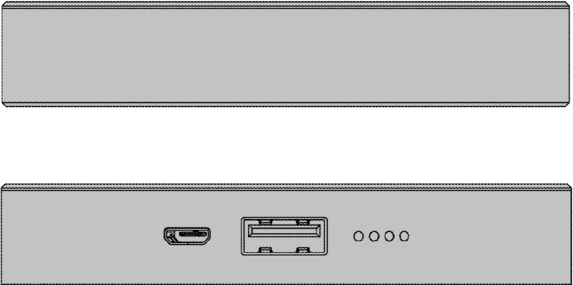
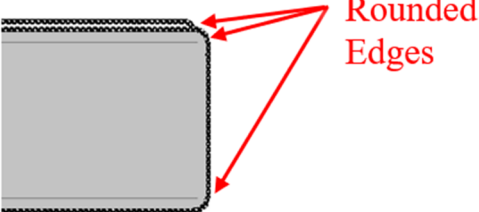
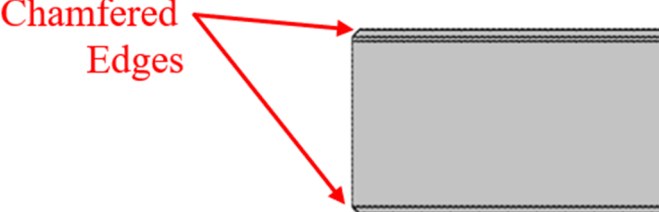
a. Cylindrical Shape, Flat Bottom Surface, Rounded Edges

133. As explained above in Section VIII.A.3, the claimed cylindrical shape, flat bottom surface, and rounded edges of the claimed charger are functional

elements. Therefore, I understand these aspects should be disregarded in the obviousness analysis.

134. If the claimed cylindrical shape, flat bottom surface, and rounded edges are considered, the designs of Chiang and the D'131 Patent provide the same overall visual impression, as shown below. Exhibit 1001, FIGS. 1-3, 7, 8; Exhibit 1009, FIGS. 1-3, 6, 7.

D'131 Patent (Exhibit 1001)	Chiang (Exhibit 1009)
 FIG. 1	 Exhibit 1009, FIG. 1
 FIG. 3	 Exhibit 1009, FIG. 6

D'131 Patent (Exhibit 1001)	Chiang (Exhibit 1009)
 FIG. 4	 Exhibit 1009, FIG. 7
 FIG. 7  FIG. 8	 Exhibit 1009, FIGS. 2-3
 FIG. 7 (excerpted)	 FIG. 3 (excerpted)

Chiang's design has an overall cylindrical shape with a slightly larger width-to-height ratio than the claimed design. As I explained above in Section IX.B.1.a, however, any difference in the dimensions or proportions of the cylindrical shapes of such chargers, including the difference in the width-to-height ratio of Chiang and

the claimed design, does not change the overall visual similarity of these designs. Exhibit 1001, FIGS. 1-4, 7-8; Exhibit 1009, FIGS. 1-3, 6-7.

135. The claimed design has slightly rounded (also referred to as slightly “radiused”) top and bottom edges while Chiang has chamfered top and bottom edges, as shown above. Exhibit 1001, FIG. 7; Exhibit 1009, FIG. 3. However, this difference does not change the overall visual similarity between Chiang and the claimed design, especially since a DOSA would have understood that both rounded and chamfered edges were common transitions for smoothing edges on chargers. *See, e.g.*, Exhibit 1034, FIG. 4 (rounded edge); Exhibit 1029, FIG. 5 (chamfered edge).

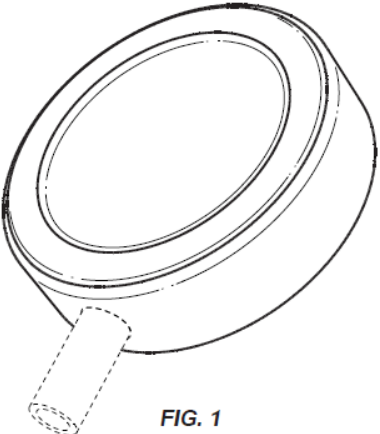
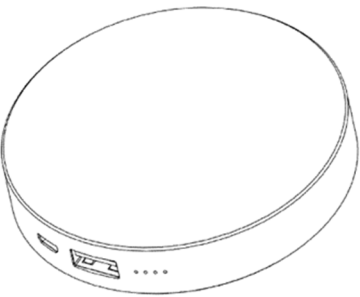
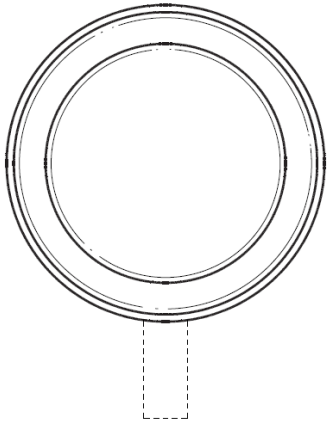
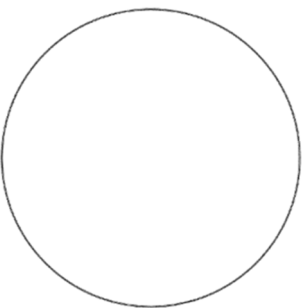
136. Chiang’s cylinder also has a rectangular portion for connecting a cable. Exhibit 1009, FIG. 2. But the cable connection to the charger cylinder is not claimed and should not be considered because the D’131 Patent depicts that aspect in broken lines. Exhibit 1001, FIGS. 1-2, 5-6, 8-9. And even if it was claimed, it is my opinion that, as shown above, Chiang’s cylinder provides the same overall visual impression as the claimed design. Exhibit 1001, FIGS. 1-4, 7-8; Exhibit 1009, FIGS. 1-3, 6-7.

137. Any differences between the claimed design and Chiang would have been changes that a DOSA would have been motivated to make, as I have explained in Section IX.H.2 below. Accordingly, in my opinion, Chiang discloses a basically the same design characteristics as the claimed design.

b. Ring

138. As explained above in Section VIII.A.2, the claimed short, flat ring on the cylinder's top surface is a functional element. Therefore, I understand this aspect should be disregarded in the obviousness analysis.

139. If the short, flat ring of the claimed design is not considered because it is functional, the below figures show that Chiang and the claimed design provide the same overall visual impression. Exhibit 1001, FIGS. 1, 3, 7; Exhibit 1009, FIGS. 1, 3, 6.

D'131 Patent (Exhibit 1001)	Chiang (Exhibit 1009)
 FIG. 1	 FIG. 1
 FIG. 3	 FIG. 6
 FIG. 7	 FIG. 3

140. If the claimed ring is not considered because it is a functional design aspect, the lack of a ring on Chiang's top surface does not change the overall visual similarity of these designs. Exhibit 1001, FIGS. 1, 3, 7; Exhibit 1009, FIGS. 1, 3, 6. In addition, a DOSA would have understood that any other differences between the design of Chiang and the non-functional aspects of the claimed design would not

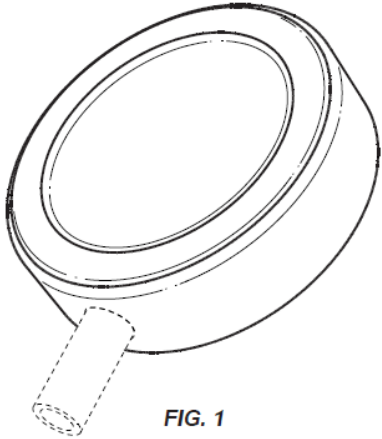
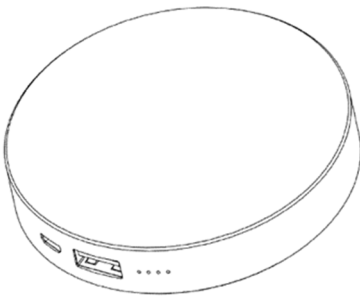
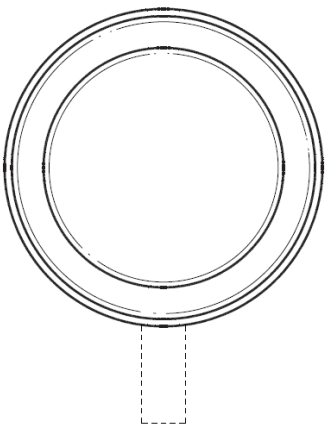
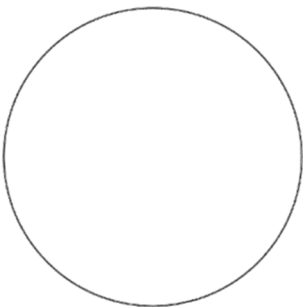
change the overall visual similarity of Chiang and the claimed design as a whole. Exhibit 1001, FIGS. 1, 3, 7; Exhibit 1009, FIGS. 1, 3, 6.

141. Further, any differences between the claimed design and Chiang would have been changes that a DOSA would have been motivated to make, as I have explained in Section IX.H.2 below. Accordingly, in my opinion Chiang discloses basically the same design characteristics as the non-functional aspects of the claimed design.

c. Recessed Center Portion

142. As explained above in Section VIII.A.1, the claimed recessed center portion is a functional element. Therefore, I understand that the recessed center portion should be disregarded in the obviousness analysis.

143. If the recessed center portion is not considered because it is functional, the figures below show that Chiang and the claimed design provide the same overall visual impression. Exhibit 1001, FIGS. 1, 3; Exhibit 1009, FIGS. 1, 6.

D'131 Patent (Exhibit 1001)	Chiang (Exhibit 1009)
 FIG. 1	 FIG. 1
 FIG. 3	 FIG. 6

If the claimed recessed center portion is not considered because it is a functional design aspect, the lack of a recessed center portion on Chiang's top surface does not change the overall visual similarity of these designs. Exhibit 1001, FIGS. 1, 3; Exhibit 1009, FIGS. 1, 6. A DOSA would have understood that any other differences between the design of Chiang and the non-functional aspects of the claimed design would not change the overall visual similarity of Chiang and the claimed design as a whole.

144. Further, any differences between the claimed design and Chiang would have been changes that a DOSA would have been motivated to make, as I have explained in Section IX.H.2 below. Accordingly, in my opinion, Chiang discloses a design with the same basic design characteristics as the non-functional aspects of the claimed design.

145. Overall, for the reasons above, it is my opinion that if the functional aspects of the claimed design are not considered, Chiang is an appropriate primary reference because it discloses basically the same visual impression as the claimed design. And, as I have demonstrated below, modifying the design of Chiang's top surface to include a short, flat ring surrounding a recessed center portion is a modification that would have been obvious to a DOSA based on Chiang alone. As I have explained below, a DOSA would have been motivated to modify Chiang to create a charger design with the same overall visual appearance as the claimed Apple Watch charger design.

2. The Challenged Claim of the D'131 Patent Would Have Been Obvious to a DOSA Over Chiang

146. The Challenged Claim would have been obvious to a DOSA over Chiang alone. Specifically, a DOSA would have been motivated to modify Chiang to create a design providing the same overall visual impression as the design claimed in the D'131 Patent.

147. As explained in the prior section (Section IX.H.1), if the functional aspects of the claimed design are not considered, Chiang's design provides the same overall visual appearance as the non-functional aspects of the claimed design. Exhibit 1001, FIGS. 1-3, 7-8; Exhibit 1009, FIGS. 1-7. Thus, if the functional aspects of the claimed design are set aside, the claimed design would have been obvious to a DOSA over Chiang, without modification.

148. If the functional aspects of the claimed design are considered, the claimed design still would have been obvious to a DOSA over Chiang alone. A DOSA would have understood that modifying Chiang's top surface into a short, flat ring surrounding a recessed center portion was a routine modification that was taught by the prior art, such as Lee-616 (as shown above in Section IX.B.1.b-c), CN-470 (as shown above in Section IX.D.1.b-c), and Murray (as shown above in Section IX.F.1.b-c).

149. A DOSA also would have been motivated to modify Chiang's top surface into a short, flat ring surrounding a recessed center portion. Chiang is closely related to various prior art cylindrical chargers having a top surface with a short, flat ring surrounding a recessed center portion, such as the chargers disclosed by Lee-616 (as shown above in Section IX.C.2), CN-470 (as shown above in Section IX.E.2), and Murray (as shown above in Section IX.G.2). Therefore, the relatedness of Chiang to the prior art designs such as Lee-616, CN-470, and Murray would have

suggested to a DOSA to modify Chiang's top surface into a short, flat ring surrounding a recessed center portion as was known in the prior art.

150. In addition, I understand that it was known to design the top surface of a wireless charger to ensure that it mates and aligns properly with the device to be charged, thereby optimizing the wireless charging efficiency of the wireless charger. Exhibit 1014 ¶62. This understanding is reflected in Apple's prior art patent, which teaches that, for optimal wireless charging efficiency, the top surface of the wireless charger (colored gray below) should be designed as shown in FIG. 1C (below) to properly align with the protruding mating geometry of the Apple Watch-like device (colored pink below) that the charger was intended to charge. Exhibit 1024, 8:37-41 ("Preferably, the inductive power transmitter [i.e., charger] 102 [gray] and the inductive power receiver [i.e., device being charged] 202 [pink] are aligned along a mutual axis 300, as shown in FIG. 1C [below]."); Exhibit 1014 ¶62.

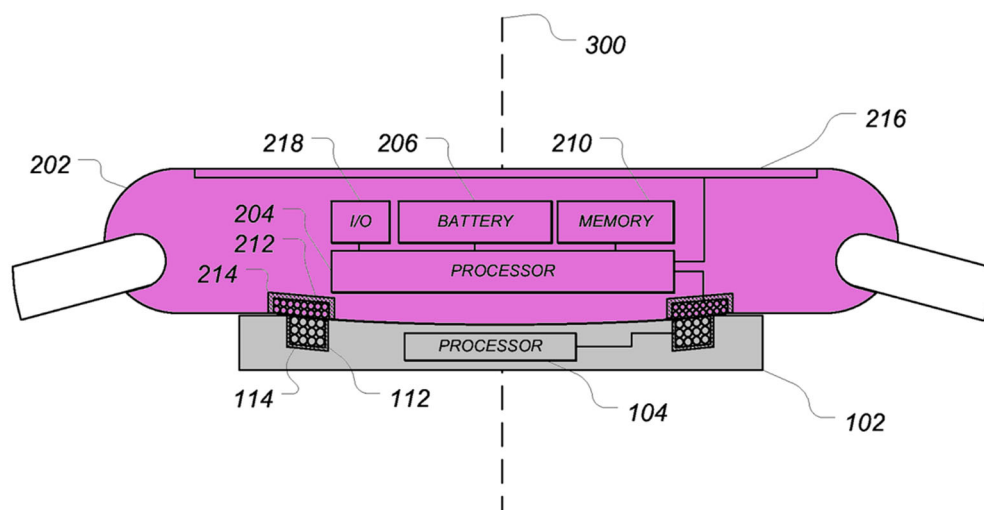
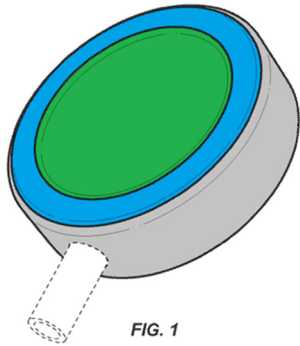
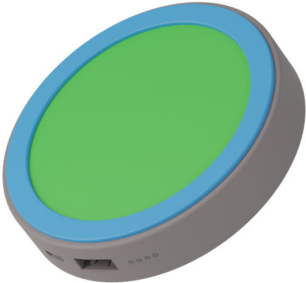
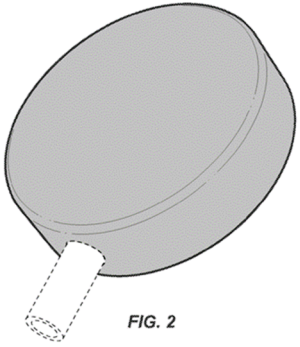
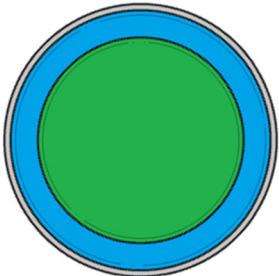
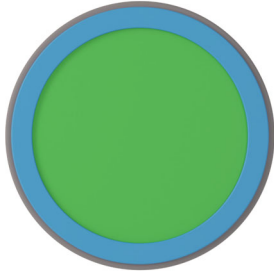
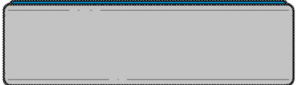


FIG. 1C

Exhibit 1024, FIG. 1C; Exhibit 1014 ¶62. Therefore, when designing a wireless charger, a DOSA would have understood that Chiang's top surface required modification to ensure that it mated and aligned properly with the device it was intended to charge. Exhibit 1014 ¶62. Thus, in view of this understanding, a DOSA would have been motivated to modify Chiang's top surface as proposed to optimize wireless charging efficiency for use with devices that had a protruding mating geometry, such as the Apple Watch-like device that is colored pink above. Exhibit 1014 ¶62; Exhibit 1024, FIG. 1C, 8:29-41.

151. Accordingly, in my opinion, a DOSA would have been motivated to modify Chiang to create a charger with the same overall visual appearance as the claimed design, as shown below.

D'131 Patent (Exhibit 1001)	Chiang (Modified)
 FIG. 1	

D'131 Patent (Exhibit 1001)	Chiang (Modified)
 FIG. 2	
 FIG. 3	
 FIG. 7	

Thus, in my opinion, the Apple Watch charger design claimed by the D'131 Patent would have been obvious to a DOSA over Chiang.

**X. THE LACK OF OBJECTIVE INDICIA OF NONOBVIOUSNESS
SUPPORTS INVALIDITY OF THE CHALLENGED CLAIM**

152. I understand that “secondary considerations” should be considered but do not control an obviousness conclusion, particularly where, as here, a strong showing of obviousness exists. I am not aware that Apple has provided any evidence of secondary considerations, and any such evidence would likely not outweigh the strong case of obviousness demonstrated above in my Declaration. If any such evidence is brought to my attention, however, I will be able to analyze such evidence and weigh it against the evidence of obviousness discussed above. I understand that Masimo reserves the right to respond to any evidence of secondary considerations.

XI. CONCLUSION

153. For these reasons, it is my opinion that the Challenged Claim of the D’131 Patent would have been obvious to a designer of ordinary skill in the art. For the reasons I have explained, Masimo’s IPR petition shows that the Challenged Claim of the D’131 Patent would have been obvious to a designer of ordinary skill in the art at the relevant time in August 2014.