

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PELOTON INTERACTIVE, INC.,
Petitioner,

v.

JOHNSON HEALTH TECH CO., LTD.,
Patent Owner.

IPR2023-01163
Patent 10,032,227 B2

Before JAMES P. CALVE, BART A. GERSTENBLITH, and
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

DIRBA, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

On August 2, 2022, Peloton Interactive, Inc. (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–20 of U.S. Patent No. 10,032,227 B2 (Ex. 1001, “the ’227 patent”). Paper 2 (“Pet.”). Johnson Health Tech Co., Ltd. (“Patent Owner”)¹ filed a waiver of its preliminary response. Paper 5.

An *inter partes* review may not be instituted unless “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a).

Having reviewed the parties’ papers and the evidence of record, we determine that Petitioner has shown a reasonable likelihood it will prevail in establishing the unpatentability of at least one challenged claim. Accordingly, we institute an *inter partes* review.

I. BACKGROUND

A. *Related Matters*

The parties state that the ’227 patent has been asserted in one district court lawsuit: *Johnson Health Tech Co. v. Peloton Interactive, Inc.*, No. 3:22-cv-606 (W.D. Wis.). Pet. 91; Paper 3 (Patent Owner’s Mandatory Notices), 2.

In addition, Petitioner has challenged patents related to the ’227 patent in IPR2023-01164 and IPR2023-01165. Pet. 91–92. Concurrently with this Decision, the Board also institutes *inter partes* review in both of those proceedings.

¹ Patent Owner also identifies Johnson Health Tech North America, Inc. as a real party-in-interest. Paper 3, 2.

B. The Petition's Asserted Grounds

Petitioner asserts the following grounds of unpatentability (Pet. 91):

Claim(s) Challenged	35 U.S.C.² §	Reference(s)/Basis
1–9, 12, 14–20	103	Morris ³ , Ray ⁴
10, 11, 13, 20	103	Morris, Ray, Cox ⁵
1–6, 14, 20	103	Ray, AAPA ⁶
10, 11, 20	103	Ray, AAPA, Cox
7–9, 12	103	Ray, AAPA, Daly ⁷
13	103	Ray, AAPA, Daly, Cox

Petitioner relies on the testimony of Mr. R. Lee Rawls (Ex. 1002) in support of its contentions.

² The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 285–88 (2011), revised 35 U.S.C. § 103 effective March 16, 2013. Because the ’227 patent claims priority to applications filed after that date, we refer to the current version of Section 103.

³ US 2010/0160115 A1, published June 24, 2010 (Ex. 1006).

⁴ US 9,785,827 B1, filed Sept. 17, 2014, issued Oct. 10, 2017 (Ex. 1004).

⁵ US 7,736,273 B2, issued June 15, 2010 (Ex. 1005).

⁶ Applicant admitted prior art (“AAPA”) refers to alleged admissions made by the applicant in the Specification of the ’227 patent. We do not consider AAPA to be a reference or basis of any of the grounds, but rather treat it as evidence presented in support of certain grounds. *See Qualcomm Inc. v. Apple Inc.*, 24 F.4th 1367, 1373–76 (Fed. Cir. 2022); USPTO Memorandum, Updated Guidance on the Treatment of Statements of the Applicant in the Challenged Patent in Inter Partes Reviews under § 311 (June 9, 2022), available at <https://www.uspto.gov/sites/default/files/documents/2022060912updatedAAPAmemo.pdf>.

⁷ US 8,574,131 B2, issued Nov. 5, 2013 (Ex. 1011).

C. The '227 Patent

The '227 patent is titled “Exercise Apparatus with Exercise Use Verification Function and Verifying Method,” and the application that led to this patent was filed on December 29, 2015, claiming priority to a provisional application filed on December 30, 2014. Ex. 1001, codes (22), (54), (60).

The '227 patent describes a motor-driven exercise apparatus that can verify a user’s exercise. Ex. 1001, 1:14–17, 1:51–2:36. The Specification explains that some insurance companies offer lower rates to customers that supply proof of regular exercise. *Id.* at 1:18–29. Although some existing exercise equipment can report exercise use data (*id.* at 1:29–50), users can sometimes falsify that data (*id.* at 1:58–63). For example, a user may set a treadmill to run, even though the user is not actually walking or running on the treadmill, which would cause the treadmill to report “faked” data. *Id.* at 1:67–2:7.

Figure 2 (reproduced below) is a schematic drawing of an embodiment of the '227 patent’s invention. Ex. 1001, 3:22–23.

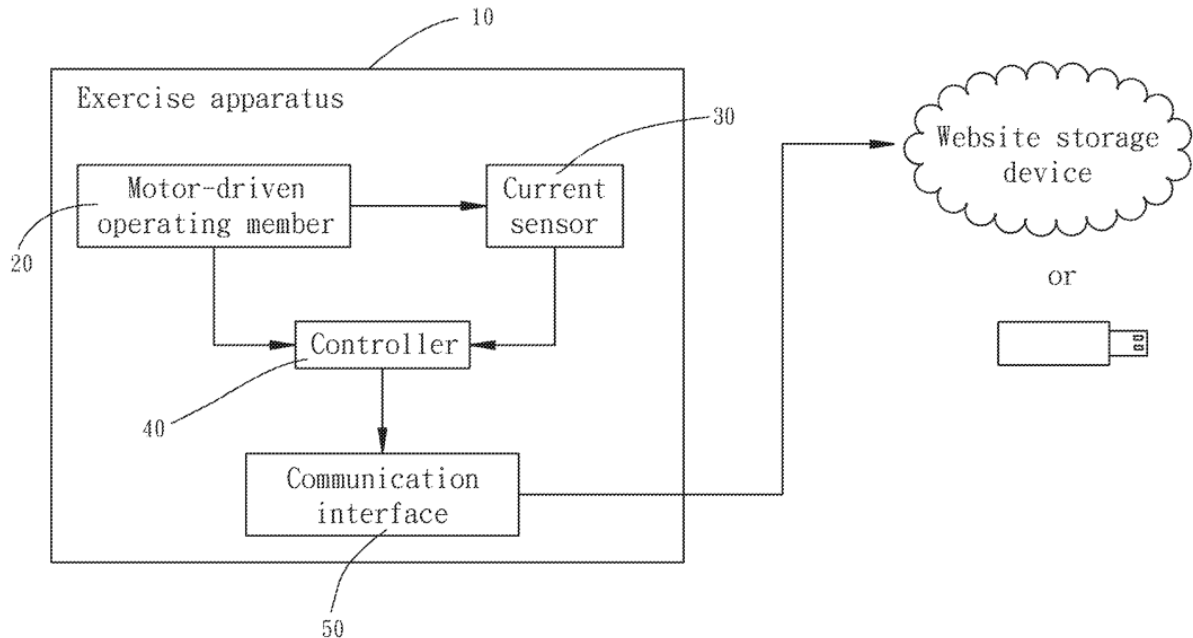


FIG. 2

Figure 2 illustrates exercise apparatus 10, which includes motor-drive operating member 20, current sensor 30, controller 40, and communication interface 50, as well as an arrow connecting exercise apparatus 10 to a website storage device or a flash drive.

Motor-driven operating member 20 is coupled to current sensor 30, which detects the current input to a drive motor and generates signals proportional to that current. Ex. 1001, 3:65–4:14. Controller 40 communicates with current sensor 30 to detect current changes caused when a user engages with motor-driven operating member 20. *Id.* at 4:50–67. Exercise apparatus 10 can detect a user's presence via optical sensor 60 that senses infrared radiation, pressure sensor 70 that senses pressure on the running belt, a speed sensor that senses fluctuations in speed of the operating unit, a thermal sensor that senses body heat, or any other suitable sensor. *Id.* at 5:34–50, Figs. 4, 5. If the user is not detected, the controller creates non-validated exercise use data, and if the user is detected, the controller creates

validated exercise use data. *Id.* at 5:51–57. Communication interface 50 transmits exercise data to users via a display screen, to third parties (such as physicians or insurance companies) via Internet interface or port, and to flash drives and website storage devices via wired or wireless connections. *Id.* at 6:5–43.

D. Challenged Claims

Petitioner challenges all twenty claims of the '227 patent. Of these, claims 1, 12, and 14 are independent. Claim 1 is illustrative, and it recites:

1. [pre] An exercise apparatus comprising:
 - [a] a base;
 - [b] an operating unit movable relative to the base;
 - [c] a motor coupled to the operating unit;
 - [d] a sensor operable to detect engagement of a user with the operating unit;
 - [e] a controller in communication with the operating unit and the sensor; and
 - [f] a communication interface in communication with the controller, [g] wherein the controller is configured to generate a non-validated exercise use data in response to movement of the operating unit relative to the base and the sensor does not detect engagement of the user with the operating unit, [h] wherein the controller is further configured to generate a validated exercise use data in response to movement of the operating unit relative to the base and the sensor does detect engagement of the user with the operating unit, and [i] wherein the controller transmits the validated exercise use data to the communication interface.

Ex. 1001, 7:56–8:8 (Petitioner's reference letters added).

II. ANALYSIS

A. *Legal Standards*

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion never shifts to the patent owner. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015).

The legal question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when in evidence, objective evidence of nonobviousness.⁸ *Graham v. John Deere Co. of Kan. City*, 383 U.S. 1, 17–18 (1966). One seeking to establish obviousness based on more than one reference must articulate sufficient reasoning with rational underpinnings to combine teachings. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

B. *Level of Ordinary Skill in the Art*

Petitioner asserts that the level of ordinary skill in the art corresponds to “(i) a bachelor’s degree in an exercise related field or mechanical or electrical engineering and (ii) three to five years of industry experience in

⁸ The current record does not include allegations or evidence of objective indicia of nonobviousness.

designing cardiovascular exercise equipment (such as treadmills, bicycles, steppers, ellipticals) or in a similar field.” Pet. 15 (citing Ex. 1002 ¶¶ 31–34). Petitioner also asserts that a person could qualify as an ordinarily skilled artisan with less education but more experience or less experience but more education. *Id.* At this stage, Patent Owner does not address the level of ordinary skill in the art.

At this stage of the proceeding and on this record, we adopt Petitioner’s proposed level of skill, as articulated above. We are satisfied that it comports with the level of skill necessary to understand and implement the teachings of the ’227 patent.

C. Claim Construction

We interpret claim terms using “the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. [§] 282(b).” 37 C.F.R. § 42.100(b). Under the principles set forth by our reviewing court, the “words of a claim ‘are generally given their ordinary and customary meaning,’” as would be understood by a person of ordinary skill in the art at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (quoting *Vitronics Corp. v. Conceptoronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)).

Petitioner does not propose any express claim constructions and states that the “claims . . . have not been construed by any courts as of the filing of th[e] Petition.” Pet. 15 (citing Ex. 1002 ¶¶ 29–30). At this stage, Patent Owner does not address the construction of any term or phrase.

We determine that it is not necessary to expressly construe any claim terms or phrases for purposes of this Decision. *See Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to

construe ‘only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.’”) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

D. Summary of Prior Art References

1. Morris (Ex. 1006)

Morris discloses an exercise machine with user detection features such as treadmill 100, which is shown in Figure 1, reproduced below.

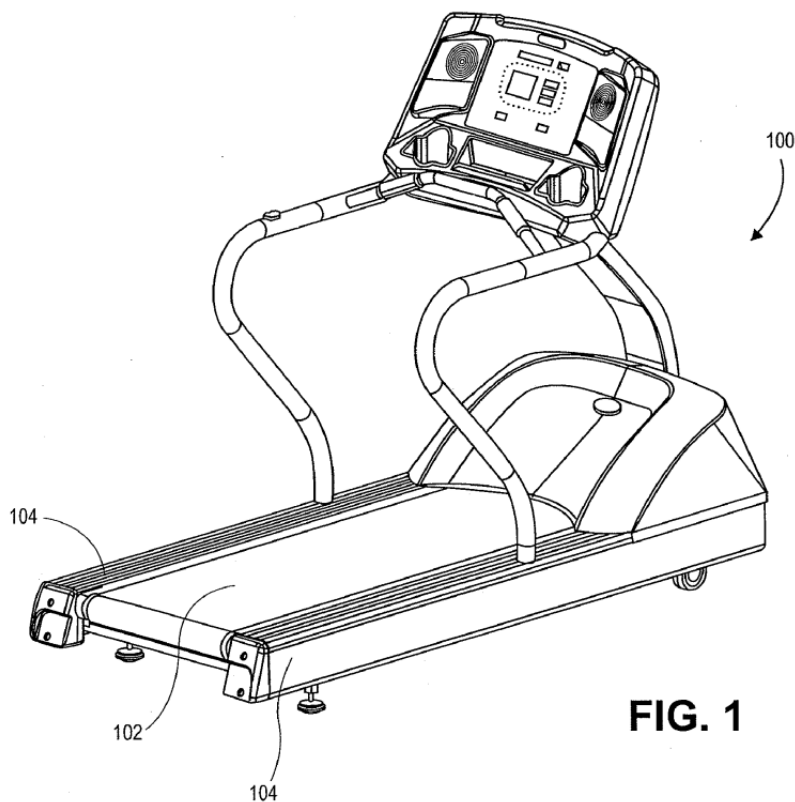


FIG. 1

Figure 1 shows treadmill 100 comprising base 104 and treadmill belt 102 that glides over a floating deck surface of base 104 and that is driven by a belt driving mechanism (not shown). Ex. 1006 ¶¶ 25, 26.

The user detection mechanism is incorporated into treadmill base 200 as illustrated in Figure 2, which is reproduced below.

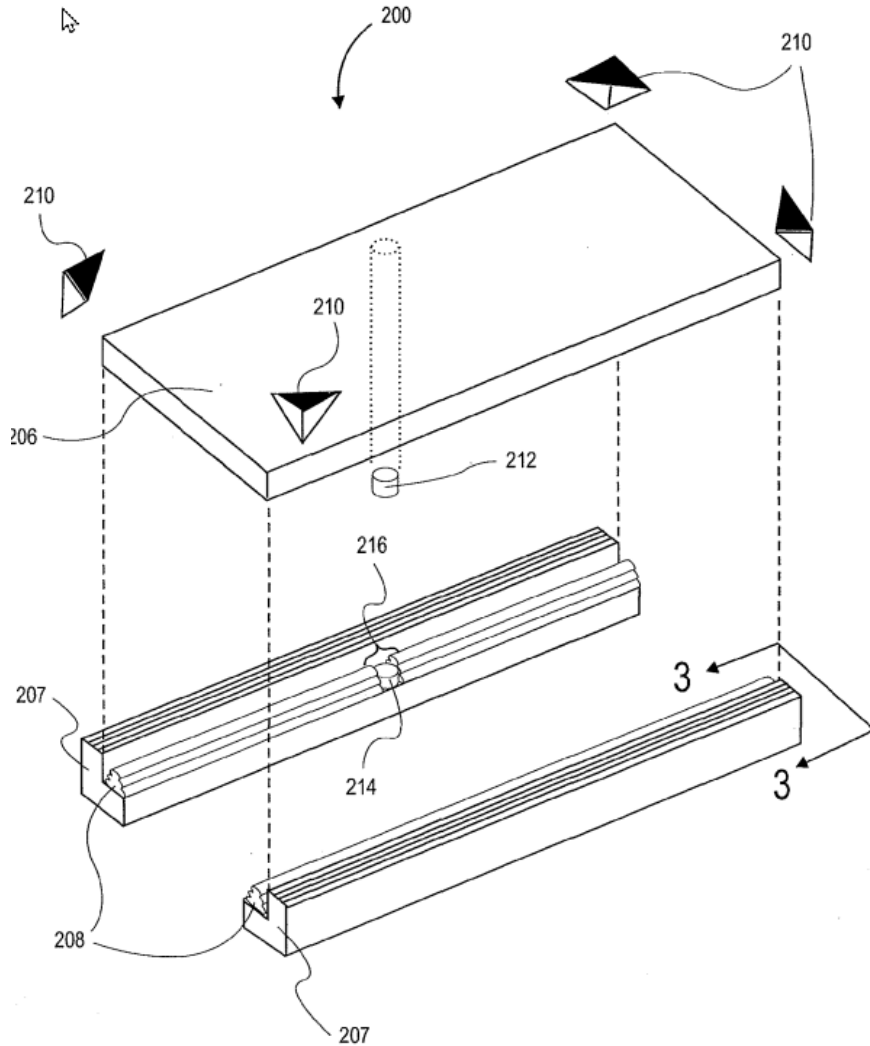


FIG. 2

Figure 2 illustrates a user detection mechanism comprising magnets 212 attached to or embedded in deck 206 to interact with induction coil 214 fixed along frame element 207 within compressible cushioning supports 208 that support deck 206. Ex. 1006 ¶ 27. As deck 206 moves due to a user's footfalls or weight shifts, corresponding movement of magnets 212 induces a current in induction coil 214, and the signal is transmitted by wire 311 to a processor for translation as shown in Figures 3A and 3B reproduced below.

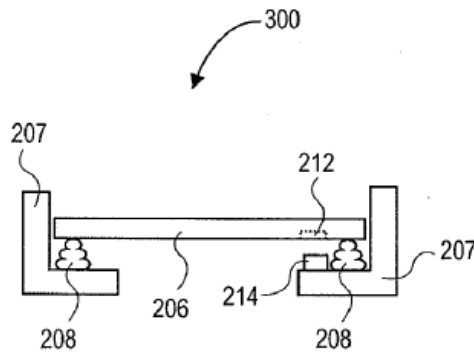


FIG. 3A

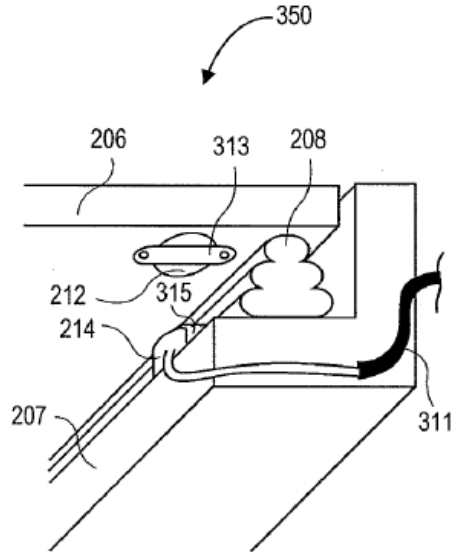


FIG. 3B

Figures 3A and 3B illustrate a user detection system with magnets 212 affixed to deck 206 to move therewith relative to induction coil 214 due to a user's footfalls or weight shifts. Movement of magnets 212 relative to coils 214 induces signals that are sent by wire 311 to a processor. *Id.* ¶¶ 27, 31. The processor distinguishes these large signals from “baseline” signals caused by slight vibrations in the treadmill due to the electric motor driving the belt. *Id.* ¶ 31. Magnetic and optical sensors may be used. *Id.* ¶ 33.

Inductance coil 214 communicates with translator board 518, which is part of processing system 500 shown in Figure 6 (reproduced below).

FIG. 6

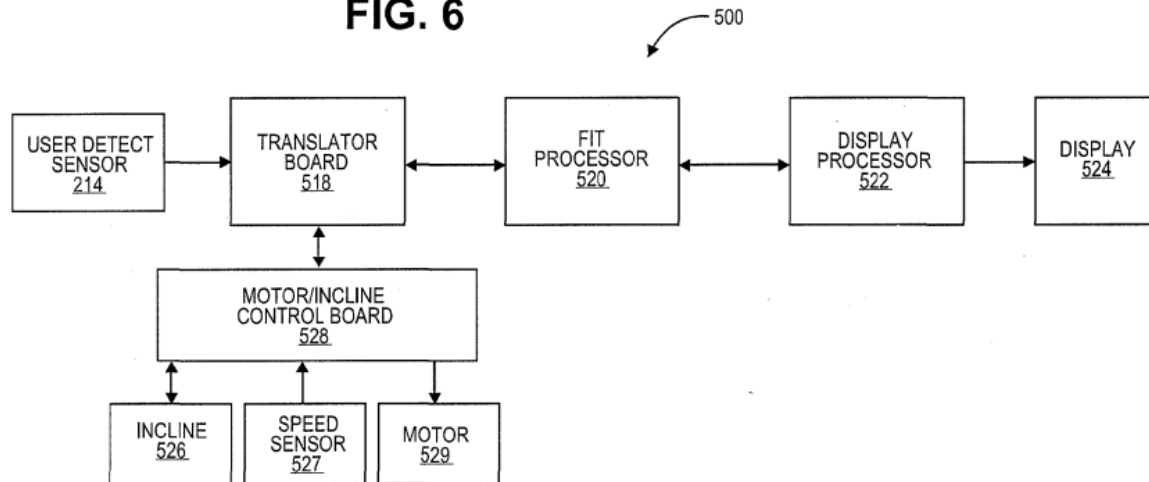


Figure 6 is a block diagram of treadmill information processing system 500 that comprises user detection sensors 214, translator board 518, FIT processor 520, display processor 522, display 524, motor/incline control board 528, incline controller 526, speed sensor 527, and motor driver 529. Ex. 1006 ¶¶ 32, 33. Translator board 518 interprets signals received from inductance coil 214 and forwards them to FIT processor 520, which uses this indication of a user's presence or absence to control a workout program. *Id.* ¶ 36. FIT processor 520 may communicate the user's presence to display processor 522, which may command display 524 to display indications of the user's presence or absence. *Id.* FIT processor 520 manages the workout program, e.g., duration, distance, incline, and intensity. *Id.* ¶ 35. Signal processors include translator board 518, FIT processor 520, and display processor 522. *Id.* ¶ 34. User cadence, footfall force, pace, heart rate, incline, distance, and program profile may be output as exercise information and shown on a display panel. *Id.* ¶¶ 50–53, Fig. 11.

2. Ray (Ex. 1004)

Ray is directed to a process to aid in motivation of personal fitness, including health monitoring and validation of a user. Ex. 1004, code (54).

To verify a user's identity and exercise data, Ray detects the user's movement on treadmill exercise machine 40 with camera 32 when exercise machine 40 is moving and exercise data 24 is being produced by exercise machine 40. Ex. 1004, 6:43–7:10, 13:20–30, 14:31–46. Figure 1 of Ray is reproduced below to illustrate this arrangement.

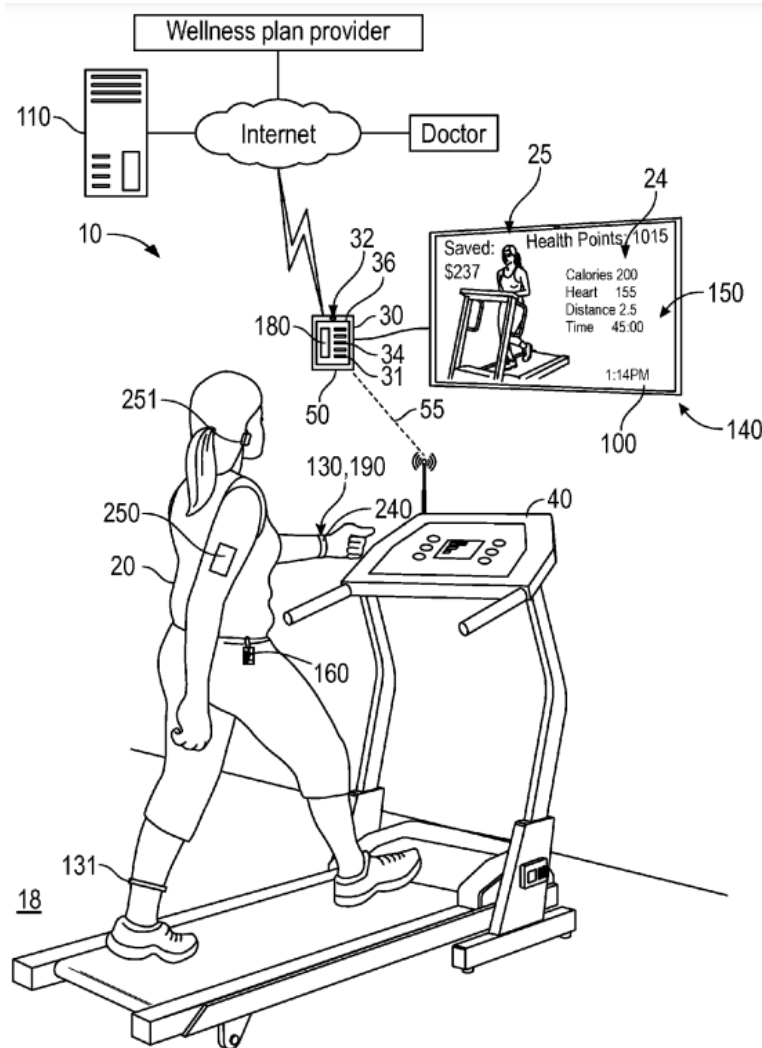


FIG. 1

Figure 1 shows a user exercising on treadmill 40 with camera 32 of electronic device 30 recording the exercise data. *Id.* at 13:7–30. When movement is detected by camera 32 (e.g., the user's shoulders moving up

and down), and the treadmill is moving by indicating movement at interface 55 with electronic device 30, camera 32 records still or video images of the user exercising and/or produces a live feed. *Id.* at 6:43–56, 13:20–24, 14:6–14. As long as the user continues to exercise on treadmill 40, camera 32 captures the user’s image at pre-set intervals. *Id.* at 6:49–60, 14:31–40.

The system displays exercise data 24 with time 140, duration 150, and motivational image 25 as a thinner user image based on the intensity of the user’s exercises. Ex. 1004, 5:41–58, 13:50–67. The user’s identity and the exercise data may be sent as a live feed over the Internet to a doctor, a wellness manager, or remote server 110. *Id.* at 6:63–7:8, 13:7–30.

3. *Cox (Ex. 1005)*

Cox detects variations in walking styles on a treadmill by measuring changes in the magnitude of current drawn by treadmill motors to determine user strike profiles. Ex. 1005, 2:48–63, 5:30–38, 5:57–6:54.

4. *Daly (Ex. 1011)*

Daly detects the cadence of a user on a treadmill by analyzing electric signals output by piezoelectric sensors under the treadmill to identify when the user’s feet impact the belt. Ex. 1011, 2:65–3:12, 5:62–67, 6:39–56.

E. Ground 1: Obviousness Based on Morris and Ray

Petitioner contends that the subject matter of claims 1–9, 12, and 14–20 would have been obvious over Morris and Ray. Pet. 16–56. As noted above, Patent Owner does not respond to Petitioner’s arguments or evidence at this stage.

On this record, we determine that Petitioner has demonstrated a reasonable likelihood that it will prevail in showing that the subject matter of these claims would have been obvious over Morris and Ray.

1. Rationale to Combine

Petitioner contends that a person of ordinary skill in the art would have been motivated to combine Morris and Ray by adding several of Ray's features to Morris' treadmill, including Ray's camera, its functionality of displaying a motivational image, and its ability to transmit exercise data to a remote location, and that the ordinarily skilled artisan would have had a reasonable expectation of success in achieving the combination proposed. Pet. 16–18.

Petitioner asserts that an ordinarily skilled artisan would have been motivated to combine Morris and Ray because they provide complementary teachings and address similar objectives. Pet. 16 (citing Ex. 1004, Abstr., 5:41–48, 8:22–26, 11:56–61, 13:20–30; Ex. 1006 ¶¶ 6, 25, 33, 35, Abstr.; Ex. 1002 ¶¶ 135–138). Petitioner also asserts that Morris contemplates use of an optical sensor, provides exercise data and “a human analog display that mimic[s] the user's bouncing motion,” and includes a signal processing and display system with the necessary capabilities to implement the combination. *Id.* at 16–17 (citing Ex. 1002 ¶¶ 139–143; Ex. 1006 ¶¶ 32–36, 50, 56–58, claims 29–37, Figs. 6, 11–12C). Petitioner further asserts that Ray expressly teaches that “its user validation and motivation technology could be ‘easily and affordably merged’ into a treadmill.” *Id.* at 18 (quoting Ex. 1004, 9:55–57) (citing Ex. 1002 ¶¶ 143–144). Finally, Petitioner contends that an ordinarily skilled artisan would have been motivated to make the proposed combination because it would have improved Morris'

treadmill to add “Ray’s motivational image that showed a thinner image of the user as the intensity and duration of exercise increased” and Ray’s ability to share exercise data with a remote location. *Id.* (citing Ex. 1004, 7:11–22, 11:55–59, 13:50–57; Ex. 1006 ¶ 50; Ex. 1002 ¶¶ 138, 145); *see also id.* at 16 (arguing user motivation would have motivated the combination) (citing Ex. 1004, 8:22–26, 11:56–61; Ex. 1006 ¶ 25).

At this stage, we are persuaded that Petitioner has made a sufficient showing that one of ordinary skill in the art would have been motivated to combine Morris and Ray with a reasonable expectation of success.

2. *Independent Claim 1*

1[pre]–1[c]: “An exercise apparatus comprising: a base; an operating unit movable relative to the base; a motor coupled to the operating unit . . .”

Petitioner relies on Morris for these aspects of the claim. Pet. 21–24. In particular, Petitioner contends that Morris discloses treadmill 100, which has base 104, belt 102, and an electric motor for driving belt 102. *Id.* (citing Ex. 1006 ¶¶ 2, 7, 25, 27, 31–33, Abstr., claim 29, Figs. 1, 2, 6).

At this stage, Petitioner has made a sufficient showing that Morris discloses elements 1[pre]–1[c].⁹

1[d]: “a sensor operable to detect engagement of a user with the operating unit”

Petitioner relies on both Morris and Ray for element 1[d]. Pet. 24–27. Petitioner contends that Morris’ treadmill includes a reluctance sensor,

⁹ We need not determine whether the preamble is limiting because Petitioner has sufficiently shown that Morris discloses this aspect of the claim. *See Vivid Techs.*, 200 F.3d at 803.

including magnet 212 and induction coil 214, which detects user engagement. *Id.* at 24–25 (citing Ex. 1006 ¶¶ 27, 31, 33, Figs. 3A–B). Petitioner also contends that Morris discloses use of an optical sensor. *Id.* at 24 (citing Ex. 1006 ¶ 33); *see also id.* at 16. Petitioner further contends that Ray discloses camera 32, which captures a user’s images and detects “when a user [is] on versus off the moving belt” by detecting movement “such as the user’s shoulders moving up and down.” *Id.* at 25–26 (quoting Ex. 1004, 14:6–14) (citing Ex. 1004, 6:53–55, 9:55–57, 10:36–50, 10:59–64, 13:20–24, 14:34–40, 15:55–65, 15:47–50,¹⁰ claim 1).

Petitioner contends that a person of ordinary skill in the art would have been motivated to add Ray’s camera (and its analysis software) to Morris’ treadmill in order to augment Morris’ reluctance sensor. Pet. 26; *see also id.* at 16–18 (addressing motivation to combine references). Petitioner also submits that an ordinarily skilled artisan would have had a reasonable expectation of success in making this combination because including multiple sensors in treadmills was a routine and well-known task. *Id.* at 26–27 (citing Ex. 1002 ¶¶ 159–162).

At this stage, Petitioner has made a sufficient showing that it would have been obvious to combine Morris and Ray as proposed, and that the Morris-Ray combination teaches or suggests element 1[d].

1[e]: “a controller in communication with the operating unit and the sensor”

Petitioner relies on Morris for element 1[e]. Pet. 27–28. Petitioner contends that Morris’ FIT (fitness) processor 520 discloses the claimed controller. *Id.* at 27 (citing Ex. 1006, Fig. 6). In the alternative, Petitioner

¹⁰ We have corrected an apparent typographical in the Petition.

maps the claimed “controller” to the combination of translator board 518, FIT processor 520, and display processor 522, or to the combination of translator board 518 and FIT processor 520. *Id.* at 27–28 (citing Ex. 1006 ¶ 35; Ex. 1002 ¶¶ 163–165). In addition, Petitioner contends that Morris’ processor(s) communicate with the user detect sensor and the treadmill belt to control a workout program based on the presence or absence of a user. *Id.* at 28 (citing Ex. 1006 ¶ 36, claims 24, 32).

At this stage, Petitioner has made a sufficient showing that Morris teaches or suggests element 1[e].

1[g]: “wherein the controller is configured to generate a non-validated exercise use data in response to movement of the operating unit relative to the base and the sensor does not detect engagement of the user with the operating unit”

1[h]: “wherein the controller is further configured to generate a validated exercise use data in response to movement of the operating unit relative to the base and the sensor does detect engagement of the user with the operating unit”

Petitioner relies on Morris and Ray for these elements. Pet. 32–40; *see also id.* at 18–20 (discussing “validated exercise use data” and “non-validated exercise use data” in the ’227 patent).

First, Petitioner contends that Morris discloses “generat[ing] a validated exercise use data,” as required by element 1[h], because Morris displays data, such as a user’s pace, distance, footfall force, and cadence, while the belt is moving. Pet. 32–34 (citing Ex. 1006 ¶¶ 40, 50–51, 53, Fig. 11; Ex. 1002 ¶¶ 174–176). Petitioner submits that it would have been obvious that such data would be generated while the user was exercising. *Id.* at 34 (citing Ex. 1002 ¶ 176); *see also id.* at 39 (citing Ex. 1006 ¶ 183). In addition, Petitioner contends that Ray discloses “generat[ing] a validated

exercise use data,” as required by element 1[h], because Ray generates exercise data 24 (e.g., calories, heart rate, distance and time) and a virtual image of the user (i.e., one that is “thinner, healthier, and more aesthetically pleasing” based on the intensity/speed of the user’s exercise). *Id.* at 34–36 (citing Ex. 1004, Abstr., 4:66–5:11, 5:23–29, 5:41–48, 10:59–67, 13:31–36, Fig. 1). According to Petitioner, an ordinarily skilled artisan would have understood Ray’s data to be validated exercise use data, and would have understood it to be generated while the belt is moving and the user is being detected (or would have found it obvious to do so). *Id.* at 36–38 (citing Ex. 1004, 3:47–51, 4:67–5:14, 5:23–29, 5:45–51, 6:53–57, 7:4–10, 8:1–8, 8:26–28, 10:59–67, 13:24–30, 14:6–14, Figs. 1–3; Ex. 1002 ¶¶ 177–182).

Next, Petitioner contends that element 1[g] “was already known and admitted prior art.” Pet. 39 (citing *id.* at 72–73). According to Petitioner, the ’227 patent admits that treadmills could generate data when left unattended, and thus, an ordinarily skilled artisan would have found it obvious for Ray’s controller to generate data related to treadmill functions (e.g., time) when the treadmill was left unattended. *Id.* at 72–73 (citing Ex. 1001, 1:51–2:19). In addition, Petitioner contends that Morris discloses shutting down the treadmill after not detecting the user for a certain period of time (e.g., 6–8 seconds). *Id.* at 39–40 (citing Ex. 1006 ¶¶ 8, 45, Fig. 8 (steps 850–860)). Petitioner contends that it would have been obvious that, in the proposed combination, “for at least the duration of before slowdown was initiated, exercise information that did not depend on the user’s presence (e.g., time), would be generated in the absence of the user,” and that this information is non-validated exercise use data. *Id.* at 40 (citing Ex. 1002 ¶¶ 184–186). In addition, Petitioner contends that “continuing or not continuing to generate some exercise use data was one of two known

options, and therefore picking one or the other would have been obvious.”
Id. (citing Ex. 1002 ¶ 187).

At this stage, Petitioner has made a sufficient showing that it would have been obvious to combine Morris and Ray as proposed, and that the Morris-Ray combination teaches or suggests elements 1[g] and 1[h].

1[f]: “a communication interface in communication with the controller”

1[i]: “wherein the controller transmits the validated exercise use data to the communication interface”

Petitioner relies on the Morris-Ray combination for these elements. Pet. 29–32, 41. For the claimed “communication interface,” Petitioner points to the components in Ray (such as interface 55) that allow the user’s image and/or exercise data to be transmitted from the treadmill over the Internet via a live feed or to a storage device (such as a cloud-based server). *Id.* at 30–31 (citing Ex. 1004, 3:46–51, 5:65–6:5, 6:67–7:10, 8:1–10, 13:31–36, 13:65–67, Fig. 3; Ex. 1002 ¶¶ 170–171); *see also id.* at 29 (discussing “communication interface” in the ’227 patent); 41 (asserting that Ray discloses sending the virtual image to third parties) (citing Ex. 1004, 3:46–50, 5:49–51, 7:4–10, 7:15–36, 13:7–9). Petitioner contends that it would have been obvious to incorporate Ray’s transmission functionality into Morris’s treadmill. *Id.* at 41 (citing Ex. 1002 ¶¶ 188–189); *see also id.* at 16–18 (addressing rationale to combine), 31–32.

In addition, Petitioner presents alternative mappings for the claimed “communication interface,” pointing to Morris’ display device 524, Morris’ display processor 522 communicating with its display device 524, and Ray’s display 34. Pet. 29–30 (citing Ex. 1004, 9:55–57, 12:59–67, 13:50–54, Figs. 1–3; Ex. 1006 ¶¶ 23–24, 35–36, Figs. 6, 11, 12A–12C). Although

Petitioner does not specifically address these alternatives in its discussion of element 1[i] (*see id.* at 41), Petitioner's earlier discussion of elements 1[g] and 1[h] asserts that both Morris and Ray disclose transmitting exercise use data to the display (*see id.* at 32–36).

At this stage, Petitioner has made a sufficient showing that it would have been obvious to combine Morris and Ray as proposed, and that the Morris-Ray combination teaches or suggests elements 1[f] and 1[i].

Conclusion

For the reasons provided above, at this stage and on the present record, Petitioner has shown sufficiently that Morris and Ray, in combination, teach or suggest each element of independent claim 1. Petitioner has also sufficiently shown that one of ordinary skill in the art would have been motivated to combine the teachings of Morris and Ray as proposed and would have had a reasonable expectation of success in doing so.

Accordingly, we determine that Petitioner has shown a reasonable likelihood that it would prevail in establishing that the subject matter of claim 1 would have been obvious over Morris and Ray.

3. Other Challenged Claims

Petitioner also contends that the subject matter of independent claims 12 and 14 and dependent claims 2–9 and 15–20 would have been obvious over Morris and Ray. *See* Pet. 41–56. Petitioner substantiates its contentions with analysis that addresses each claim element and identifies supporting evidence. *See id.*

On this record, we determine that Petitioner has shown a reasonable likelihood that it would prevail in establishing that the subject matter of claims 2–9, 12, and 14–20 would have been obvious over Morris and Ray.

F. Other Grounds

We have determined above that the information presented in the Petition shows that there is a reasonable likelihood that Petitioner will prevail with respect to its challenge to claims 1–9, 12, and 14–20 based on Morris and Ray. *See supra* §§ II.E.2–3. As a result, we institute an *inter partes* review of all claims and all challenges raised in the Petition. *See* 37 C.F.R. § 42.108(a).

In this Decision, we need not (and do not) address Petitioner’s other grounds of unpatentability. *See SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1356 (2020) (35 U.S.C. § 314 “simply requires [the Director] to decide whether the petitioner is likely to succeed on ‘at least 1’ claim. Once that single claim threshold is satisfied, it doesn’t matter whether the petitioner is likely to prevail on any *additional* claims; the Director need not even consider any other claim before instituting review.”). However, we will evaluate these grounds in any final written decision, if appropriate, and we expressly invite the parties to further address these grounds during the course of the trial.

III. CONCLUSION

As explained above, we determine that Petitioner has established a reasonable likelihood of prevailing in its challenge to at least one claim of the ’227 patent. Thus, we institute an *inter partes* review of all challenged claims on all asserted grounds.

The factual findings and conclusions of law in this Decision are preliminary and based on the current record. They are made for the sole purpose of determining whether Petitioner meets the threshold for initiating review. Any final decision as to the patentability of the challenged claims will be based on the full record developed during trial, including any response timely filed by Patent Owner. Any arguments not raised by Patent Owner in such a response may be deemed waived.

IV. ORDER

It is:

ORDERED that an *inter partes* review is instituted on all of the challenged claims, i.e., claims 1–20 of the '227 patent, on all corresponding grounds of unpatentability as specified in the Petition and identified in the Table in Section I.B of this Decision; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4(b), *inter partes* review of the '227 patent shall commence on the entry date of this Decision, and notice is hereby given of the institution of a trial.

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