

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.

IPR2023-01164
Patent 10,796,375 B2

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

CALVE, *Administrative Patent Judge*.

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

I. BACKGROUND

Peloton Interactive, Inc. (“Petitioner”) filed a petition requesting an *inter partes* review of claims 1–20 (the “challenged claims”) of U.S. Patent No. 10,796,375 (“the ’375 patent”) (Ex. 1001). Paper 2, 1 (“Pet.”). Johnson Health Tech Co., Ltd. (“Patent Owner”) filed a waiver of its preliminary response. Paper 5, 2.

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2022) (“The Board institutes the trial on behalf of the Director.”). An *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . 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). Upon consideration of the evidence and arguments in the record, we determine that the information presented shows a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. We therefore grant institution of an *inter partes* review.

A. *Related Proceedings*

The parties identify the following district court proceeding involving the ’375 patent: *Johnson Health Tech Co. v. Peloton Interactive, Inc.*, No. 3:22-cv-606 (W.D. Wis.). Pet. 86; Paper 3, 2. Petitioner asserts that Patent Owner also asserts U.S. Patent Nos. 10,032,227 (“the ’227 patent”) and 11,227,340 (“the ’340 patent”) in the related litigation. Pet. 86.

Petitioner asserts that it has filed *inter partes* review proceedings to challenge the ’227 patent in IPR2023-01163 and the ’340 patent in IPR2023-01165. *Id.* Concurrently with this Decision, the Board also institutes *inter partes* review in both of those proceedings.

B. Real Parties in Interest

Petitioner asserts Peloton Interactive, Inc. is the real party in interest. Pet. 86. Patent Owner identifies Johnson Health Tech Co., Ltd. and Johnson Health Tech North America, Inc. as real parties in interest. Paper 3, 2.

C. The '375 patent (Ex. 1001)

The '375 patent describes motor-driven exercise apparatuses that can verify users' exercise. Ex. 1001, 1:17–20, 1:54–2:40. Verification prevents users from generating false exercise data by operating an apparatus without using it in order to obtain reduced insurance premiums based on alleged healthy habits. *Id.* at 1:21–2:40. Figure 1, reproduced below, illustrates apparatus 10 with an exercise use verification function. *Id.* at 3:25–26.

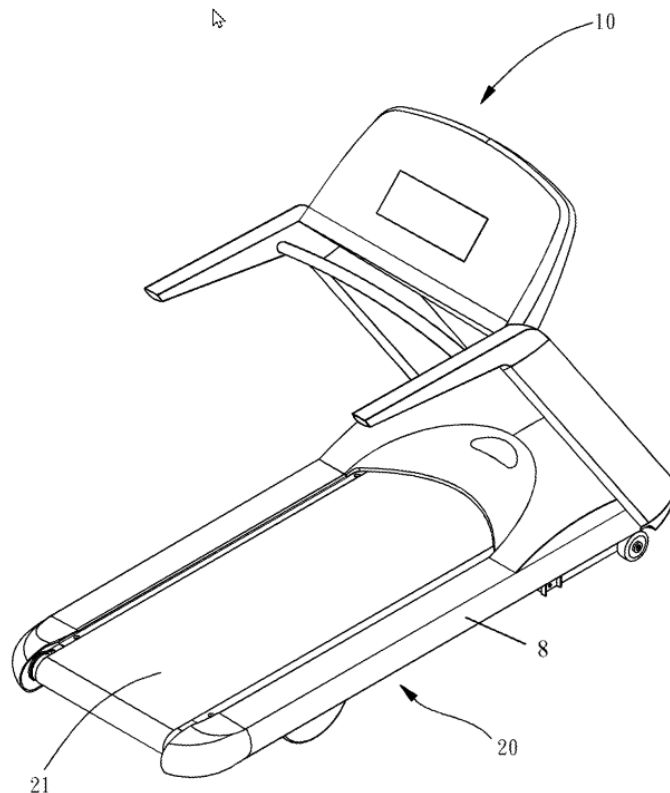


Figure 1 above depicts exercise apparatus 10 with motor-driven operating member 20, operating unit 21 (endless belt) driven by a motor (not shown), base 8, and controller 40 (shown in Figure 2). *Id.* at 3:50–4:39.

Other examples of a motorized exercise apparatus that can include the exercise use verification function are a motorized stair climber with a motor-driven operating member being a moving staircase or any other suitable types of motorized exercise equipment. Ex. 1001, 3:56–59, 3:66–4:2.

Figure 2 is reproduced below to illustrate the exercise use verification functionality of exercise apparatus 10. Ex. 1001, 3:27–28, 4:3–18.

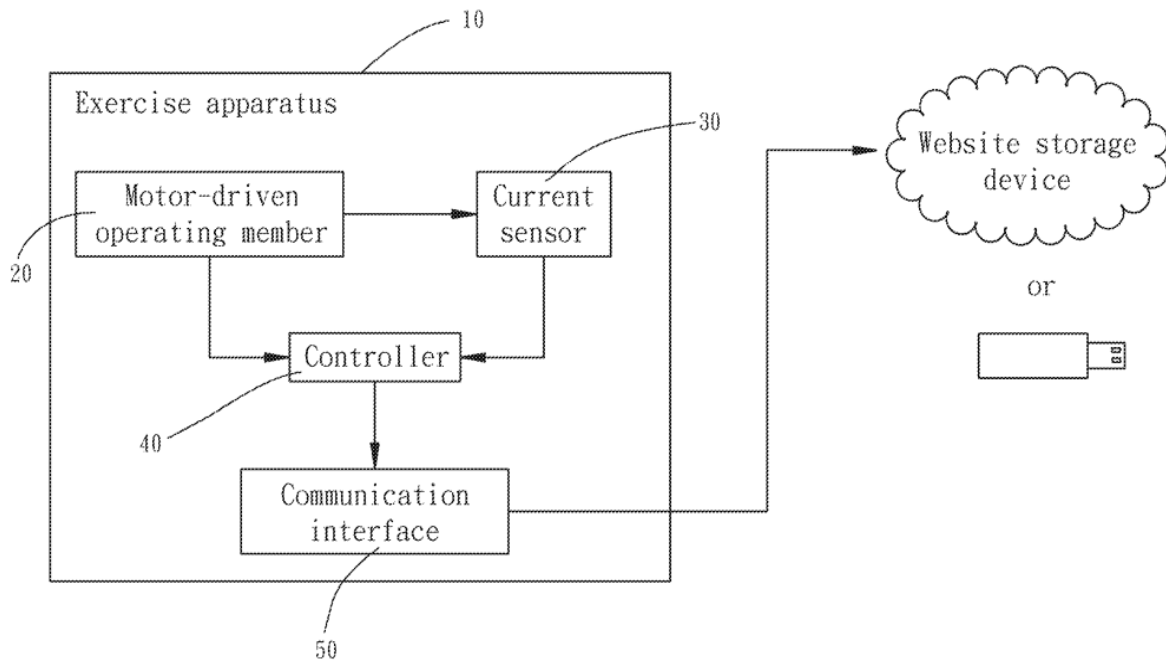


FIG. 2

Figure 2 is a schematic drawing of the exercise device and data storage that shows exercise apparatus 10 including motor-driven operating member 20, current sensor 30, controller 40, and communication interface 50 that can be any suitable wired (e.g., a bus wire) or wireless (e.g., Bluetooth, Wi-Fi) connection, or a combination of suitable wired and wireless connections that facilitate the transmission or communication of exercise use data (validated and/or unvalidated) from exercise apparatus for distribution to an interested third party such as a physician or medical provider, to a demander such as an insurance company, or to the user. *Id.* at 3:50–56, 4:3–53, 6:9–13.

Communication interface 50 can transmit exercise data to users via a display on apparatus 10, to doctors and insurers via an Internet interface, and to flash drives and an Internet-based web storage device. Ex. 1001, 6:9–52. Communication interface 50 can output the exercise use data to an outside storage device (e.g., a flash drive) or a website storage device by a wired communication link (e.g., a USB connection) or a wireless communication link (e.g., an Internet interface, Wi-Fi, Bluetooth). *Id.* at 9:9–36.

Verification of exercise use data occurs as follows. Operating unit 21 is coupled to drive motor 22 (not shown), which is connected electrically to a power source that transmits input current to motor 22 via a wire to power motor 22 to drive operating unit. Ex. 1001, 4:5–10. Current sensor 30 is located between motor 22 and the power source to detect the current input into the wire and generate a current signal proportional to the input current. *Id.* at 4:11–18. The current signal is transmitted from current sensor 30 to controller 40 that monitors the input current. *Id.* at 4:54–57. If a user mounts operating unit 21 during operation of motor-driven operating member 20, motor 22 will draw more current as operating unit 21 needs more driving power to maintain regular operation under the user's footfall. *Id.* at 4:57–62. Current sensor 30 detects changes of the input current caused by the user's footfall and transmits a current signal proportional to that current to controller 40, which can determine whether the user is engaging or ceasing to engage motor-driven operating member 20. *Id.* at 4:62–5:4.

Exercise apparatus 10 can detect users by optical sensor 60 sensing infrared radiation, pressure sensor 70 sensing pressure on the running belt, speed sensor sensing changes in speed of operating unit 21, a thermal sensor sensing heat, or any other suitable sensor. Ex. 1001, 5:38–54, Figs. 4, 5.

D. Challenged Claims

Claims 1 and 16 are the independent claims that are challenged in this proceeding. Claims 2–15 depend from claim 1. Claims 17–20 depend from claim 16. Ex. 1001, 7:63–9:31. Claim 1 is illustrative of the claimed subject matter and is reproduced below.

1. An exercise apparatus comprising:
 - a motor;
 - an operating member driven by the motor;
 - a sensor operable to detect engagement of a user with the operating member;
 - a controller in communication with the operating member and the sensor, the controller configured to generate exercise use data when the operating member is driven by the motor; and
 - a communication interface in communication with the controller,wherein the controller is configured [to] determine whether the user is engaged with the operating member in response to movement of the operating member and the sensor detecting engagement of the user with the operating member;
- wherein in response to the controller determining that the user is engaged with operating member, the controller is configured to report the exercise use data to the communication interface,
- wherein in response to the controller determining that the user is not engaged with the operating member, the controller is configured to stop reporting the exercise use data to the communication interface, and
- wherein the communication interface is configured to communicate the reported exercise use data to a third party.

Ex. 1001, 7:63–8:22.

E. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability (Pet. 85–86):

Ground	Claims Challenged	35 U.S.C. §	Reference(s)/Basis
1	1–7, 10–20	103 ¹	Morris, ² Ray ³
2	8, 9, 18	103	Morris, Ray, Cox ⁴
3	1–3, 6, 7, 10–16, 19, 20	103	Ray, AAPA ⁵
4	8, 9, 18	103	Ray, AAPA, Cox

Petitioner supports its challenge with a Declaration of Mr. R. Lee Rawls. Ex. 1002.

¹ The Leahy-Smith America Invents Act (“AIA”) revised 35 U.S.C. § 103 effective on March 16, 2013. Because the ’375 patent has an effective filing date after March 16, 2013, we apply the AIA version of 35 U.S.C. § 103.

² US 2010/0160115 A1, published June 24, 2010 (Ex. 1006, “Morris”).

³ US 9,785,827 B1, issued Oct. 10, 2017 (Ex. 1004, “Ray”).

⁴ US 7,736,273 B2, issued June 15, 2010 (Ex. 1005, “Cox”).

⁵ Applicant admitted prior art (“AAPA”) refers to alleged admissions that Petitioner asserts were made by the applicant in the Specification of the ’375 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>.

II. DISCUSSION

A. Level of Ordinary Skill in the Art

Petitioner asserts that a skilled artisan would have “(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 designing cardiovascular exercise equipment (such as treadmills, bicycles, steppers, ellipticals) or in a similar field” Pet. 16 (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.

On the present record, we find that Petitioner’s uncontested level of ordinary skill in the art is consistent with the ’375 patent and the prior art of record. Therefore, we adopt Petitioner’s level of ordinary skill in the art, as articulated above, in our consideration of the issues presently before us.

B. Claim Interpretation

We interpret claims “using the same claim construction standard that would be used to construe the claims 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. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)).

Petitioner does not propose any claim constructions and asserts that “[t]he 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.

On the present record, we need not construe any claim terms expressly because none are in dispute. *See Realtime Data, LLC. v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019).

C. Principles of Law

A patent claim is unpatentable under 35 U.S.C. § 103 if differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. 35 U.S.C. § 103; *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR*, 550 U.S. at 416. Similarly, “if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.” *Id.* at 417.

The question of obviousness is resolved based on 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. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966). Neither party presents any objective evidence of nonobviousness at this stage of the proceeding.

D. Ground 1: Alleged Obviousness over Morris and Ray

Petitioner asserts that claims 1–7 and 10–20 are unpatentable under 35 U.S.C. § 103 over Morris and Ray. Pet. 85, 16–54.

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.

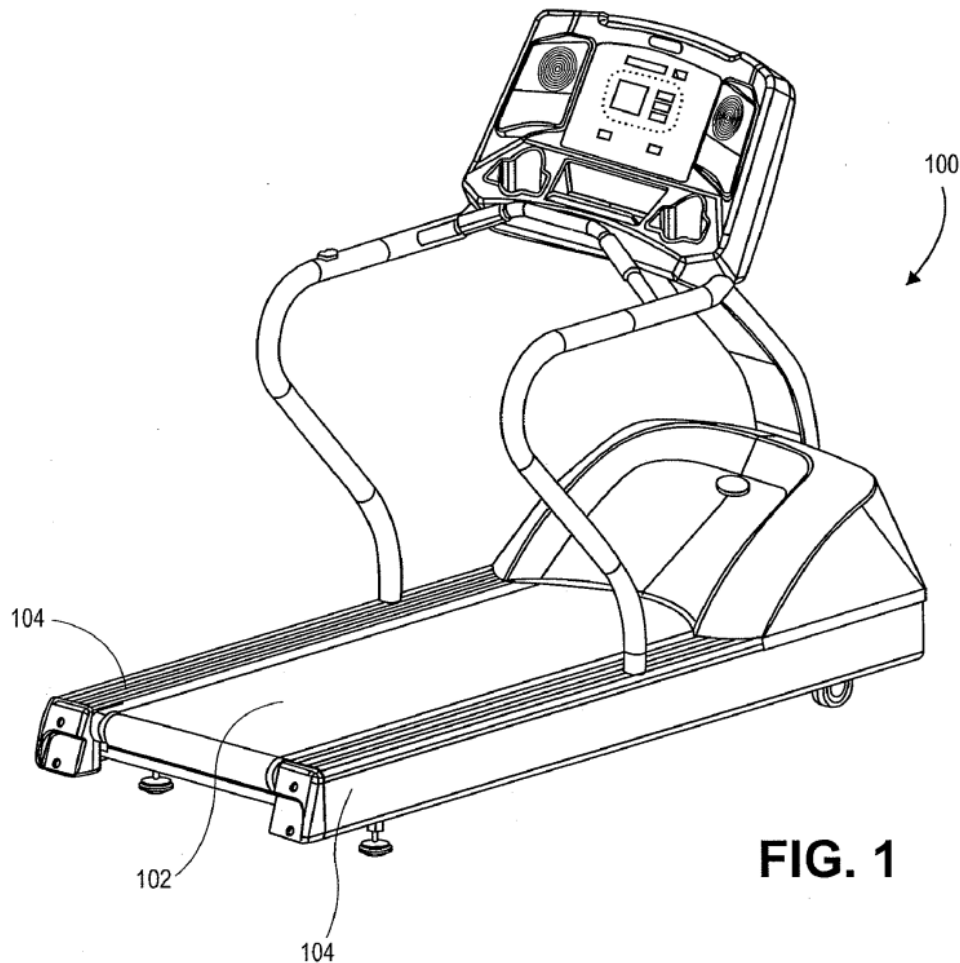


Figure 1 shows treadmill 100 including base 104 having a frame and rollers stretching endless treadmill belt 102 that glides over a floating deck of base 104 and is driven by a belt driving mechanism (not shown). Ex. 1006 ¶ 25. A user detection mechanism is incorporated into treadmill base 200 shown in more detail in Figure 2, which is reproduced below. *Id.* ¶ 27.

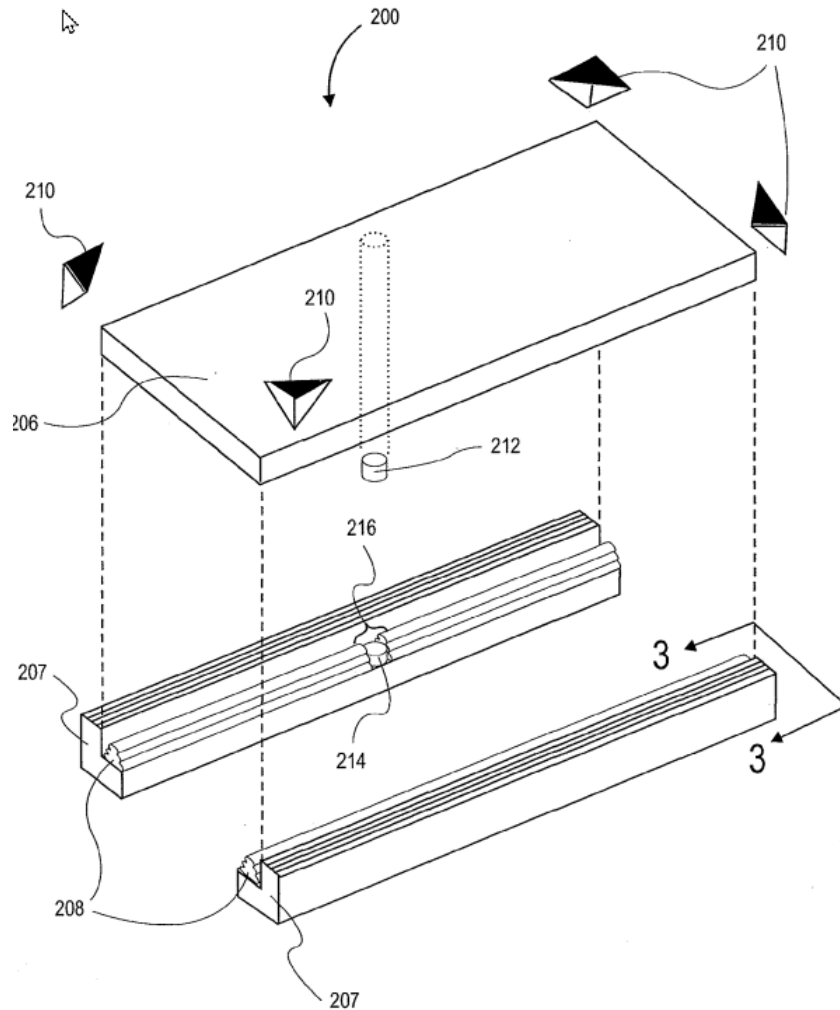


FIG. 2

Figure 2 illustrates a user detection mechanism comprising magnet 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. Magnet 212 and induction coil 214 together form a reluctance sensor. *Id.* As deck 206 moves due to a user's footfalls or weight shifts, compressible cushioning supports 208 allow magnet 214 to move relative to induction coil 214 to induce a current in induction coil 214. *Id.* This current signal is transmitted by wire 311 to a processor for translation as shown in Figures 3A and 3B reproduced below.

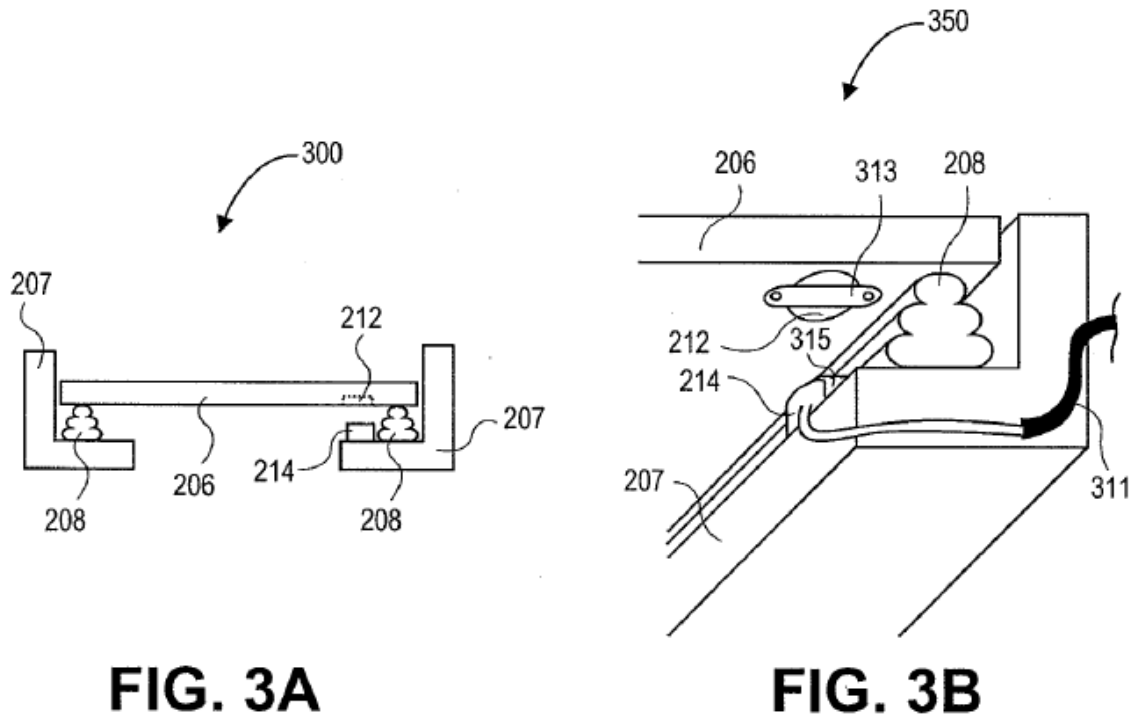


FIG. 3A

FIG. 3B

Figures 3A and 3B show a user detection system with magnet 212 affixed to deck 206 to move therewith relative to induction coil 214 due to a user's footfalls or weight shifts. Movement of magnet 212 relative to induction coil 214 induces signals that are sent by wire 311 to a processor. Ex. 1006 ¶¶ 27, 31. The processor distinguishes these large signals caused by a user's footfalls or weight shifts from "baseline" signals caused by slight vibrations in the treadmill due to the electric motor driving the belt. *Id.* ¶ 31. A change from such a small baseline signals to a large signal can indicate the presence of the user. *Id.* That determination can be output to a display or passed to another process for use. *Id.* Other sensors may be used, and these include magnetic sensors and optical sensors. *Id.* ¶ 33.

In one embodiment, induction coil 214, incline controller 526, and speed sensor 527 output signals to processors at translator board 518 of system 500 as shown in Figure 6, reproduced below. Ex. 1006 ¶¶ 32, 33.

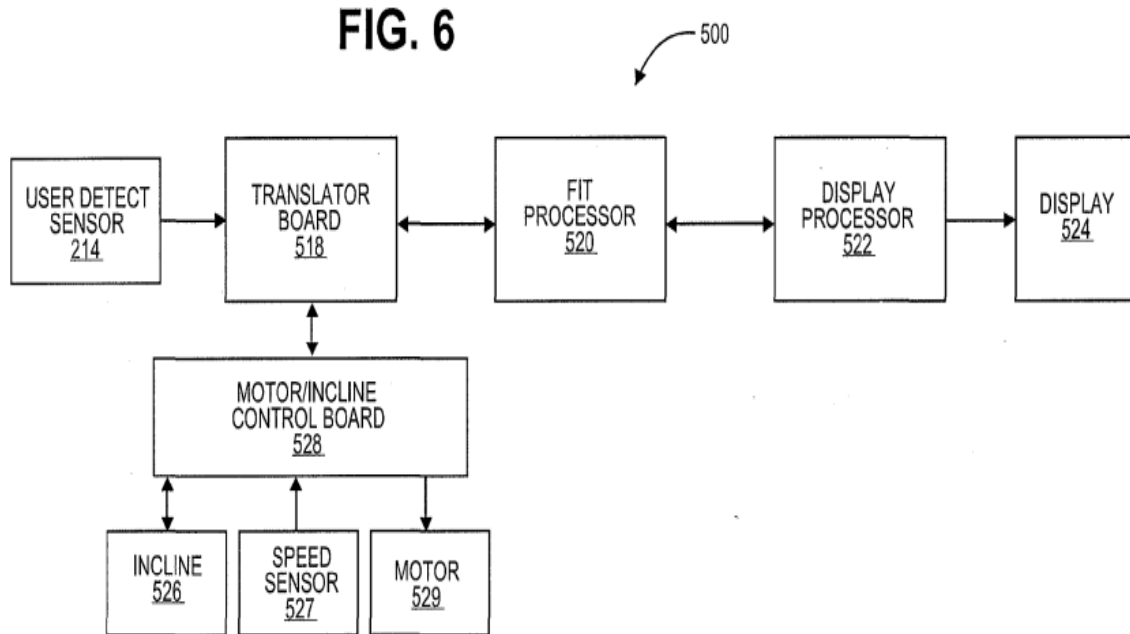


Figure 6 is a block diagram of information processing system 500 with user detect sensor (induction coil 214), translator board 518, FIT processor 520, display processor 522, display 524, incline controller 526, speed sensor 527, motor/incline control board 528, and motor driver 529. Ex. 1006 ¶¶ 32, 33. Translator board 518 interprets signals received from induction coil 214 and forwards them to FIT processor 520, which uses this indication of the 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. A user's cadence, footfall force, pace, heart rate, incline, distance, and program profile may be output as exercise information and feedback on a display panel. *Id.* ¶¶ 51–53, Fig. 11. Incline controller 526 and speed sensor 527 indicate the incline and speed of treadmill belt 102. *Id.* ¶¶ 33, 34.

2. Ray (Ex. 1004)

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, 14:6–46. According to Ray, its system can be merged easily and affordably into the current control and entertainment panel screen of exercise machines. *Id.* at 9:55–60. Figure 1 of Ray is reproduced below to illustrate this user detection arrangement.

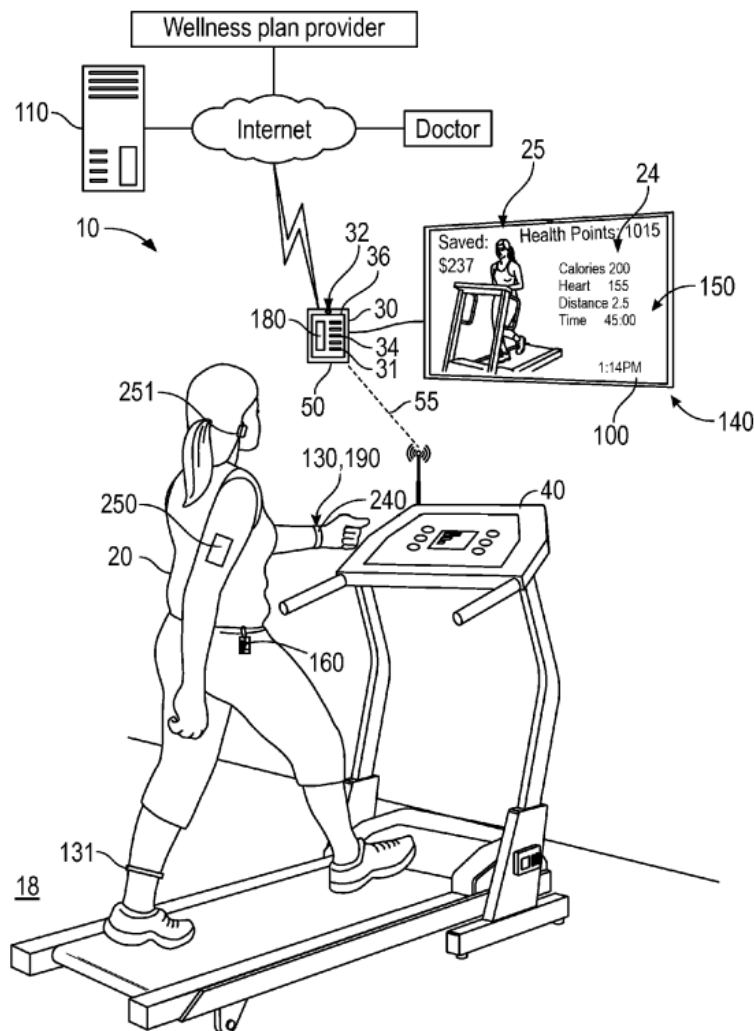


FIG. 1

Figure 1 shows a user exercising on exercise machine 40.

As a user exercises, camera 32 of electronic device 30 records their exercise data. Ex. 1004, 13:7–30. When camera 32 detects movement of a user’s shoulders up and down while the treadmill is moving, as indicated at interface 55, camera 32 records still or video images of the user exercising and/or produces a live feed to motivate the user. *Id.* at 6:43–56, 13:20–24, 14:6–46. As long as the user exercises on exercise machine 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. *Motivation to Combine and Reasonable Expectation of Success*

Petitioner contends that Morris and Ray relate to exercise equipment such as treadmills that detect a user’s presence on the treadmill and present the user’s exercise data on a display while the user is exercising to provide a number of similar benefits including motivating a user to exercise. Pet. 16–17 (citing Ex. 1006 ¶¶ 5, 26, 35, Abstr.; Ex. 1004, 5:41–48, 8:22–26, 11:56–61, 13:20–30, Abstr.). Petitioner contends that a skilled artisan would have been motivated to combine the complementary teachings of Morris and Ray that addressed these similar objectives to achieve predictable results. *Id.* at 16–17 (citing Ex. 1002 ¶¶ 137–140). Petitioner asserts that a skilled artisan would have incorporated Ray’s camera and software instructions to validate a user’s exercise data into Morris’ treadmill with a reasonable expectation of success because Morris expressly taught that “its exercise equipment could be fitted with optical sensor(s).” *Id.* at 17 (citing Ex. 1006 ¶ 33).

Petitioner asserts that, Morris' treadmill had an information processing system with electronic circuits and processors (controller) that processed sensor signals to determine the presence/absence of the user, communicated with the treadmill's motor, presented exercise data (duration, distance, intensity, incline, cadence, footfall force), provided a human analog display to mimic a user's bouncing motion, and generated a virtual reality content world. Pet. 17 (citing Ex. 1006 ¶¶ 32, 34–36, 50, 56–58, claims 29–37, Figs. 6, 11–12C). Petitioner contends that Morris' signal processing and display system had the capabilities to implement Ray's user detection and validation software with a reasonable expectation of success to include its functionalities that produce and present motivational images of the user exercising, and a skilled artisan would recognize that software instructions could be incorporated easily into Morris' controller to interact with Morris' advanced sensor system that is designed to detect a user's presence more accurately. *Id.* at 17–18 (citing Ex. 1002 ¶¶ 141–145).

Petitioner asserts that Ray teaches that its user validation/motivation technology is “easily and affordably merged” into a treadmill, and it would be obvious to incorporate such features into Morris' treadmill for predictable results with a reasonable expectation of success to improve Morris' treadmill by adding Ray's motivational image of a thinner user as exercise intensity and duration increase to improve a user's self-worth and self-esteem, and the benefits of sharing exercise data with remote physicians and trainers would motivate a skilled artisan to make the combination. *Id.* at 18–19 (citing Ex. 1004, 7:11–22, 9:55–57, 11:55–59, 13:50–57; Ex. 1002 ¶¶ 145–147).

These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

4. *Independent Claim 1*

a. *1[pre]: “An exercise apparatus comprising:”*

Petitioner asserts that Morris discloses an exercise machine (treadmill) with user detection features. Pet. 19 (citing Ex. 1006 ¶¶ 6, 7, Title, Abstr., claim 29, Fig. 1). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

b. *1[a]: “a motor;”*

Petitioner asserts that Morris’ treadmill includes a motor that drives the belt and creates baseline signals, and a motor feedback system monitors the incline and speed of the treadmill. Pet. 20 (citing Ex. 1006 ¶¶ 31–33, Fig. 6; Ex. 1002 ¶¶ 148–149). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

c. *1[b]: “an operating member driven by the motor;”*

Petitioner asserts that Morris discloses motor-driven endless belt 102 as an operating member (as does the ’375 patent) that is driven by an electric motor. Pet. 20–21 (citing Ex. 1006 ¶¶ 25, 27, Fig. 1; Ex. 1001, 3:1–4, 3:59–66, Fig. 1; Ex. 1002 ¶ 150). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

d. *1[c]: “a sensor operable to detect engagement of a user with the operating member;”*

Petitioner asserts that Morris describes a user detect sensor—such as a magnet and coil, other magnetic sensors, and optical sensors—e.g., a reluctance sensor that uses magnet 212 and induction coil 214 to detect a user’s footfalls as current in coil 214, so a processor can determine whether a user is present. Pet. 21–22 (citing Ex. 1006 ¶¶ 27, 31, Figs. 3A, 3B; Ex. 1002 ¶¶ 151, 152). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

Petitioner asserts that Ray discloses an optical sensor as a camera and associated data processor that are connected to the exercise machine and can be implemented as part of the treadmill to record still or video images and produce a live feed of user 20 when movement is detected by the camera and exercise data 24 is produced by exercise machine 40. Petitioner asserts that Ray's camera detects a user's presence on the moving belt by detecting up and down movement of the user's shoulders, and the camera will not record images if the user stops exercising. Pet. 22–24 (citing Ex. 1004, 6:53–56, 9:55–57, 10:36–50, 10:59–64, 13:20–24, 14:6–14, 14:34–40, 15:55–65, 16:47–50, claim 1). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

Petitioner asserts that it would have been obvious to combine Ray's camera and analysis software with Morris' treadmill to augment the signals provided by the reluctance sensor as the user walks or runs on the treadmill with a reasonable expectation of success because using multiple sensors was a routine, well-known task to detect engagement of a user with a treadmill. Pet. 23–24 (citing Ex. 1001, 5:31–54, 7:9–16, Fig. 5; Ex. 1002 ¶¶ 151–156). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

- e. *1[d]: “a controller in communication with the operating member and the sensor, the controller configured to generate exercise use data when the operating member is driven by the motor; and”*

Petitioner asserts that Morris' controller is fitness FIT processor 520 that communicates with treadmill drive motor 529 and user detect sensor 214. Pet. 24 (citing Ex. 1006, Fig. 6). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

Alternatively, Petitioner contends that the combination of translator board 518, FIT processor 520, and display processor 522, or the combination of translator board 518 and FIT processor 520, form the “controller” because Morris can implement these components as physically separate processors and/or electrical boards or as combined within a single processor, which would have been obvious and well-known. Petitioner asserts that Morris’ user detection inductance coil 214 communicates with translator board 518 that interprets signals from inductance coil 214 and forwards them to FIT processor 520, which uses the indication to control a workout program by communicating with a treadmill belt operating unit to slow the belt and/or lower the incline. Petitioner asserts that Morris’ exercise equipment presents exercise use data to a user via a display as pace, heart rate, incline, distance, program profile, footfall force, and cadence, and this data is generated while the treadmill belt is moving. Pet. 25–28 (citing Ex. 1006 ¶¶ 35, 36, 40, 50, 51, 53, claims 24, 32, Fig. 11; Ex. 1001, 4:19–31; Ex. 1002 ¶¶ 157–163). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

Petitioner asserts that Ray also generates exercise use data when the operating member is driven by the motor as calories, heartrate, distance, time, and a virtual image of the user in real time, and movement of the belt (operating unit) triggers the camera’s operation to periodically take a photo as long as the treadmill is moving. Pet. 28–30 (citing Ex. 1004, Abstr., 4:66–5:14, 5:23–29, 5:41–48, 6:54–56, 10:59–67, 13:24–36, 14:7–11, Fig. 1; Ex. 1002 ¶¶ 164–167). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

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

Petitioner contends that the '375 patent describes a communication interface as an Internet interface (Wi-Fi Internet module or Internet port). Petitioner asserts that Ray discloses a communication interface that allows a user's motivational image and other exercise data to be transmitted over the Internet as a live feed to a remote location or sent to a storage device such as a cloud-based server or another device via interface 55, and Ray's various communication interfaces could be implemented with Morris' treadmill to provide exercise data to a storage device or a third party as a live feed. Pet. 30–34 (citing Ex. 1004, 3:46–51, 5:65–6:5, 6:67–7:10, 8:1–10, 9:55–57, 12:59–67, 13:31–36, 13:50–54, 13:65–67, Figs. 1–3; Ex. 1006 ¶¶ 23, 24, 35, 36, Figs. 6, 11, 12A–12C; Ex. 1001, 6:13–16, 6:23–26, 6:44–47, 6:54–58; Ex. 1002 ¶¶ 146, 185, 168–172). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

g. 1[f]: “wherein the controller is configured [to] determine whether the user is engaged with the operating member in response to movement of the operating member and the sensor detecting engagement of the user with the operating member;”

Petitioner asserts that Morris uses a reluctance sensor that generates signals to sense a user's footsteps on the treadmill and transmits signals to the processor that uses signal strength, duration, and comparison to baseline signals caused by the motor driving the belt without a user present to assess the presence or absence of the user on the treadmill and whether the person is walking, jogging, running, or sprinting. Pet. 34–35 (citing Ex. 1006 ¶¶ 31, 36–38, 42; Ex. 1002 ¶¶ 173, 174). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

Petitioner asserts that Ray's controller detects a user's presence on a moving treadmill belt by sensing the user's shoulders moving up and down when the belt is moving or taking real-time images of the user when the belt is moving and exercise data is produced. Pet. 35 (citing Ex. 1004, 6:53–57, 14:6–14, 14:35–40; Ex. 1002 ¶¶ 173–176). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

- h. 1[g]: “wherein in response to the controller determining that the user is engaged with operating member, the controller is configured to report the exercise use data to the communication interface,”*

Petitioner asserts that Morris and Ray report exercise use data when an exercising user is detected to the communication interface to transmit to a remote location or server, and Ray's validation and motivation software can be included in Morris' controller easily and affordably. Pet. 35–38 (citing Ex. 1004, 6:53–57, 14:35–40, Fig. 1; Ex. 1006 ¶ 53, Fig. 11; elements 1[d]–1[f] (Pet. 24–35); Ex. 1002 ¶¶ 177–179). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

- i. 1[h]: “wherein in response to the controller determining that the user is not engaged with the operating member, the controller is configured to stop reporting the exercise use data to the communication interface, and”*

Petitioner asserts that Morris pauses or stops a treadmill when a user departs, or it displays a “[p]lease return to the treadmill” message when a user is not detected, and it would have been obvious that exercise use data was not reported in such situations when a user is not detected. Pet. 38–39 (citing Ex. 1006 ¶¶ 8, 45). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

Petitioner asserts that Ray does not report exercise use data if the user stops exercising, e.g., the camera no longer records images if the user is not exercising, the motivational image is not reported out to the user, and no live feed is sent to a doctor over the Internet. Petitioner also contends that other exercise use data such as distance, pace, footfall force, cadence, and time would cease to be reported when a user stops exercising. Pet. 39–40 (citing Ex. 1004, 6:17–20, 6:55–57, 13:50–56; Ex. 1002 ¶¶ 181–183). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence.

- j. *1[i]: “wherein the communication interface is configured to communicate the reported exercise use data to a third party.”*

Petitioner asserts that Ray teaches that a user’s exercise use data is transferred over the Internet to a wellness manager or medical advisor as a live feed or stored on a computer or remote server such as a cloud-based server to obtain the data at any time or location. Pet. 40 (Ex. 1004, 3:47–51, 5:46–52, 6:59–7:45, 8:22–47). Petitioner asserts that Ray transmits virtual images of a user while exercising as a live feed to third parties such as insurance programs, trainers, and physicians, and an ordinarily skilled artisan would have been motivated to incorporate this feature into Morris’ system as part of the communication interface (e.g., display processor or transceiver) to allow generated exercise use data to be sent as a live feed to a doctor. *Id.* at 40 (citing Ex. 1004, 3:47–50, 5:49–51, 7:4–10, 7:16–36, 13:7–10). These contentions, which are not contested by Patent Owner at this stage, are supported by record evidence.

k. Conclusion

On this record, we find that Petitioner has established a reasonable likelihood that claim 1 is unpatentable over Morris and Ray.

5. Claims 2–7 and 10–15

Petitioner provides detailed contentions that claims 2–7 and 10–15 are unpatentable over Morris and Ray. Pet. 40–51. These contentions, which Patent Owner does not contest at this stage, are supported by record evidence. On this record, we find that Petitioner has established a reasonable likelihood that claims 2–7 and 10–15 are unpatentable over Morris and Ray.

6. Independent Claim 16

Petitioner asserts that claim 16 is unpatentable over Morris and Ray. Pet. 52–53 (citing assertions for elements 1[a]–1[d], 1[f]–1[i], and claim 6). These contentions, which Patent Owner does not contest at this stage, are supported by record evidence. On this record, we find that Petitioner has established a reasonable likelihood that claim 16 is unpatentable over Morris and Ray.

7. Claims 17–20

Citing its contentions for claims 4, 6, 7, and 15, and element 1[c], Petitioner asserts that claims 17–20 are unpatentable over Ray and Morris. Pet. 53–54. These contentions, which are not contested at this stage, are supported by record evidence. On this record, we find that Petitioner has established a reasonable likelihood that claims 17–20 are unpatentable over Morris and Ray.

E. 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 1–7 and 10–20 based on Morris and Ray. *See supra* § II.D. As a result, we institute an *inter partes* review of all challenged claims and all grounds of unpatentability 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 our final written decision, if appropriate, and we expressly invite the parties to further address these grounds during the course of the trial.

III. ORDER

Accordingly, it is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), *inter partes* review is instituted as to all of the challenged claims, i.e., claims 1–20 of the ’375 patent, on all of the grounds of unpatentability set forth in the Petition; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial on the grounds of unpatentability authorized above; the trial commences on the entry date of this Decision.

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