

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.

PTAB Case No. IPR2023-01164

Patent No. 10,796,375

**PETITIONER PELOTON INTERACTIVE, INC.'S REPLY TO PATENT
OWNER'S RESPONSE TO PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 10,796,375**

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EXHIBIT LIST

Exhibit	Description
1001	U.S. Patent No. 10,796,375 (“’375 Patent”)
1002	Declaration And Curriculum Vitae Of Lee Rawls (“Rawls”)
1003	File History Of U.S. Patent No. 10,796,375
1004	U.S. Patent No. 9,785,827 (“Ray”)
1005	U.S. Patent No. 7,736,273 (“Cox”)
1006	U.S. Patent App. Pub. No. 2010/0160115 A1 (“Morris”)
1007	IBM Computing Dictionary
1008	U.S. Patent No. 6,638,198 (“’198 Patent”)
1009-1011	Reserved
1012	U.S. Patent App. Pub. No. 2009/0176629 (“Yi”)
1013	U.S. Patent No. 6,575,878 (“Choy”)
1014	U.S. Patent No. 8,690,735 (“Watterson”)
1015	Affidavit of Ashlee E. Sherman
1016	CORRECTED Affidavit of Christopher G. Hanewicz
1017	U.S. Patent No. 8,287,434 (“’434 patent”)
1018	JHT’s Opening Exchange of Claim Terms and Proposed Constructions
1019	Vidal, Updated Guidance on the Treatment of Statements of the Applicant in the Challenged Patent in Inter Partes Reviews Under § 311 (June 9, 2022), <i>available at</i> https://www.uspto.gov/sites/default/files/documents/2022060912updatedAAPAmemo.pdf
1020	Exhibit B to JHT June 9, 2023 Infringement Contentions
1021	Peloton’s Unopposed Motion to Stay District Court Proceedings
1022	Sotera Stipulation filed in the U.S. District Court

I. INTRODUCTION

The patent owner's response (POR) fails to rebut Petitioner's showing and suffers from many flaws. Notably, instead of considering the teachings of the prior art in combination, as understood by a POSITA, patent owner (PO) focuses on the purported teachings of each piece of prior art in isolation. Even then, PO ignores the explicit disclosure of the prior art or takes an extremely narrow interpretation of that disclosure. Realizing that its approach is not enough to overcome the express teachings of the prior art, PO proposes a construction for the term "exercise use data" that arbitrarily excludes certain elements from the scope of the claims. As they are not supported by the evidence, PO's positions should be rejected.

II. CLAIM CONSTRUCTION

PO's construction for one term—"exercise use data" (POR, 4-6) should be rejected because it is contradicted by the intrinsic evidence. Even if the Board accepts PO's proposed construction, the prior art invalidates each challenged claim for the reasons stated in the Petition and herein.

PO proposes that "exercise use data" be construed to mean "data that would represent an amount of exercise of the user" (POR, 4) but limits its construction to cover only two specific kinds of "exercise use data," time and distance. *Id.*

But this overly narrow construction finds no support in the record and arbitrarily excludes a host of other forms of "exercise use data" recognized by those

of skill in the art at the time of the invention (e.g., pace, heart rate, footfall force, cadence, and Ray’s virtual image of the user). *Id.*, 10, 12. Further, even under PO’s proposed construction, Morris and Ray both disclose “exercise use data.”

A. PO’s Construction Improperly Imports Limitations and Is Not Supported by Intrinsic Evidence

The specification does not limit exercise use data to a specific amount of exercise as PO proposes, nor does it identify certain metrics to the exclusion of others that constitute “exercise use data,” or draw the distinction between time and distance versus other metrics that PO attempts to do here.

For example, in discussing a “conventional exercise apparatus” and what exercise use data that apparatus can provide, the background section of the ’375 patent teaches that exercise use data is used to “demonstrate his (or her) exercise habit and exercise use to their insurance company.” EX-1001, 1:40-43. The broad usage of exercise use data to demonstrate “exercise habits” is repeated in the specification. *Id.*, 2:10-23, 2:38-40 (“[T]he fake exercise use data shouldn’t represent the exercise habit or amount of user exercise to the insurance companies.”). A POSITA would understand that “exercise habit,” as used in the ’375 patent, would correspond to a user’s exercise pattern. Rawls, ¶¶114-15. And a POSITA would also understand that information, such as heart rate, pace and other metrics disclosed

in the prior art, are exercise use data that can show an exercise habit. *E.g.*, Rawls, Appendix K, ¶0026.

PO's limited construction is further belied by the disclosures in two patents explicitly referenced in the specification (U.S. Patent Nos. 8,287,434 and 6,638,198) that include "an exercise use data reporting function...that can provide exercise use data therefrom for a user." EX-1001, 1:38-53.¹ Both patents describe a variety of exercise-related data produced by the exercise apparatus and collected while the user is exercising, including heart rate, calories, time, and other information; neither support the arbitrary limitations proposed in the POR.²

Based at least on the descriptions in the '198 and '434 patents—documents that are referenced in the '375 patent as reporting exercise use data for the user—a POSITA would have understood that "exercise use data" is not limited to only

¹ The term "exercise use data" is not found in either patent. EX-1008, *passim*; EX-1017, *passim*.

² JHT's construction that excludes heart rate from the scope of exercise use data contradicts its own infringement contentions where JHT accused Petitioner's product of producing exercise use data such as "heart rate." EX-1020, B-5.

distance or time³, and can include other exercise information generated by the exercise machine. *E.g.*, Rawls, Appendix K, ¶0025 (identifying exercise results including distances, heart rates, duration, and the like). *See also Deere & Co. v. Bush Hog, LLC*, 703 F.3d 1349, 1354 (Fed. Cir. 2012) (“[A] claim construction must not import limitations from the specification into the claims.”).

For example, the '198 patent teaches that the display of the exercise machine can display “various information to the exerciser including, but not limited to, the elapsed exercise time, the exercise level, the difficulty level number of calories burned, pulse rate, and the like” (EX-1008, 7:7-14), and the “desired exercise data” can include “exercise time, pulse rate at one or more times during the exercise, etc.” *Id.*, 17:31-37. The '198 patent also teaches the importance of pulse rate information that “permits a determination of whether the exerciser’s pulse rate is generally within a range appropriate for achieving the exerciser’s goals.” *Id.*, 22:63-23:23; *see also id.*, 25:32-54 (describing pulse rate’s importance for a third-party fitness consultant). Thus, the '198 patent recognizes a wide range of “exercise use data.”

The '434 patent similarly does not limit “exercise use data” to certain metrics, and instead teaches that “information about exercise” can include “number of reps

³ Time and distance are recited as “exercise use data” in the dependent claims.

The independent claims do not limit “exercise use data” to time and/or distance.

performed, energy used, distance between handles, the pulse, position and velocity from the accelerometer.” EX-1017, 15:33-37.

PO’s construction of “exercise use data” is also contradicted by the prosecution history of the ’375 patent. In response to examiner’s rejections based on Yi’s disclosure of a treadmill that calculated and stored the pace speed of a user (EX-1003, 43-48; EX-1012, Abstract), Applicant did not dispute Yi’s disclosure of “exercise use data.” EX-1003, 61-62.

Finally, PO’s construction, which excludes pace, contradicts its own infringement contentions where PO accuses Petitioner’s product of producing exercise use data including “pace.” EX-1020, B-5. For these reasons, PO’s construction fails.

B. Ray’s Thinning Image, Pace, Etc. Are Exercise Use Data

Even if PO’s proposed construction is adopted, Ray’s thinning image, Morris’ pace, footfall force, etc. meet PO’s proposed construction because they “represent an amount of exercise of the user.” Notably, Ray’s thinning image reflects the intensity, speed and/or duration of a user’s workout, i.e., an amount of exercise of the user. Ray, Abstract, 5:44-46, 5:23-29, 10:59-67; Pet., 28-30. Ray’s image is generated in real time and changes based on the user’s workout—the faster, longer or more intensely the user exercised, the thinner the user’s image became. *Id.* A POSITA would thus understand that Ray’s thinning image represents an amount of

exercise. Rawls, ¶¶164-66. Similarly, Morris’ pace, footfall force, etc. are displayed to the user so that they can see information about their current workout. Morris, [0050]. A POSITA would understand that this information represents the amount of exercise of the user, such as the pace run during their exercise, or the amount of force being exerted by the user’s footfalls. *Id.*, [0053], Rawls, ¶¶161-63.

PO additional arguments also fail. PO argues that you cannot determine “any other measure of an amount of exercise from viewing the virtual image alone.” POR, 13-14. This assertion is factually incorrect because Ray’s thinning image is based on, and captures information about the user’s workout, including an intensity, speed or duration of the exercise. Ray, Abstract, 5:44-46, 5:23-29, 10:59-67; Pet., 28-30; Rawls, ¶¶178-79.

PO further argues that Ray’s virtual image cannot be exercise use data because it is multimedia content. POR, 12-13. PO’s construction, however, does not preclude multimedia content. Neither does PO identify anything in the ’375 patent that prohibits multimedia content from constituting exercise use data. In fact, the ’375 specification describes that “the validated exercise use data is substantially shown as a multimedia content, such as a media image and/or a sound.” EX-1001, 6:20-33.

PO additionally mischaracterizes Mr. Rawls’ testimony that Ray’s thinning image “is not a precise measurement.” POR, 12. But neither PO’s construction of

“exercise use data” nor the ’375 patent requires that a precise amount of exercise be represented. And, Mr. Rawls never testified that exercise use data requires a precise measurement. PO identifies no other evidence to justify importing this narrowing limitation. In fact, PO appears to contradict itself both in its POR and in its proposed constructions in the district court by stating that “...‘exercise use data’ alone is *an apparent amount of exercise* without regard to whether a user is actively engaged with the operating unit/endless belt of the exercise apparatus/treadmill” (POR, 5)⁴; and exercise use data is “an *apparent amount of exercise* based on movement of the operating member/unit.” EX-1018.⁵

III. GROUNDS FOR CHALLENGE

A. Ground 1

PO does not dispute that a POSITA would be motivated to combine the teachings of Morris and Ray. Nor does PO dispute that the combination of Morris and Ray teaches limitations 1[pre] through 1[f] of claim 1. Instead, PO focuses on

⁴ All emphasis added unless otherwise noted.

⁵ The parties’ opening exchange of claim terms and proposed constructions occurred on August 25, 2023, after Peloton filed its Petition. The district court litigation was stayed before the parties exchanged final proposed constructions. EX-1021. Petitioner also filed a Sotera stipulation with the district court. EX-1022.

limitations 1[g] through 1[i]. But PO's analysis for limitations 1[g] and 1[h] is flawed because (1) it relies on a flawed construction of exercise use data; (2) even under this flawed construction, the claims are rendered obvious; and (3) PO only addresses the teachings of the prior art in isolation. *See In re Merck*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) ("Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references."). And PO's analysis of limitation 1[i] ignores the teachings of the prior art. Claim 1 and its dependents are invalid in view of Morris and Ray.

1. Limitation 1[g]

a. PO Relies on an Improper Claim Construction

Considering Morris in isolation, PO first argues that Morris' disclosure of footfall force, cadence, and pace are not "exercise use data." POR, 10. PO's construction should be rejected, as discussed in Section II, *supra*, because it contradicts the '375 patent's own description, the prosecution history, and even PO's own infringement contentions. EX-1020.

Considering Ray alone, PO similarly argues that heart rate and Ray's virtual image are not exercise use data because they do not represent an amount of exercise. PO's construction is wrong and should be rejected, as explained in Section II. Notably, Ray's image is thinned based on the intensity, speed or duration of the

user's exercise, and represents an amount of exercise because the "faster and/or more intensely the user exercises, the thinner...the user's image becomes." Ray, 5:44-47; Pet., 35; Section II.B, *supra*.

PO also argues that Petitioner muddles Ray's validation feature and virtual image. POR, 14. But, PO mischaracterizes Ray by selectively quoting one section of Ray where someone in the medical industry validates the user's identity. *Id.* However, Ray discloses various identity verification techniques *during exercise*, including using facial recognition routines included in the "set of instructions" that are included in the memory of electronic device 30 (at the treadmill). Ray, 13:7-30, 14:6-30, 15:15-25. Further, claim 1 does not require validation of exercise use data, and Ray's thinning image is generated based on the duration of a user's exercise as detected by its optical sensor and its broadcast to a display (Ray, 13:50-14:5), renders limitation 1[g] obvious.

Given that Morris describes exercise use data generated in response to detection of the user, including at least pace, cadence, and footfall force, and Ray describes generation of exercise use data in the form of a thinning image, PO's arguments fall apart even when Morris and Ray are viewed in isolation.

b. The *Combination's* Description of Time and Distance Renders the Challenged Claims Obvious

Even if PO's construction that excludes pace, footfall force, cadence, heart rate, and Ray's thinning image is accepted, Morris and Ray describe other exercise use data, such as distance and time. Pet., 26-27, 29-30, 36-37; Morris, Fig. 11; Ray, Fig. 1.

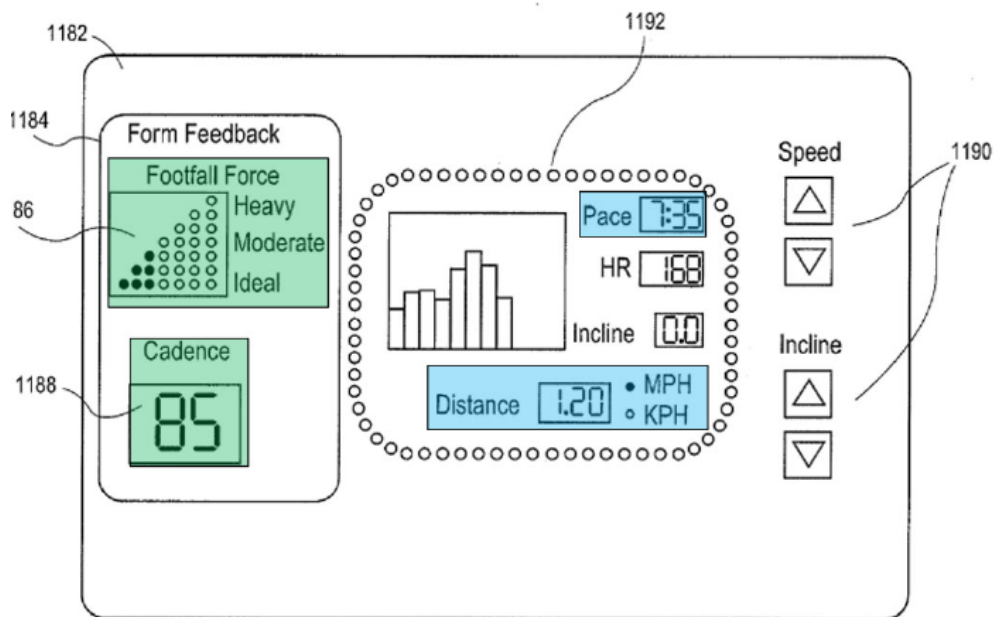


FIG. 11
(Annotated)

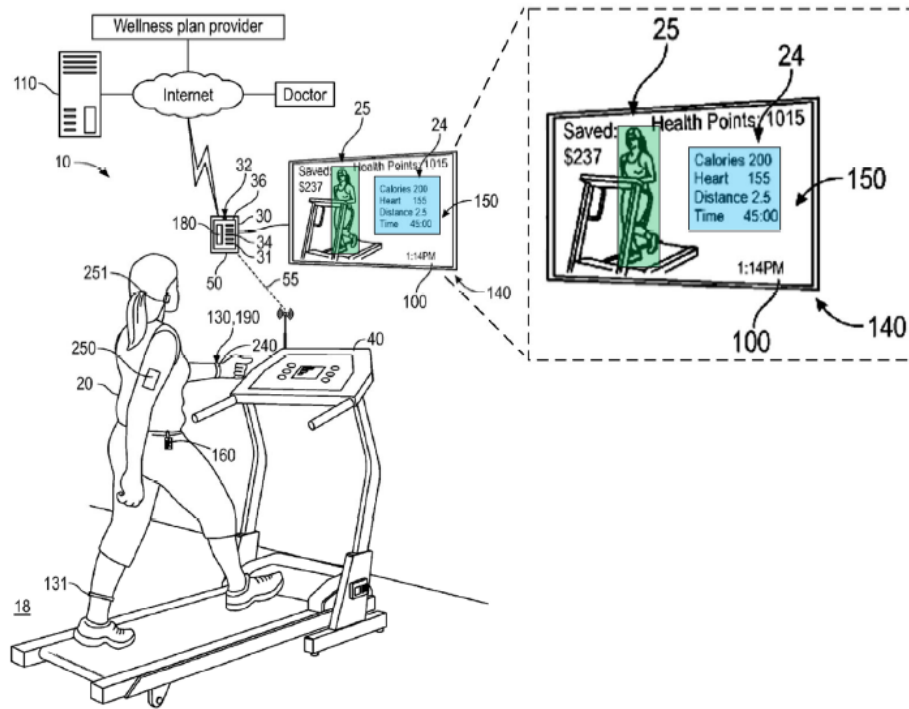


FIG. 1 (Annotated and Display Area Enlarged)

As explained in the Petition, Ray describes that “as long as the treadmill is moving the camera will operate to take their real-time image while exercising” (Ray, 6:54-56), and “[i]f the user stop[ped] exercising, the camera w[ould] no longer record images.” *Id.*, 6:55-57; Pet., 37. Ray further explains transmitting “to the server...*the time 140 and duration of the exercise performed by the user 20.*” Ray. 13:24-30; Pet., 30, 41. Even setting aside Ray’s thinning image and Morris’ pace, cadence and footfall force, PO ignores the express teachings of Ray regarding the reporting of time and duration of exercise, and the Petition’s and Mr. Rawls’ explanations that, in the combination, it would have been obvious to a POSITA that other exercise use data, including time and/or distance would also be reported along

with the user's thinning image if the exercising user was being detected. Pet., 37-38. Thus, in the combination, time and distance data would be reported to the server through the communication interface only upon detection of a user that is exercising.

c. PO Ignores the *Combination* of Morris and Ray

PO further argues that Morris' controller does not report distance and time "in response to" the sensor detecting engagement of the user. POR, 11-12.

PO's arguments concerning Ray and Morris in isolation ignore Petitioner's obviousness combination and the explicit teachings of Morris.

Ray teaches a treadmill that reports exercise use data to a display (see Figure 1 below), including distance, time, and the user's virtual/thinning image, which is generated based on the intensity and/or duration of a user's exercise. Pet., 36-38. Ray's camera (i.e., optical sensor) detects a user on the moving belt and the thinning image is generated and reported only while the user is detected. *Id.*, 37; Ray, 6:53-57, 14:6-14, 14:41-46; *see also* Ray, claim 14 (claiming "displaying only while the exercise session is detected a substantially live video of the exerciser" where the live video depicts the thinning image). As explained in subsection (b) above and in the Petition, a POSITA would have found it obvious that Ray's other exercise use data, such as distance and time, would be reported along with Ray's thinning image only when a user is detected. Pet., 30; Rawls, ¶166.

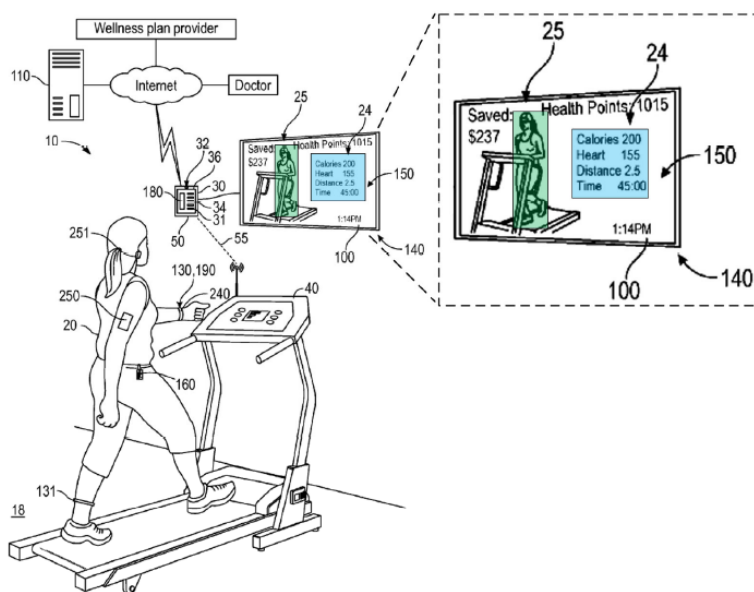
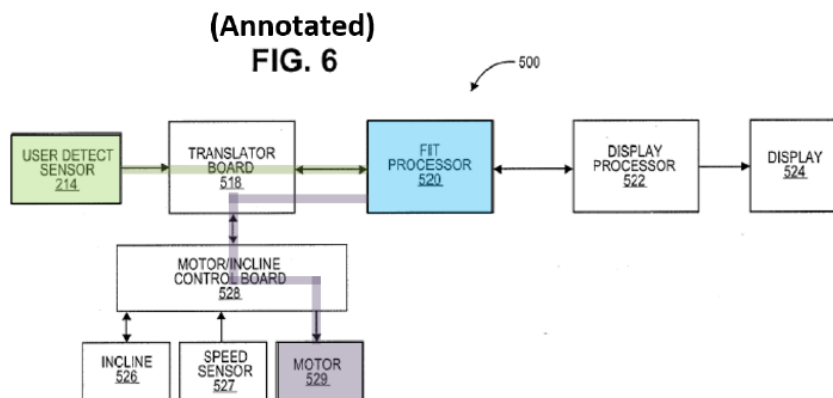


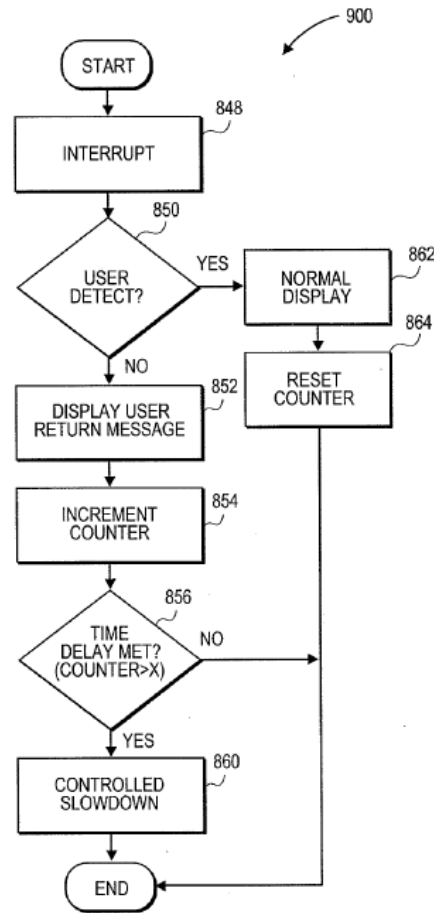
FIG. 1 (Annotated and Display Area Enlarged)

As illustrated in Figure 6 below and explained in the Petition, Morris' FIT processor receives information from the user detect sensor 214. Pet., 24-26, 34, 37. In the combination, Morris' FIT processor (520) and/or translator board (518) ("controller") would receive signals from the user detect sensor (214) that includes Ray's optical sensor (camera), and the controller would interpret signals that it receives from the sensor(s). *Id.*, 24-26, 34, 37.



A POSITA would have understood that, in the combination, Ray's exercise use data would be generated by Morris' controller in response to receipt of signals from the optical sensor, which is used to detect the presence of the user in response to movement of the tread belt. *Id.*, 37-38. The exercise use data would be generated in response to the detection of the user on the treadmill while the user is exercising.

Morris further discloses a flow chart in its Figure 9 (below), demonstrating that its controller reports exercise use data "in response to" detection of the user by a sensor and movement of the tread. *Id.*, 9-10; Morris, [0021]; Rawls, ¶125.

**FIG. 9**

At step 850, Morris' user detection sensor (which can include an optical sensor; Morris, [0033]) detects whether a user is on the treadmill and sends signals to Morris' FIT processor and translation board (i.e., controller). *Id.*, [0045]; Pet., 8-9. Based on those signals, Morris' controller will "calculate various parameters based on the incoming signals and manage drive elements (such as motor driver 529), output some or all of the parameters to one or more displays 524, or the like." Morris, [0032]; Rawls, ¶¶142-43; Pet., 20, 24-27, 31, 34, 36. Morris' controller also

adjusts the display in response to interpreting the user detection sensor's signal. Morris, [0045]; Pet., 24-25, 30-31. When a user is detected, the workout program operates as normal. Morris, [0045], Pet., 8-9. But if a user is not detected, Morris alters the display and triggers a controlled slowdown period. Morris, [0045], Pet., 8-9. Morris' controller may also affect a workout program (which includes information on duration, distance, incline, intensity, and the like; *id.*, [0035]) in response to detection of the absence of a user. *Id.*, [0036]; Rawls, ¶¶142-43; Pet., 8-9. Accordingly, exercise use data in the Morris/Ray combination is reported by the controller in response to detection of the user.

Additionally, Petitioner's analysis for claims 2 and 3 does not support PO's argument that Petitioner ignores the role of the controller in the Morris/Ray combination. A POSITA would understand that exercise data is reported in response to Ray's optical sensor detecting engagement of a user when the belt was moving. Rawls, ¶179. As shown above, the sensor data would be sent to Morris' translator board and FIT processor, which would also receive an indication of the tread moving via the motor/incline control board and would report the exercise use data (if a user is detected and the tread is moving) in response to signals received by the sensor. Pet., 24-26, 34-35.

2. Limitation 1[h]

Morris teaches that when a user is not detected and fails to return within a period of time (e.g., 6-8 seconds), a controlled slowdown of the treadmill is triggered. Morris, [0045], Fig. 8; Pet., 38-39. And Ray explicitly teaches that its virtual image (i.e., exercise use data) would only be reported while the person is exercising. *E.g.*, Ray, 6:55-57; Pet., 39-40.

First, while admitting that cadence, footfall force and Ray's virtual image meet the claimed criteria for limitation 1[h] outside of not being "exercise use data," PO argues that Morris and Ray do not make any determination or do any analysis about the validity of time or distance generated during the slowdown period. POR, 16-17. Instead, according to PO, this data continues to generate and accumulate without the user being detected by the sensor. *Id.* PO's argument misses the mark. Unlike PO's contentions, there is no requirement in limitation 1[h] that "the 'exercise use data' must be determined by the controller to have occurred while a user was not actively engaging the operating member." POR, 16. This element merely requires the controller to **stop reporting** the exercise use data when the controller determines that the user is not engaged with the operating member. EX-1001, 8:16-19. As discussed in the Petition, a POSITA would have found it obvious that, in the Morris/Ray combination, when a user is not detected, exercise use data that depended on the presence of a user would not be **reported** to the display. Pet.,

38-39; Rawls, ¶180. The Petition further explains that while Ray was explicit that it stopped reporting the virtual image in response to not detecting the user, it would have been obvious to a POSITA that other exercise use data—distance, pace, footfall force, cadence, and/or time—would also cease to be reported when the user was no longer exercising because the user had finished exercising, or had left the premises, which makes the reporting of such information unnecessary. Pet., 40; Rawls, ¶¶ 181-83.

Second, PO argues that Ray’s motivational image, and pace, footfall force and cadence are not exercise use data. POR, 17-18. PO’s argument should be rejected for the reasons stated above in Section II. Notably, PO does not dispute that this limitation is disclosed in Ray if its motivation image is “exercise use data” (it is, *see* Pet., 28-30).

Finally, PO dismisses Petitioner’s argument that reporting time and distance would be unnecessary. POR, 18. PO argues Petitioner’s argument is “beside the point” because the purpose of the controller is to solve the problem of user’s faking exercise in the prior art. *Id.* PO does not explain how the problem of faking exercise data in the prior art supports its position. *Id.* As explained in the Petition, a POSITA would understand that there are two options of what to do with data when a user is not detected—continue reporting or cease reporting. Pet., 40; Rawls, ¶183. It would be obvious to a POSITA to stop reporting exercise use data when the user was no

longer exercising. If a user has completed their workout or left the premises, continuing to report exercise use data would be unnecessary. Pet., 40; Rawls, ¶183. This would further the purpose discussed in Ray and Morris. For example, ceasing to report exercise use data would ensure that its suggestions to correct a user's gait is based on exercise use data generated and reported only when a user is detected. Pet., 39-40; Morris, [0006]; Rawls, ¶¶77, 181-83.

3. Limitation 1[i]

PO argues that Ray's virtual image is not transmitted to third parties. POR, 18. PO ignores the teachings of Ray.

As the Petition explains, Ray discloses that its virtual image can be transmitted as a live feed to third parties, such as insurance programs, trainers, and physicians. Pet., 40; *e.g.*, Ray, 3:47-50, 5:49-51). PO's argument is belied by Ray's disclosure as understood by a POSITA. Limitation 1[i] is obvious in view of the combination of Ray and Morris.

4. Claim 16

PO's arguments for claim 16 are the same as its arguments for claim 1, with one exception.⁶ POR, 20. PO argues that Petitioner relies solely on its arguments for elements 1[g] and 1[h] to show that elements 16[e] and 16[f] are disclosed by the

⁶ PO does not separately address dependent claims 17-20.

Ray/Morris combination. POR, 20. PO argues that elements 16[e] and 16[f], however, have a “in response to comparison step” that is not found in elements 1[g] and 1[h]. *Id.* PO’s argument is misplaced.

Element 16[d] discusses the controller comparing sensor data to a known parameter. EX-1001, 9:10-12. Claim 6 similarly discusses this comparison performed by the controller. *Id.*, 8:38-42. Petitioner relied on its analysis of claim 6 to show that the “comparison” limitation 16[d] is disclosed in the prior art. Pet., 53. The “in response to” comparison step portion of elements 16[e] and 16[f] is met for the same reasons the controller reports or stops reporting exercise use data in claim 1. Importantly, PO does not dispute that limitation 16[d] is disclosed by the Ray/Morris combination. POR, 20. PO’s argument should be rejected.

B. Ground 2

For the reasons stated in the Petition, the combination of Morris, Ray, and Cox renders claims 8-9 and 18 obvious.

1. Petition Explicitly Identifies Each Element in the Prior Art

PO argues that Ground 2 should be rejected because Petitioner did not specify where claim elements are found in the references because the Petition “jumps” directly into dependent claims 8-9 and 18. POR, 21-22. PO is seemingly asking Petitioner to repeat the prior art mappings for the base claims when addressing each dependent claim. PO’s argument is misplaced. The Petition identifies how each

prior art combination discloses each limitation of the asserted claims, including mapping specific disclosure to each individual limitation, as well as how the base claims are rendered obvious based on the combination of references. PO identifies no requirement that Petitioner must repeat its position for the independent claims in Ground 1 from which claims 8-9 and 18 depend. POR, 21-22.

The authority PO cites for its position is easily distinguishable. In *Sandbox Med. v. Neotech Prods., Inc.*, for example, in Ground 4 Petitioner substituted attorney argument for precise citations to the prior art and failed to explain why a POSITA would have combined the references it relies on. IPR2019-00246, Paper 22 at 29 (May 6, 2020). Conversely, Petitioner here explicitly maps disclosure in the prior art to each limitation and includes citations to Mr. Rawls to support its arguments. In *Microsoft Corp. v. FG SRC LLC*, Microsoft attempted to rely on an “unrelated ground in an unrelated section of its petition” to deduce its argument. 860 F. App’x 708, 712-13 (Fed. Cir. 2021). Here, Petitioner’s Ground 2, which challenges three dependent claims, immediately follows Ground 1 that addresses the related independent claims. Ground 2 simply adds another reference, Cox, to those considered in Ground 1 because Cox explicitly discloses a current sensor—something PO does not dispute. The Petition further explains how the references are combined and explains the motivations for making the combination. Pet., 54-58.

Accordingly, PO's invitation for the Board to reject Ground 2 on this basis should be declined.

2. Motivation to Combine

Outside of its arguments for claim 1, PO does not dispute that the combination of Morris, Ray, and Cox discloses claims 8-9 and 18. POR, 22-24. Instead, PO argues that a POSITA would not be motivated to combine the Morris/Ray combination with Cox for three reasons. The Petition and the disclosure in Morris, Ray, and Cox contradict PO's arguments.

First, PO argues that nothing in Ray or Morris suggests that improvements are needed to Ray's motivational image. POR, 22-23. Ray, however, disclosed the benefits of other sensors that could assist with feedback provided to a user. Pet., 55; Ray, 10:24-35, 11:21-55, 16:1-43. In view of this disclosure, a POSITA would be motivated to look to Cox's current sensor as an inexpensive option that would provide redundancy and accuracy to detection of a user and the amount of work they exhibit during their exercise. Pet., 56-57; Rawls, ¶225.

Second, PO argues that nothing in Morris suggests that improvements are needed to Morris' gait analysis. POR, 23. Morris, however, contemplated having multiple sensors. Pet., 55-56; Morris, [0033]. Moreover, both Morris and Cox described gait analysis techniques using complementary sensors. Pet., 56-57; Morris, [0009]; Cox, 3:9-21; Rawls, ¶225. In view of this disclosure, a POSITA

would have recognized that Cox’s current sensor could improve feedback on a user’s gait. Pet., 56-57; Rawls, ¶227.

Finally, PO argues that a POSITA would not be motivated to add a third “costly” sensor when it already had two ways to detect the presence of a user. POR, 23-24. PO’s argument improperly restricts a POSITA’s motivation to the purpose for the purported invention of the ’375 patent. *See Janssen Pharma., Inc. v. Teva Pharma. USA, Inc.*, 97 F.4th 915, 929-30 (Fed. Cir. 2024) (“For one thing, the motivation analysis is not limited to the problem or need recognized by the inventors.”). A POSITA’s motivation to include Cox’s sensor is not limited to inclusion of a redundant sensor to detect a user (although that is present too; Rawls, ¶226). Pet., 54-58. Instead, a POSITA’s motivation includes improvements to gait analysis that provided enhanced accuracy and additional features provided by Cox’s current sensor and the associated ESA tool that analyzed the current signals, without requiring multiple pressure sensors on multiple locations, as Morris did. Pet., 57-58. Moreover, incorporation of Cox’s sensor would not be “costly” because it did not require restrictive or sophisticated implementation (Cox, 1:54-61; Pet., 57; Rawls, ¶226) and Cox teaches that its sensor could be fully integrated into a standard treadmill. Cox, 4:32-39; Pet., 57.

C. Ground 3

1. Reliance on AAPA Permissible

PO argues that Petitioner's reliance on AAPA for limitations 1[g] and 1[h] is not permitted. POR, 24-25. PO is incorrect. Director Vidal's June 2022 memorandum allows for reliance on AAPA if it is relied on in combination with one or more prior art patents or printed publications. EX-1019, 3-4; *Qualcomm Inc. v. Apple Inc.*, 24 F.4th 1367, 1376-77 (Fed. Cir. 2022). Notably, AAPA can be used to supply missing claim limitations generally known in the prior art and/or demonstrate the knowledge of a POSITA. EX-1019, 4. Here, Ground 3 relies on Ray in view of AAPA—not AAPA alone—to illustrate the knowledge of a POSITA or to supply missing elements that were already known. PO's argument should be rejected.⁷

2. AAPA Teaches Limitation 1[g]

PO argues that AAPA does not disclose reporting exercise use data because AAPA does not disclose the controller reporting exercise use data *in response to*

⁷ PO's argument that Petitioner admits Ray is missing claim elements 1[pre], 1[a], 1[b], 1[d] and 1[g] should be rejected. POR, 25. PO ignores Ray's disclosure, as explained in the Petition. Pet., 65-76; Ray, Figs. 1-3 (disclosing an exercise apparatus).

movement of the operating unit and sensor detecting a user. POR, 26-27. PO's argument ignores the teachings of Ray and AAPA in combination.

PO does not dispute that AAPA discloses that conventional exercise equipment generated exercise use data and reported it to the user. Pet., 63-65; POR, 26-27. Ray further teaches when the exercising user is detected, exercise use data, such as distance, time, or the user's virtual image, are reported to and presented on a display. Pet., 73-76. The combination of Ray and AAPA, not AAPA alone, renders limitation 1[g] obvious.

3. Ray Teaches Limitations 1[h] and 1[i]

PO disputes that Ray discloses limitations 1[h] or 1[i] in Ground 3 based on assertions similar to those in Ground 1. PO's arguments are incorrect for the same reasons discussed in Ground 1 above. Namely, stopping the reporting of the user's virtual image is disclosed in Ray, and it would be obvious to a POSITA that other exercise data would cease to be reported. Pet., 76. Ray also discloses that its virtual image can be transmitted as a live feed to third parties, such as insurance programs, trainers, and physicians. Pet., 40.

D. Ground 4

With respect to Ground 4, PO sets forth four arguments. First, PO argues that Petitioner did not specify where each element is found in the prior art. POR, 29. PO's argument should be rejected for the same reasons discussed in Section III.B.1.

Second, PO argues that Petitioner cannot rely on AAPA. POR, 29. PO's argument is contradicted by the guidance of Director Vidal. *See* Section III.C.1.

Third, PO argues that a POSITA would not be motivated to combine Ray, AAPA, and Cox for two reasons: (1) nothing in Ray suggests needing improvements to its motivational image and (2) there is no motivation to implement another sensor for detecting the presence of a user for additional accuracy. POR, 30-31. PO's arguments are contradicted by the teachings of the prior art as understood by a POSITA for the same reasons discussed above in Section III.B.2. Namely, Cox's current sensor would help improve a user's exercise form, provide a more accurate assessment of the intensity of the user's exercise, and would provide an important gait analysis tool. Pet., 81-83.

Finally, PO argues that Petitioner's reference back to its analysis of Ground 2 for claims 8-9 and 18 is fatally flawed because Ground 2 includes the teachings of Morris but Ground 4 does not. POR, 31. PO's argument ignores Petitioner's discussion of the prior art. Ground 4 builds upon the combination in Ground 3 by including Cox's teachings of a current sensor for claims 8-9 and 18. As discussed above in Section III.B.1, PO identifies no requirement that Petitioner must repeat its position for the independent claims in Ground 3 from which claims 8-9 and 18 depend. To avoid unnecessary repetition, Petitioner also relies on its analysis of Cox's current sensor from Ground 2. The portions of the Petition that are referred

to for claims 8 and 9 do not discuss or rely on the teachings of Morris (Pet., 58-63)—they only discuss Cox’s current sensor, which can be incorporated into any standard treadmill (Cox, 4:32-39). For Ground 4, the Petition is clear that “the current sensor of Cox is implemented into Ray’s treadmill.” Pet., 81-83.

IV. THE VAN DER WEIDE DECLARATION SHOULD BE AFFORDED LITTLE WEIGHT

Under 37 C.F.R. § 42.65(a), “[e]xpert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.” The conclusory and unsupported statements in the van der Weide Declaration should be afforded little weight because they merely parrot the POR’s conclusory statements without adding any facts or data to support the view of a POSITA.⁸

For example, in Section VI.B.2 of the POR, PO argues that a POSITA would not have been motivated to combine Cox with Ray and Morris. POR, 22-24. PO relies on paragraphs 63-67 of the van der Weide Declaration in support of its position. A comparison of these sections confirms that Dr. van der Weide parrots

⁸ The parties’ respective definitions of a POSITA are similar. *Compare* Rawls, ¶33, *with* EX-2004, ¶36. The challenged claims are invalid under either definition of a POSITA set forth by Petitioner or PO.

the conclusory rationale of the POR, where he merely swaps the term “Petitioner” for “Mr. Rawls,” and omits case law and declaration citations from the POR. *Compare* POR, 22-24, *with* EX-2004, ¶¶63-67. A comparison of the remaining portions of Dr. van der Weide’s declaration draws the same conclusion—he does not offer additional supporting evidence or provide any technical reasoning to support his conclusory statements. Additionally, those conclusory statements that parrot the contents of the POR are technically flawed, as further explained in this Reply. Accordingly, the van der Weide Declaration should be afforded little weight. *See Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (PTAB 2022) (precedential) (“Thus, the cited declaration testimony is conclusory and unsupported, adds little to the conclusory assertion for which it is offered to support, and is entitled to little weight.”).

V. CONCLUSION

Petitioner requests the Board find claims 1-20 of the ’375 patent unpatentable as obvious over the prior art.

Dated: May 24, 2024

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CERTIFICATE OF WORD COUNT UNDER 37 C.F.R. § 42.24(d)

Under 37 C.F.R. § 42.24(d), the undersigned certifies that the word count for this Reply to Patent Owner Response totals 5,563.

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served a true and correct copy of the foregoing: **PETITIONER PELOTON INTERACTIVE, INC.'S REPLY TO PATENT OWNER'S RESPONSE TO PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT No. 10,796,375 AND SUPPORTING MATERIALS** by email to the electronic service addresses for Patent Owner:

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