UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K/S HIMPP,
Petitioner

v.

BRAGI GmbH,
Patent Owner

Case: IPR2023-01150
U.S. Patent No. 9,843,853

SECOND DECLARATION OF DR. DARRIN YOUNG, PH.D. IN SUPPORT OF REVISED CONTINGENT MOTION TO AMEND

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I, Dr. Darrin Young, declare as follows:

I. INTRODUCTION

1. I have been retained as an independent expert consultant on behalf of Bragi GmbH ("Patent Owner" or "Bragi") in this *Inter Partes* Review proceeding ("IPR") before the Patent Trial and Appeal Board ("Board" or PTAB") of the United States Patent and Trademark Office ("PTO") regarding U.S. Patent No. 9,843,853 ("the '853 Patent" or "the Challenged Patent") (Ex. 1001).[1]

2. In particular, I have been asked to consider, and provide my opinions regarding, whether the proposed substitute claims 22-42 as provided in the Revised Motion to Amend are patentable. I have also been asked to consider and provide my opinions regarding whether the alleged prior art references cited in this proceeding disclose the features recited in certain claims of the '853 Patent (proposed claims 22-42, corresponding to original claims 1-21, respectively), which I understand K/S HIMPP ("Petitioner") has challenged in this IPR. In my view, the alleged prior art references do neither. This declaration is based on the information currently available to me. To the extent that additional information becomes available, I reserve the right to continue my investigation and study,

[1] In this Declaration, I reference documents by exhibit numbers that, as I understand, are attached to exhibits in this *Inter Partes* Review of the '853 patent.

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which may include review of documents and information that may be produced, as well as testimony from depositions that have not yet taken place. My opinions are set forth below.

3. I submitted a declaration in this proceeding on April 12, 2024 in support of Patent Owner's original Motion to Amend (Paper 12), which I understand has been filed as Exhibit 2001. My background and credentials remain the same as set forth in paragraphs 3-12 of my previous declaration.

4. In paragraphs 13-16 of my previous declaration, I identified the materials I have reviewed in forming my opinions. Since submitting my previous declaration, I have reviewed the Petitioner's Opposition to Patent Owner's Motion to Amend (Paper 23) and supporting exhibits and the Board' Preliminary Guidance: Patent Owner's Motion to Amend (Paper 24).

5. As stated in my previous declaration, I have been asked to consider the time of the alleged invention to be around August 29, 2015, which I understand is the filing date of the application (U.S. Provisional Application No. 62/211,767 to which the '853 patent claims priority (Ex. 1001, Cover). My opinions reflect how a person of ordinary skill in the art (as I define in Section V below) would have understood the claims and the specification of the '853 Patent, the prior art to the patent, and the state of the art, at the time of the alleged invention.

6. In addition, the technical analysis I provide of Petitioner's prior art

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and the ’853 Patent and understanding of the relevant legal standards as expressed in my previous declaration remains accurate to the best of my knowledge and I incorporate it herein (paragraphs 17-78). I provide additional technical analysis to support the Substitute Claims as set forth in the Revised Motion to Amend.

7. As I discuss in detail below, it is my opinion that the proposed Substitute Claims of the ’853 Patent are patentable, and that the limitations of the proposed Substitute Claims are not disclosed by the prior art references cited by Petitioner in this *Inter Partes* Review and Petitioner’s Opposition to Patent Owner’s Motion to Amend (Paper 23).

II. PERSON OF ORDINARY SKILL IN THE ART (POSITA)

8. All of my opinions in this declaration are from the perspective of a person of ordinary skill in the art, as I have defined it in my previous declaration (Ex. 2001) and during the relevant time frame (e.g., 2015, including August 29, 2015). During this time frame, I possessed at least the qualifications of a POSITA, as defined in my first declaration (Ex. 2001).

III. THE ’853 PATENT

9. The ’853 Patent discloses a system in which one or more wireless earpieces interact with a smart case in order to preserve battery life, by entering a low power mode when the one or more earpieces are detected in the case, or a high power mode when the one or more earpieces are not detected in the case,

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presumably removed by the user to play audio.

10. Figure 1 of the ’853 Patent, reproduced below, demonstrates some of the novel aspects in a particular embodiment. As shown below, the invention claimed in the ’853 Patent allows one or more wireless in-ear earpieces to interact with a smart case comprising a rechargeable battery capable of being utilized to charge a wireless earpiece to perform various actions. For example, the ’853 Patent provides multiple functionalities for interaction including utilizing the smart case to preserve the battery life of the wireless earpieces while in a low power mode or state and ensuring charging of the earpieces to a desired level, overcoming the interference from headphone wires.

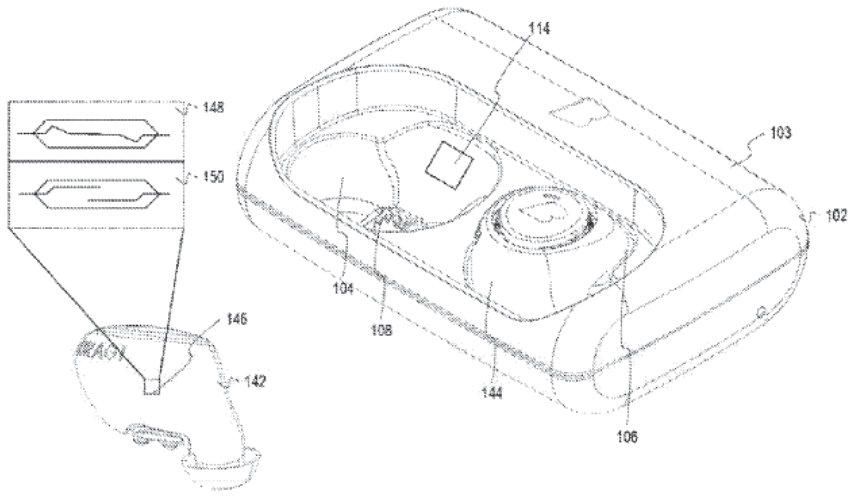


FIG. 1

Ex-1001, Fig. 1.

11. The ’853 Patent discloses a reed switch which is an electrical switch

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operated by an applied magnetic field, provided by a magnet of the smart case which turns the wireless earpieces on and off. Ex-1001, 2:52-62; Figure 1. The wireless earpiece may operate in a variety of power modes. For example, the wireless earpiece may operate in a power saver or a low power mode, in which the wireless earpiece utilizes minimal power to maintain functionality and alert status of the wireless earpiece. *Id.* at 10:15-36. The wireless earpiece may also operate in a high-power mode, which is implemented upon detecting that the wireless earpieces have been removed from the smart case. *Id.*

12. The ’853 Patent system comprises one or more wireless earpieces and a smart case. The wireless earpieces may be referred to as a pair or singularly. Ex-1001, 3:1-3. The wireless earpieces are configured to fit into a user’s ear. *Id.* at 3:5-11.

13. The smart case is configured to receive the wireless earpieces such that they fit securely inside of the smart case. *Id.* at 3:55-60. The smart case comprises a rechargeable battery utilized to charge the wireless earpieces. *Id.* at 3:31-34. The wireless earpieces may be charged via direct contact or wirelessly.

14. The reed switch operates in a closed mode when no magnetic field is present or in an open mode when a magnetic field is present. *Id.* The magnetic field is supplied by one or more magnets of the smart case, such that the reed switch is in the closed mode when the wireless earpieces are outside of the smart

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case and in an open mode when the wireless earpieces are in the smart case. *Id.* When the reed switch is in the open mode indicating that the wireless earpieces are in the smart case, the wireless earpieces may be charged by the smart case. *Id.* at 5:39-47. When the wireless earpieces are removed from the case for use, the reed switch is in a closed mode, which results in the wireless earpieces functioning under their own power. *Id.* The reed switch may initiate a self-power (or high power) mode when deactivated (closed) by the magnet of the smart case. *Id.* at 8:1-21. As a result, the wireless earpieces may be fully activated and ready for use.

15. In operation, the wireless earpieces interface with a smart case. The process begins with one or more wireless earpiece determining whether a magnetic field is present. This determination may be based on the interaction of a magnet or magnetic field with a reed switch of the wireless earpiece. If the magnetic field is not present, the wireless earpiece remains powered on and the reed switch remains closed. When in this state, the onboard battery of the wireless earpiece powers and operates the wireless earpiece to ensure full functionality. Ex-1001, 8:32-53. If a magnetic field is present, the reed switch is opened and the wireless earpiece enters low power mode to preserve battery life.

II. CLAIM CONSTRUCTION

16. I understand that claim terms are typically given their ordinary and customary meaning, as would have been understood by a person of ordinary skill

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in the art at the time of the alleged invention. In considering the meaning of the claims, I also understand that one must consider the claim language, specification, prosecution history, and the knowledge of a person of ordinary skill in the art at the relevant time. I do not believe any terms require construction in the present matter.

III. OVERVIEW OF ALLEGED PRIOR ART REFERENCES

17. In its Petition (Paper No. 1), Petitioner presents seven grounds challenging claims 1-21 using various combinations of Brown, Hain, Steinbrecher, Shaffer, and Sorensen I have described these various references in paragraphs 49-54 in my initial declaration. I incorporate those descriptions herein.

IV. PATENT OWNER'S SUBSTITUTE CLAIMS ARE PATENTABLE

18. I understand that Patent Owner has proposed potentially substituting claims as listed below. The proposed amendments rewrite each of claims 1-21 as proposed substitute claims 22-42. The proposed substitute claims do not broaden the claim scope or introduce new subject matter. The proposed claim amendments further limit the method and/or system of each of these claims by adding additional functionalities. These amendments further distinguish the claims over the prior art, narrowing the claim scope. The claims are patentable over Petitioner's prior art references. Further, as I discuss below, a POSITA would have understood that the inventor possessed the substitute claims as of the priority date, and would have

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been sufficiently enabled in how to make and use the invention recited in the Substitute Claims. As discussed below, I find that Patent Owner's proposed substitute claims are patentable.

A. Proposed Substitute Claims

19. According to Patent Owner's proposal, I understand that the original claims in the '853 Patent may be canceled and replaced with the proposed Substitute Claims. I have been asked to evaluate these proposed substitute claims. I understand that these are not currently claims in the '853 Patent. I am informed by Counsel that the underlined text is proposed to be added to the original claims, and text that is struck through is proposed to be removed from the original claims.

Claim 22. [Proposed substitute for claim 1] A method for managing wireless earpieces, comprising:

powering circuitry of the wireless earpieces utilizing a high ~~poser~~ power mode in response to detecting a magnetic field is not applied to one or more of the wireless earpieces;

wherein a portion of the wireless earpieces fits within the ear canal opening and the wireless earpieces are configured to read user biometrics, and

altering the power sent to the circuitry of the wireless earpieces to a low power mode in response to detecting a magnetic field is applied to one or more of the

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wireless earpieces.

Claim 23. [Proposed substitute for claim 2] The method of claim ~~1~~22, further comprising:

operating the wireless earpieces utilizing an onboard battery in response to detecting the magnetic field is not applied to one or more of the wireless earpieces.

Claim 24. [Proposed substitute for claim 3] The method of claim ~~1~~22, further comprising:

charging an onboard battery of the wireless earpieces in response to detecting a magnetic field is applied to the wireless earpieces.

Claim 25. [Proposed substitute for claim 4] The method of claim ~~1~~22, wherein the magnetic field is applied by a magnet of a smart case configured to receive the wireless earpieces.

Claim 26. [Proposed substitute for claim 5] The method of claim ~~1~~22, wherein the magnetic field is detected by a reed switch of the wireless earpieces.

Claim 27. [Proposed substitute for claim 6] The method of claim ~~1~~22, further comprising:

coupling the wireless earpieces to interfaces of a smart case, wherein the smart case comprises a rechargeable battery configured to charge the wireless earpieces and applies a magnetic field to one or more of the wireless earpieces.

Claim 28. [Proposed substitute for claim 7] The method of claim ~~1~~22,

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wherein the magnetic field is detected by a reed switch integrated in magnetic contacts that interface with a smart case, the smart case comprising a rechargeable battery configured to charge the wireless earpieces, for securing the wireless earpieces.

Claim 29. [Proposed substitute for claim 8] The method of claim ~~1~~22, further comprising:

synchronizing data between the wireless earpieces and a smart case, the smart case comprising a rechargeable battery configured to charge the wireless earpieces, in response to detecting the magnetic field.

Claim 30. [Proposed substitute for claim 9] The method of claim ~~1~~22, wherein the low power mode is a power saver mode.

Claim 31. [Proposed substitute for claim 10] A wireless earpiece, comprising:

circuitry operating the wireless earpiece, wherein a portion of the wireless earpiece fits within the ear canal opening and the wireless earpiece is configured to read user biometrics, and

a battery powering the circuitry of the wireless earpiece; and

a reed switch connecting the battery to the circuitry, wherein:

the reed switch connects the circuitry to the battery when a magnetic field is not detected;~~, and wherein~~

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the reed switch disconnects the circuitry from the battery when a magnetic field is detected.

Claim 32. [Proposed substitute for claim 11] The wireless earpiece of claim ~~10~~31, ~~wherein the magnetic field is applied by a smart case;~~

wherein the smart case is configured to receive the wireless earpiece,

and powers the wireless earpiece when received in the smart case.

Claim 33. [Proposed substitute for claim 12] The wireless earpiece of claim ~~10~~31, further comprising:

magnetic contacts in connection with the circuitry and the battery that interface with a smart case to charge the battery.

Claim 34. [Proposed substitute for claim 13] The wireless earpiece of claim ~~10~~33, wherein the wireless earpiece synchronizes data with the smart case.

Claim 35. [Proposed substitute for claim 14] The wireless earpiece of claim ~~10~~31, wherein the wireless earpiece alters a power level of the wireless earpiece in response to the reed switch detecting the magnetic field.

Claim 36. [Proposed substitute for claim 15] The wireless earpiece of claim ~~10~~31, wherein the wireless earpiece updates software of the wireless earpiece in response to detecting the magnetic field.

Claim 37. [Proposed substitute for claim 16] The wireless earpiece of claim ~~10~~31, wherein the circuitry includes logic that alters a power state of the wireless

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earpiece in response to detecting the magnetic field and a startup process in response to not detecting the magnetic field after having detected the magnetic field.

Claim 38. [Proposed substitute for claim 17] A system comprising the wireless earpiece of claim ~~10~~31, wherein the wireless earpiece is a left earpiece and a smart case for charging the left earpiece, the smart case comprising:

a smart case housing;

a first receptacle for receiving the left earpiece disposed within the smart case housing;

a second receptacle for receiving a right earpiece disposed within the smart case housing;

a first interface associated with the first receptacle for electrically connecting the smart case to the left earpiece;

a second interface associated with the second receptacle for electrically connecting the smart case to the right earpiece;

an intelligent control disposed within the smart case housing and operatively connected to the first interface and the second interface.

Claim 39. [Proposed substitute for claim 18] The system of claim ~~17~~38 wherein the smart case further comprises a display.

Claim 40. [Proposed substitute for claim 19] The system of claim ~~18~~39 wherein the display is moveably connected to the smart case to transition from a first

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position to a second position.

Claim 41. [Proposed substitute for claim 20] The system of claim ~~19~~40 wherein the smart case further comprises at least one manual input for receiving user input to provide additional functionality.

Claim 42. [Proposed substitute for claim 21] A system comprising:

a first wireless earpiece, comprising:

circuitry operating the first wireless earpiece;

wherein a portion of the wireless earpiece fits within the ear canal opening and the wireless earpiece is configured to read user biometrics, and

a battery powering the circuitry of the first wireless earpiece; and

a switch connecting the battery to the circuitry, wherein the switch connects the circuitry to the battery when a magnetic field is not detected, and wherein the switch disconnects the circuitry from the battery when a magnetic field is detected;

a smart case for charging the first wireless earpiece and a second wireless earpiece, the smart case comprising:

a smart case housing;

a first receptacle for receiving the first wireless earpiece disposed within the smart case housing;

a second receptacle for receiving the second wireless earpiece disposed within

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the smart case housing;

a first interface associated with the first receptacle for electrically connecting the smart case to the first wireless earpiece;

a second interface associated with the second receptacle for electrically connecting the smart case to the second wireless earpiece;

an intelligent control disposed within the smart case housing and operatively connected to the first interface and the second interface.

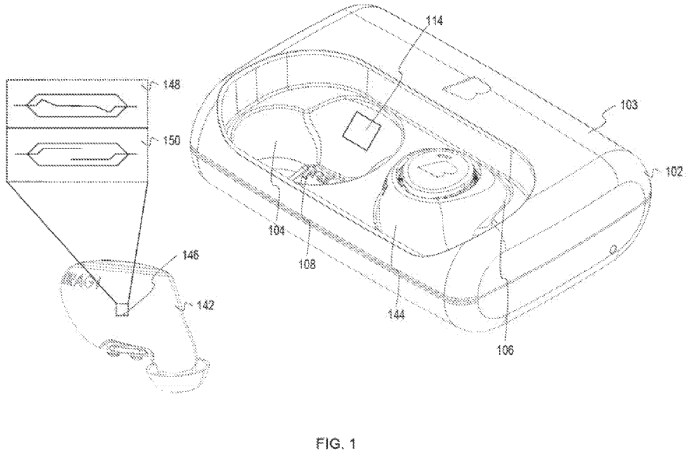
B. The Original Application for the '853 Patent Includes Support for the Proposed Substitute Claims

20. I have been asked to provide my opinions regarding whether the proposed substitute claims are supported by the original application for the '853 Patent. In performing this analysis, I have applied the plain and ordinary meaning of the terms. I include exemplary citations to the original application for both the existing limitations of the claims and the limitations added by each proposed substitute claim. The '853 patent issued from U.S. Patent Application No. 16/245,031 ("the '031 Application"), which is found at pages 1-36 of Exhibit 1008.

21. As noted above, the Substitute Claims rewrite claims 1-21 with additional limitations. The following features, found in the Substitute Claims, were supported by the '031 Application. A POSITA would have found that the inventor was in the possession of the features (and each claim as a whole) at the time of

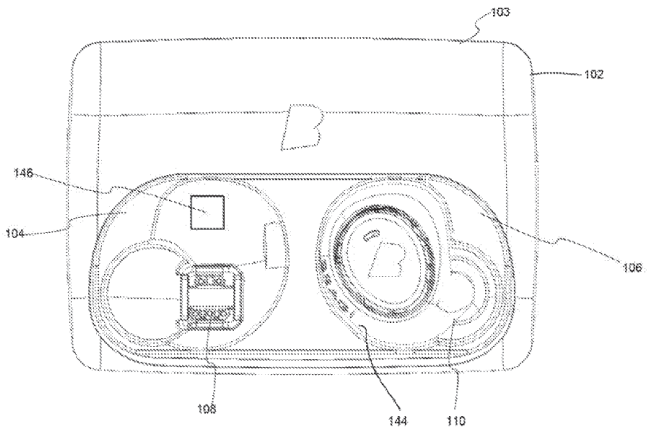
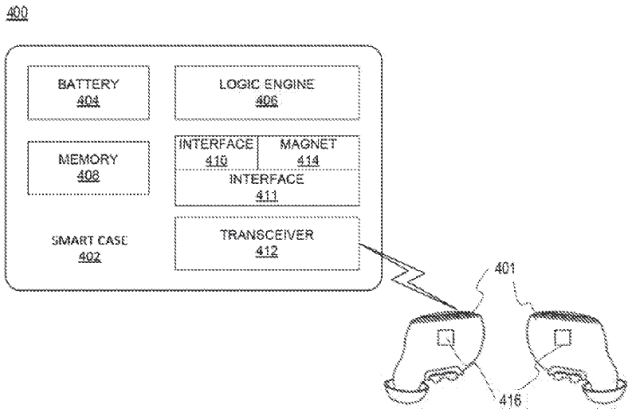
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filing the ’031 Application.

Claim Limitation	Proposed Substitute Claims	Support from Original U.S. Application for the ’853 Patent
Wherein a portion of the wireless earpiece fits within the ear canal opening[2]	22-29, 31-38, 42	In one embodiment, the wireless earpieces 142, 144 include a set of left and right ear pieces configured to fit into a user’s ears. [4:19-20]  FIG. 1 Figure 1

[2] The substitute claims include the limitation “wherein a portion of the wireless earpiece fits within the ear canal opening.” *See, e.g.*, Appx A, substitute claim 22; *see* ¶ 19, *supra*. This additional limitation provides clarity as to the location of the earpiece within the ear and how much of the wireless earpiece should be within the ear. This addresses Petitioner’s allegations that Patent Owner’s previous “in-ear” limitation is indefinite. *See* Petitioner’s Opposition at 6; Preliminary Guidance at 7.

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		 FIG. 2 Figure 2  FIG. 4 Figure 4
Wherein the wireless earpiece(s) . . . is configured to read user biometrics	22-29, 31-38, 42	The wireless earpieces 142, 144 may be configured to play music or audio, receive and make phone calls or other communications, read user biometrics and actions (e.g., heart rate, motion, sleeping, etc.). [4:20-4:22]

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		In another embodiment, biometric readings, such as heartbeat or temperature may be utilized by the wireless earpieces 142, 144 and smart case 102 to alter the power mode or status of the wireless earpieces 142, 144, as well as the smart case 102 (e.g., may be placed in a low power mode). For example, if the wireless earpieces 142, 144 are near the smart case 102 and no heartbeat is detected, the smart case 102 may send a command for the wireless earpieces 142, 144 to shut themselves down or enter a low power mode with minimum functionality. In one embodiment, power to onboard sensory arrays may be terminated and only essential functions remain on. For example, in the low power mode allows charging of the wireless earpieces 142, 144 and/or smart case 102 and uploads/downloads to the wireless earpieces 142, 144 while in the low power mode. [7:27-8:8]
wherein the smart case comprises a rechargeable battery configured to charge the wireless earpieces	27-29	The smart case 102 encloses a battery, and various other circuitry (not shown). The battery of the smart case 102 may be utilized to charge the wireless earpieces 142, 144 through direct contact or wirelessly. As a result, the smart case 102 may act as a custom charger for ensuring the proper power management and functionality of the wireless earpieces 142, 144. For example, the battery of the smart case 102 may be utilized to charge the wireless earpieces 142, 144 any number of times before the smart case 102 and corresponding battery may require charging. In one embodiment, the smart case 102 may include one or more solar panels, or surfaces configured to charge the smart case 102 utilizing ambient or direct sunlight. The smart case 102 ensures that the duty cycle of the wireless earpieces 142, 144 are maximized by properly maintaining power

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		levels. For example, the smart case 102 may keep the wireless earpieces 142, 144 fully charged during a time period of inactivity, such as before being purchased (e.g., on a shelf or as part of inventory) or once purchased. [5:3-15] The smart case includes interfaces 108, 110 within the receptacles 104, 106. The interfaces 108, 110 are hardware interfaces for electrically connecting the wireless earpieces 142, 144 to the smart case 102. The interfaces 108, 110 may include any number of contact points, busses, wires, or other physical connectors for interfacing the wireless earpieces 142, 144, with the smart case 102. The interfaces 108, 110 may alternatively include inductive chargers for charging the wireless earpieces 142, 144. In one embodiment, the interfaces 108, 110 are magnetic for automatically coupling with contact points or interfaces of the wireless earpieces 142, 1144. In another embodiment, the interfaces 108, 110 may represent male (or alternatively female) connectors for interfacing with the wireless earpieces 142, 144, such as micro-USB, or other developing miniature external connectors. The interfaces 108, 110 may be utilized to charge the wireless earpieces 142, 144. Wireless charging is also contemplated utilizing an inductive charger integrated in the smart case 102 or other charging devices compatible with the wireless earpieces 142, 144. The interfaces 108, 110 may also be utilized to synchronize data between the wireless earpieces 142, 144. [6:6-20] The smart case 102 may also include a port 112. The port 112 may be utilized to interface with the

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		smart case 102. For example, the port 112 may be utilized with a connector to charge the battery of the smart case 102. The port 112 may also be utilized to download or upload data stored by the smart case 102 that may have previously been stored in the wireless earpieces 142, 144. The port 112 may be a miniaturized port, such as USB Type C, micro-USB, or other miniaturized port suitable for connecting to another electronic device, such as a wall charger, desktop computer, laptop, or wireless device (e.g., smart phone, tablet, etc.) In another embodiment, the smart case 102 may include a dedicated port for charging, such as for receiving a male direct-current (DC) connector. [7:5-13]

C. The Original Application for the '853 Patent Enables the Proposed Substitute Claims

22. I have also been asked to evaluate whether the proposed Substitute Claims are enabled by the original application. I have been informed that, to be enabling, a specification or application must teach those skilled in the art how to make and use the full scope of the claimed invention without undue experimentation, as of the patent's effective filing date. I understand that the factors to consider when determining whether a disclosure would require undue experimentation include (1) the quantity of experimentation necessary; (2) the amount of direction or guidance presented; (3) the presence or absence of working examples; (4) the nature of the invention; (5) the state of the prior art; (6) the

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relative skill of those in the art; (7) the predictability or unpredictability of the art; and (8) the breadth of the claims.

23. Given the table of exemplary citations above, it is my opinion that a POSITA would have had a sufficient amount of information to make and use the full scope of the proposed substitute claims without undue experimentation. To the extent Petitioner and/or Petitioner's expert argue differently, I reserve the right to respond.

D. The Proposed Substitute Claims are Patentable Over the Cited Prior Art

1. *Ground 1 – Brown*

24. The Petition relies on Brown as anticipating claims 10 and 14. Petition, 18. Original claims 10 and 14 correspond to proposed substitute claims 31 and 35, respectively. But Brown fails to disclose the proposed substitute claims at least because Brown does not disclose a wireless earpiece(s) "configured to read user biometrics." As explained above, the '031 Application for the '853 Patent teaches "[t]he wireless earpieces 142, 144 may be configured to play music or audio, receive and make phone calls or other communications, read user biometrics and actions (e.g., heart rate, motion, sleeping, etc.)." Ex-1008 at [4:20-4:22], [7:27-8:8]. The hearing aid Brown discloses is not configured to read user biometrics.

25. Therefore, Brown fails to disclose proposed substitute claim 31 as amended. Proposed Substitute Claim 35 depends from proposed substitute claim 31,

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and therefore Brown also fails to disclose proposed substitute claim 35 for at least the same reasons as for proposed substitute claim 31. As a result, Brown does not anticipate proposed substitute claims 31 and 35, corresponding to original claims 10 and 14, due to at least the additional functionalities added in the proposed amendments.

2. *Ground 2 – Hain*

26. In Ground 2, the Petition asserts that Hain anticipates claims 1-3 and 5. Petition, 22. Claims 1-3 and 5 correspond to proposed substitute claims 22-24 and 26, respectively. In my opinion, Hain does not disclose proposed substitute claims 22-24.

27. In particular, proposed substitute claim 22 (which proposed substitute claims 23, 24 and 26 depend from) requires that the wireless earpieces are "configured to read user biometrics." Hain does not disclose a wireless earpiece(s) "configured to read user biometrics." As explained above, the '031 Application for the '853 Patent teaches "[t]he wireless earpieces 142, 144 may be configured to play music or audio, receive and make phone calls or other communications, read user biometrics and actions (e.g., heart rate, motion, sleeping, etc.)." Ex-1008 at [4:20-4:22], [7:27-8:8]. The hearing aid Hain discloses is not configured to read user biometrics. Hain does not even mention biometrics.

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28. Therefore, Hain fails to anticipate the claims of the ’853 Patent as presented in Petitioner’s Ground 2.

3. *Ground 3 – Steinbrecher*

29. The Petition states that Steinbrecher anticipates claims 10 and 21. Petition, 30. Original claims 10 and 21 correspond to proposed substitute claims 31 and 42, respectively. However, Steinbrecher does not disclose wireless earpieces “configured to read user biometrics,” as required by the amendments to proposed substitute claims 31 and 42. As explained above, the ’031 Application for the ’853 Patent teaches “[t]he wireless earpieces 142, 144 may be configured to play music or audio, receive and make phone calls or other communications, read user biometrics and actions (e.g., heart rate, motion, sleeping, etc.).” Ex-1008 at [4:20-4:22], [7:27-8:8]. Steinbrecher does not disclose reading a user’s biometrics. In fact, Steinbrecher does not even mention biometrics.

4. *Grounds 4-5*

30. Grounds 4-5 rely on a combination of references, which include Shaffer, Hain, and Sorenson. But these references do not disclose wireless earpieces “configured to read user biometrics,” as claimed by the proposed substitute claim 22 (corresponding to original claim 1). Proposed substitute claims 23-30 (corresponding to original claims 2-9), depend from claim 1 (proposed substitute claim 22). As a result, Grounds 4 and 5 fail because Shaffer, Hain, and Sorenson do

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not disclose a wireless earpiece(s) "configured to read user biometrics," as required by the substitute claims.

5. Grounds 6-7

31. Grounds 6-7 rely on a combination of references, including some combination of Shaffer, Steinbrecher and Sorensen. *See* Petition, 42-92. Grounds 6-7 challenge claims 10-21 (corresponding to proposed substitute claims 31-42). None of these three references teach wireless earpieces "configured to read user biometrics," as required by proposed substitute claims 31 and 42 (the independent claims challenged by Grounds 6-7). Petitioner's Grounds 6 and 7 therefore fail to teach the elements of the dependent claims for the same reasons they fail to teach the independent claims—failure to disclose wireless earpieces "configured to read user biometrics."

V. CONCLUSION

32. This declaration represents the opinions that I have formed up to date based on the material currently available to me. I reserve the right to revise, supplement, and/or amend my opinions stated in this declaration based on new information that becomes available to me and on my continuing analysis of the materials available to me.

33. I declare that all statements made herein of my knowledge are true, and that

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these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: August 30, 2024

Dr. Darrin Young

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