



Patent Owner's Demonstratives

DEXCOM, INC., V. ABBOTT DIABETES CARE INC.
CASE NO. IPR2023-01251

Demonstrative Exhibit – Not Evidence

1

ABBOTT Exhibit 2042
Dexcom, Inc. v. Abbott Diabetes Care Inc.
IPR2023-01251

Roadmap

1 Overview of the Claimed Invention of the '056 Patent

2 Petitioner Fails to Establish Independent Claim 1 Is Unpatentable

a Ground 1 (Patel-2009 + Paradigm Documentation)

b Ground 3 (Patel-2008 Combination)

3 Petitioner Additionally Fails to Establish Dependent Claim 21 Is Unpatentable

Roadmap

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a Ground 1 (Patel-2009 + Paradigm Documentation)

b Ground 3 (Patel-2008 Combination)

3 Petitioner Additionally Fails to Establish Dependent Claim 21 Is Unpatentable

The '056 patent



US011298056B2

(12) **United States Patent**
Harper

(10) Patent No.: **US 11,298,056 B2**
(45) Date of Patent: **Apr. 12, 2022**

(54) **METHODS AND SYSTEMS FOR EARLY SIGNAL ATTENUATION DETECTION AND PROCESSING**

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(US)

(73) Assignee: **ABBOTT DIABETES CARE INC.,**
Alameda, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **17/411,154**

(22) Filed: **Aug. 25, 2021**

(65) **Prior Publication Data**
US 2021/0378564 A1 Dec. 9, 2021

Related U.S. Application Data

(63) Continuation of application No. 17/245,719, filed on Apr. 30, 2021, now Pat. No. 11,116,431, which is a continuation of application No. 16/228,910, filed on Dec. 21, 2018, now Pat. No. 11,013,431, which is a continuation of application No. 15/061,774, filed on Mar. 4, 2016, now Pat. No. 10,194,844, which is a continuation of application No. 13/925,694, filed on Jun. 24, 2013, now Pat. No. 9,310,230, which is a continuation of application No. 12/769,635, filed on Apr. 28, 2010, now Pat. No. 8,483,967.

(66) Provisional application No. 61/173,600, filed on Apr. 29, 2009.

(51) **Int. Cl.**
A61B 5/145 (2006.01)
A61B 5/1473 (2006.01)
A61B 5/2495 (2006.01)
G16H 40/40 (2018.01)
G16D 18/00 (2006.01)
G01N 31/22 (2006.01)
G01N 33/66 (2006.01)

(52) **U.S. Cl.**
CPC: *A61B 5/4532* (2013.01); *A61B 5/1473* (2013.01); *A61B 5/1495* (2013.01); *G01D 18/00* (2013.01); *G01N 31/22* (2013.01); *G01N 33/66* (2013.01); *G16H 40/40* (2018.01)

(56) **Field of Classification Search**
CPC: *A61B 5/4532*; *A61B 5/1473*; *A61B 5/1495*; *G16H 40/40*; *G01D 18/00*; *G01N 31/22*; *G01N 33/66*
See application file for complete search history.

(57) **References Cited**
U.S. PATENT DOCUMENTS
3,881,062 A 5/1971 Anton
3,926,760 A 12/1975 Allen et al.

FOREIGN PATENT DOCUMENTS
EP 609892 1/1984
EP 0127958 12/1984
(Continued)

OTHER PUBLICATIONS
Amour, J. C., et al., "Application of Chronic Intravascular Blood Glucose Sensor in Dogs", Diabetes, vol. 39, 1990, pp. 1519-1526.
(Continued)

Primary Examiner — Jerry Lin
(74) **Attorney, Agent, or Firm** — One LLP

(57) **ABSTRACT**
Provided are methods and apparatus for receiving sensor data from an analyte sensor of a sensor monitoring system, processing the received sensor data with time corresponding calibration data, outputting the processed sensor data, detecting one or more adverse conditions associated with the sensor monitoring system, disabling the output of the sensor data during the adverse condition time period, determining that the one or more detected adverse conditions is no longer present in the sensor monitoring system, retrieving the sensor data during the adverse condition time period, processing the retrieved sensor data during the adverse condition time period, and outputting the processed retrieved sensor data.

**DEXCOM
EXHIBIT 1001**

Page 1 of 23

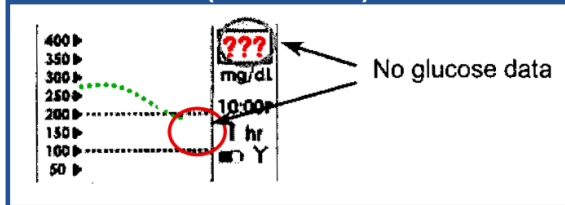
Patent No.: US 11,298,056 B2
Date of Patent: Apr. 12, 2022

Related U.S. Application Data

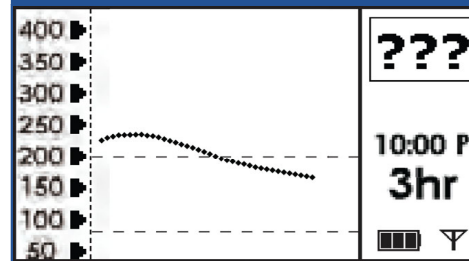
Provisional application No. 61/173,600, filed on Apr. 29, 2009.

CGMs did not display backfilled data

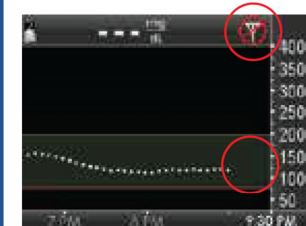
DexCom STS-7, Ex. 2001 at 39
(annotated)



DexCom SEVEN Plus, Ex. 2030 at 71

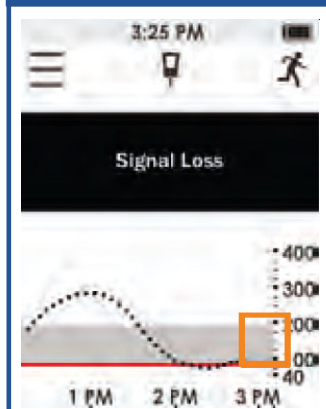


DexCom G4 Plat., Ex. 2002 at 93

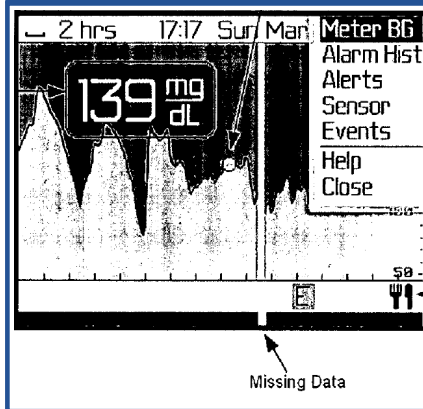


Trend graph with out of range symbol in upper right and glucose data gaps

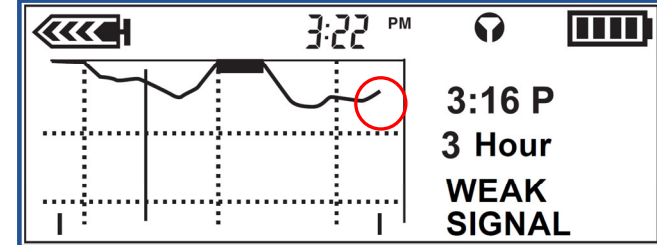
DexCom G5, Ex. 2031 at 205



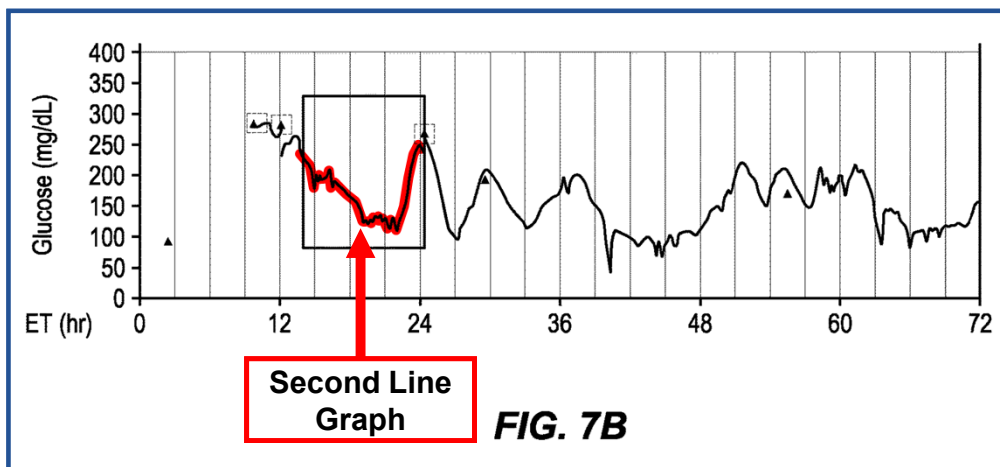
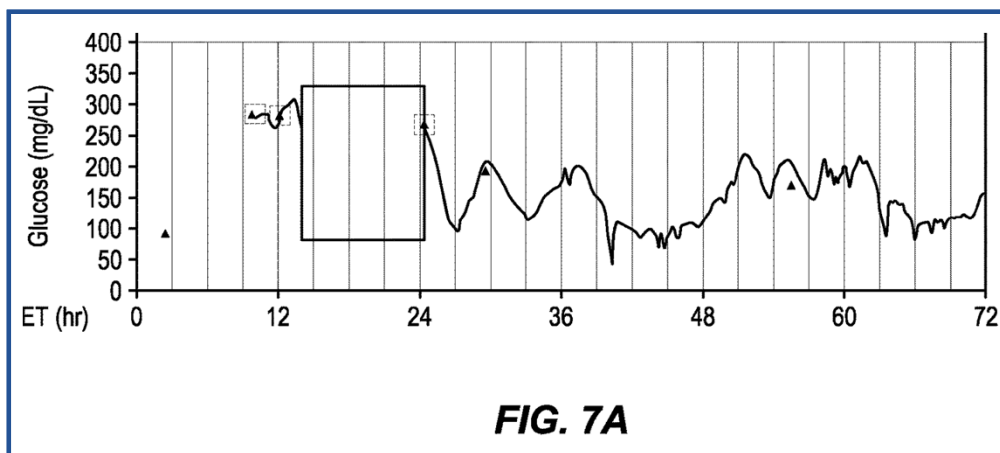
Medtronic (Patel-2008) Ex. 1015 at Fig. 7(b)



Medtronic Paradigm, Ex. 1011 at 73
(annotated)



The '056 patent backfilled data gaps with line graphs



Roadmap

1 Overview of the Claimed Invention of the '056 Patent

2 **Petitioner Fails to Establish Independent Claim 1 Is Unpatentable**

a **Ground 1 (Patel-2009 + Paradigm Documentation)**

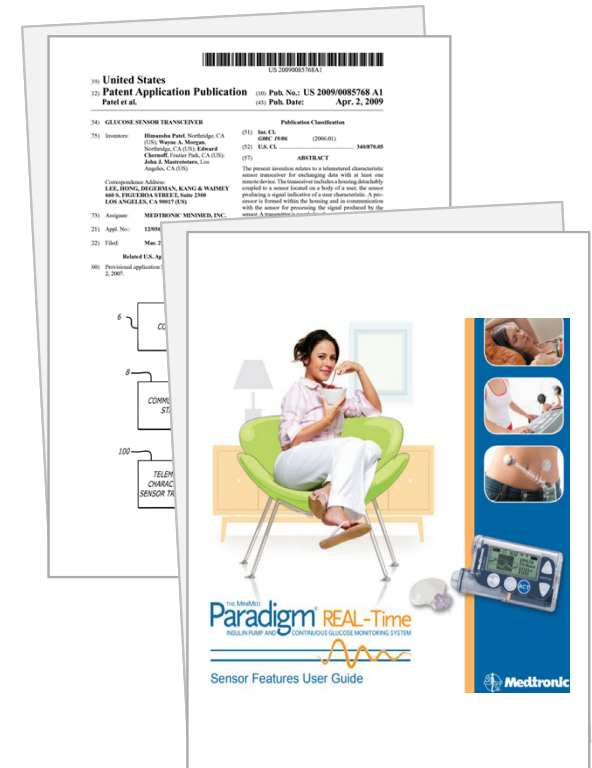
b Ground 3 (Patel-2008 Combination)

3 Petitioner Additionally Fails to Establish Dependent Claim 21 Is Unpatentable

Claim 1 of the '056 patent is patentable over Ground 1

Paradigm Documentation and Patel 2009

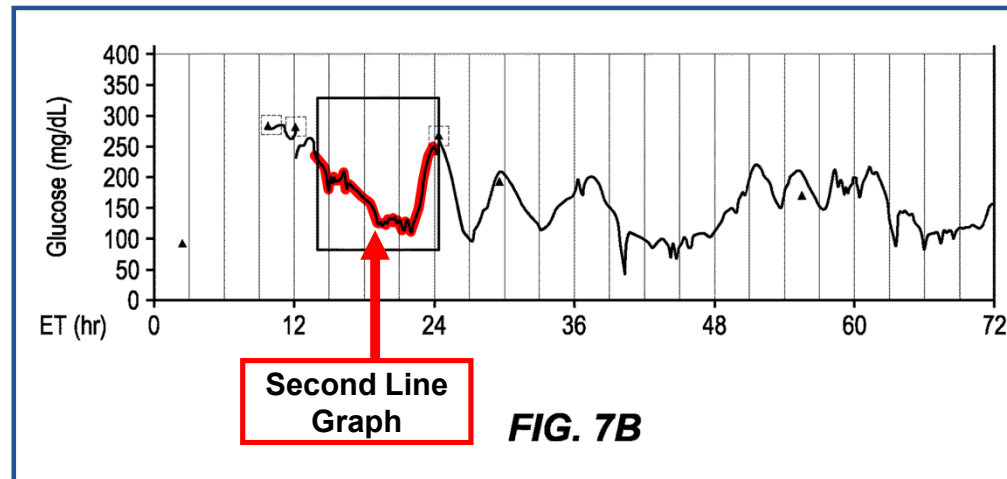
'056 Patent, Claim 1	Paradigm Documentation
[1.K] wherein the receiver unit is configured to output to the display, after the adverse condition is corrected, processed sensor data for the time period corresponding to the adverse condition such that the data gap is backfilled, and	
[1.L] wherein the processed sensor data for the time period corresponding to the adverse condition that is outputted to the display after the adverse condition is corrected comprises a second line graph having a first end corresponding to the time associated with the start of the adverse condition and a second end corresponding to a time associated with an end of the adverse condition.	



[1.K] requires displaying backfilled data

'056 Patent, element [1.K]

[1.K] wherein the receiver unit is configured to output to the display, after the adverse condition is corrected, processed sensor data for the time period corresponding to the adverse condition such that the data gap is back-filled, and



Patel-2009 does not disclose [1.K]

Petition at 28-29

Patel-2009 does not provide for glucose graphs to convey that glucose data is missing during failed communication or to display glucose data that is synchronized when communication is re-established.

Paradigm Documentation: Backfilled data not displayed on receiver

Explicitly says the data
"will be displayed"

No mention of data
displayed

As long as the transmitter is within 6 feet (approximately 2 meters) of the insulin pump, continuous glucose monitoring (CGM) data will be displayed on the insulin pump's screen. If the MiniLink REAL-Time Transmitter and insulin pump are out-of-range for longer than 40 minutes, only the last 40 minutes will be re-populated. When reviewing historical reports, you would notice a "data gap" where information is missing during this period of time.

States data shown in
historical reports, not
displayed on pump

Paradigm Documentation: Backfilled data not displayed on receiver

Paradigm Documentation, Ex. 1011 at 8

If your system is out-of-range for longer than 40 minutes, when reviewing historical reports you would notice "data gap" where information is missing during this period of time.

Paradigm Documentation, Ex. 1011 at 12-13

While in flight, you need to manually test your glucose levels using a standard meter (i.e. the Paradigm Link monitor). When downloading data and reviewing historical reports, you will notice "data gap" where information is missing during this period of time.

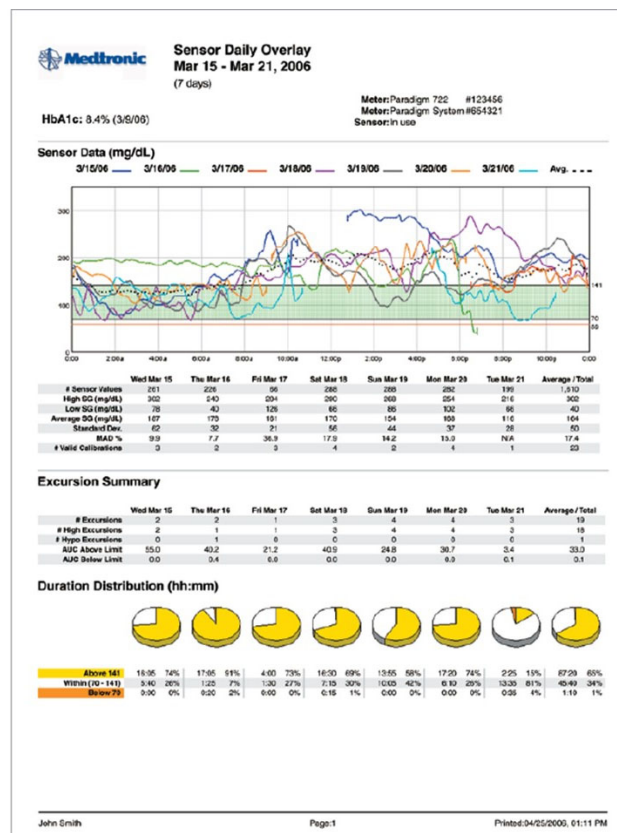
“Historical reports” refer to CareLink reports

CareLink Personal Getting Started Guide, Ex. 2007 at 14

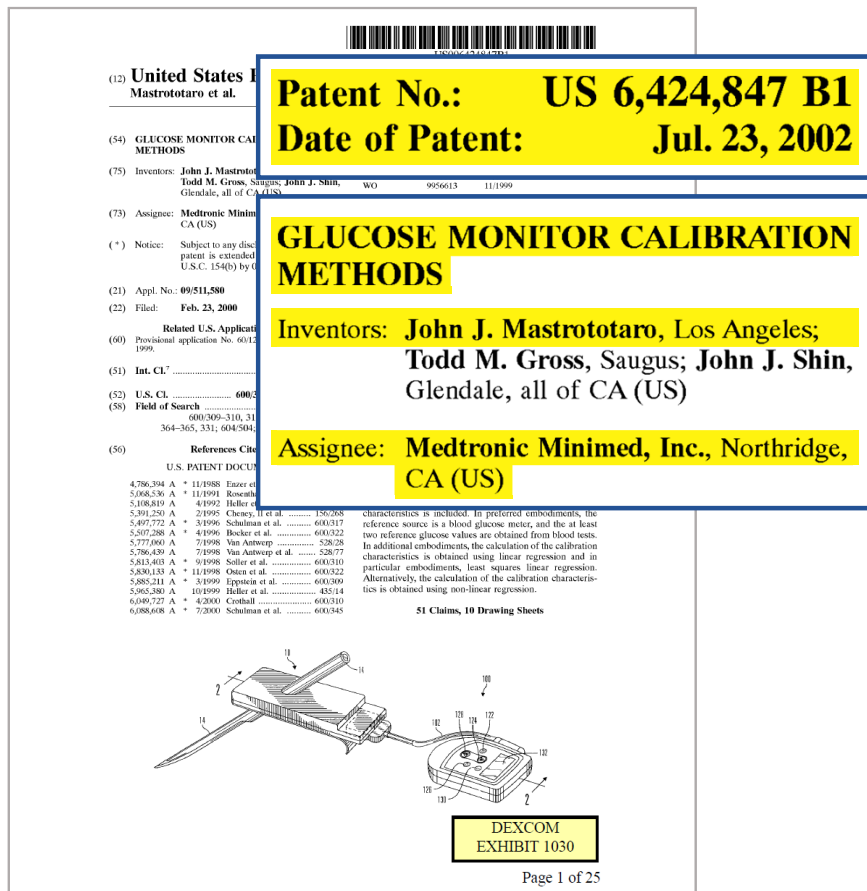
Sensor Daily Overlay

This report is based on continuous glucose monitoring for up to seven days. You choose the seven days of glucose sensor tracings you want to see, and this report layers them on top of each other for comparison. Each day has a different color tracing so you can easily tell them apart, making it easy to recognize similar patterns from day to day and even hour to hour. The Sensor Daily Overlay report also helps you identify specific days that you may want to look at in more detail using a Daily Summary report.

*Share any regularly repeating patterns with your healthcare provider.
Talk to him or her about what you might be doing at those times.



Petitioner's exhibits confirm reports are for downloading



US Patent 6,424,847, Ex. 1030 at 6:35-40

presentation to a physician. A software is used to download the data, create a data file, calibrate the data, and display the data in various formats including charts, forms, reports, graphs, tables, lists, and the like. In further embodiments, the

Petitioner's expert: No evidence "report" is a graph on a CGM user display



Dr. Ahmann Testimony, Ex. 2041 at 131:22-132:3

Q. Well, let me ask the question this way: Can you point me to any evidence in your declaration where the document or authors use the word "report" to refer to a graphical display on the user display?

A. No, I can't. But I can't tell you that anybody has excluded that either.

Paradigm Documentation does not suggest personal history data was viewable on trend graphs in the pump

Paradigm Documentation, Ex. 2018 at 124

Pump data management

The pump data management feature allows you and your healthcare professional to view and manage your basal and bolus insulin delivery, BG data, and food intake with averages up to 31 days. You can view the details of each day individually. You can also average the data over a specified time period that you have selected up to (up to 31 days). This is done in the DAYS TO AVERAGE screen as explained in the next section.

DAILY TOTALS	
Daily Average	
Today	26.5U
Today	48.5U

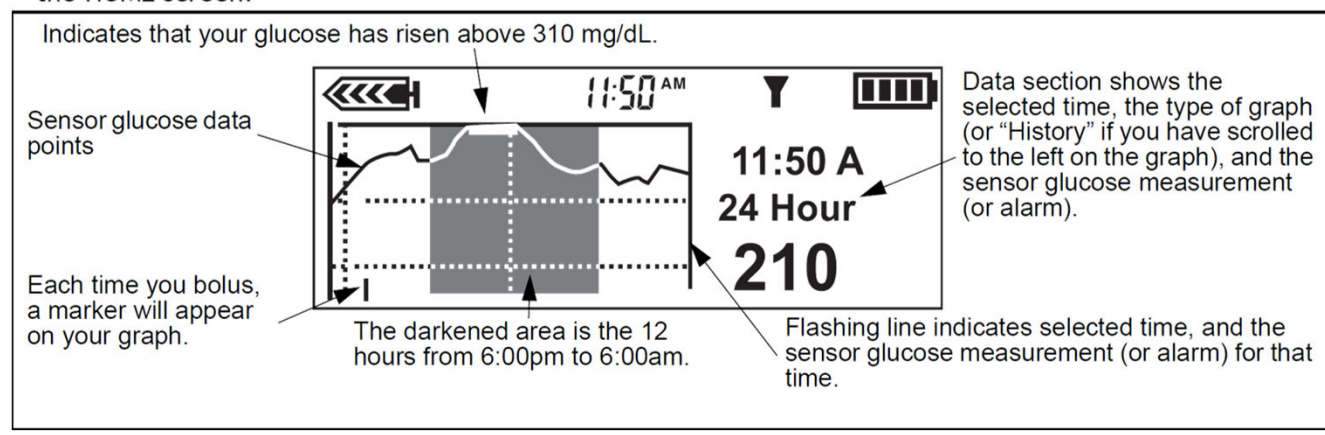


No evidence of backfilling in “History”

Paradigm Documentation, Ex. 1011 at 64

24 hour graph

To view the current glucose and a graph of the most recent 24 hours of data, press **ESC** twice from the HOME screen:



CGMs were nascent technology at time of Paradigm Documentation

Paradigm Documents, Ex. 1011 at 38

Sensor and transmitter

The sensor and transmitter components are indicated for continuous or periodic monitoring of glucose levels in the fluid under the skin, and possible low and high blood glucose episodes in adults (ages 18 and older). It alerts if a glucose level falls below or rises above preset values. Values are not intended to be used directly for making therapy adjustments, but rather to provide an indication of when a fingerstick may be required. All therapy adjustments should be based on measurements obtained using a home glucose monitor and not on Paradigm 522/722 pump system values.

Contraindications

Pump therapy is not recommended for people who are unwilling or unable to perform a minimum of four (4) blood glucose tests per day and to maintain contact with their healthcare professional. Successful insulin pump therapy requires sufficient vision or hearing to allow recognition of the pump signals and alarms.

Petitioner's patents provide reasons not to backfill

 US2010055400B2	
(12) United States Patent Mensingger et al. (54) DISTRIBUTED SYSTEM ARCHITECTURE FOR CONTINUOUS GLUCOSE MONITORING (71) Applicant: DexCom, Inc., San Diego, CA (US) (72) Inventor: Michael Robert Mensinger, San	(19) Patent No.: US 10,085,640 B2 (45) Date of Patent: Oct. 2, 2018 (52) U.S. Cl. CPC A61B 5/0004 (2013.01); A61B 5/1495 (2013.01); A61B 5/0084 (2013.01); (Continued) (58) Field of Classification Search CPC A61B 5/0004; G16H 1/000; A61B 5/1495; A61B 5/0084; A61B 5/0085
Assignee: DexCom, Inc., San Diego, CA (US)	
(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(a)(2) to the date of publication.	FOREIGN PATENT DOCUMENTS WO WO/2014/040175 3/2014
Filed: May 11, 2016	
(36) <u>Priority to</u> application No. 14/200,577, filed on May 12, 2015, provisional application No. 62/249,045, filed on Oct. 30, 2015. (51) Int. Cl. G06F 21/17 (2006.01) A61B 5/00 (2006.01) (Continued)	phucose levels to a display device from the continuous glucose sensor unit, automatically forwarding the data relating to the phucose levels from the display device to a cloud computing architecture; and storing the data relating to the phucose levels in separate groups at the cloud computing architecture. 18 Claims, 18 Drawing Sheets 

US Patent No. 10,085,640, Ex. 2023 at 30:25-32

time, some of the data may become stale to certain components of the system, backfilling may consume too much battery power of one or more components of the system (e.g., transmitter 102), and/or a component of the system (e.g., display 104) requesting the backfilled data may only be configured to display a certain range of data, such as the last

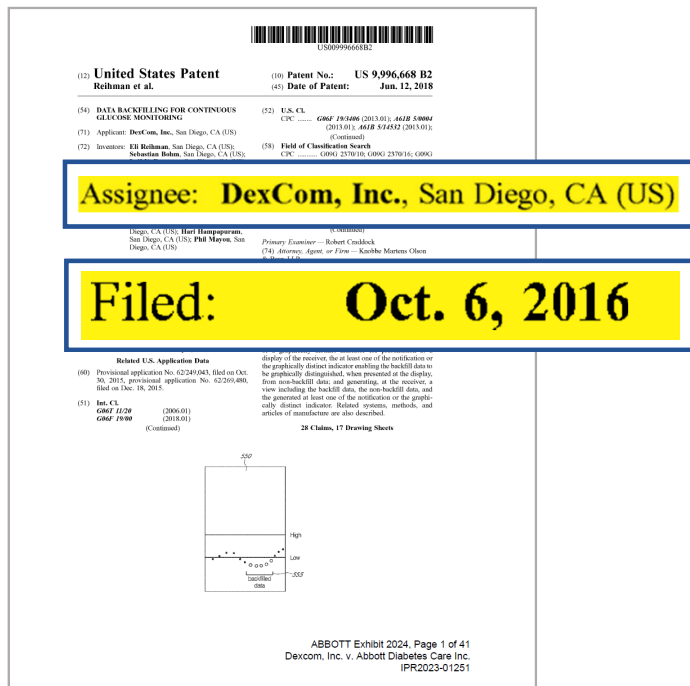
Petitioner's patents provide reasons not to backfill

US Patent No. 9,996,668, Ex. 2024 at 5:36-40

of the transmitter). In this example, Jane may not want backfill data to be automatically displayed because the automatic insertion of backfill data may mask the nighttime gap(s) in data and mask that the receiver was not receiving data. That is, because the system presented a complete set of

US Patent No. 9,996,668, Ex. 2024 at 7:21-26

is stored and then later sent as backfill data. The backfill data may be stale in the sense that it might not capture the current glucose state of the host wearing the sensor. With stale data, a user may not want to take action based on the sensor data, while with more current non-backfill data, a user may take action based on the sensor data. The non-backfill data may



[1.L] requires displaying backfilled data as a second line graph

'056 Patent, element [1.L]

[1.L] wherein the processed sensor data for the time period corresponding to the adverse condition that is outputted to the display after the adverse condition is corrected comprises a second line graph having a first end corresponding to the time associated with the start of the adverse condition and a second end corresponding to a time associated with an end of the adverse condition.

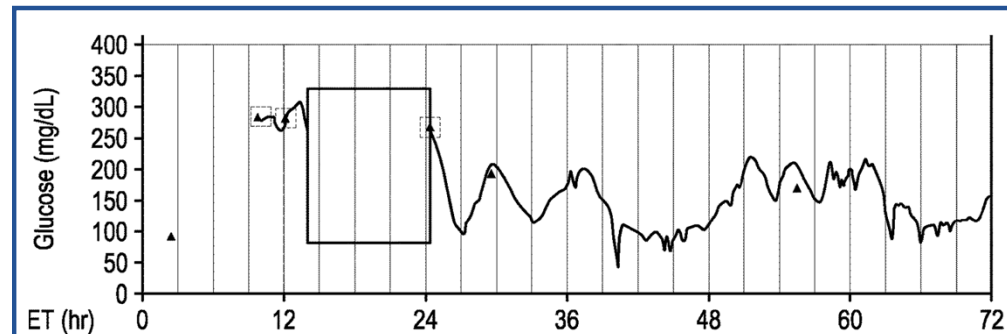
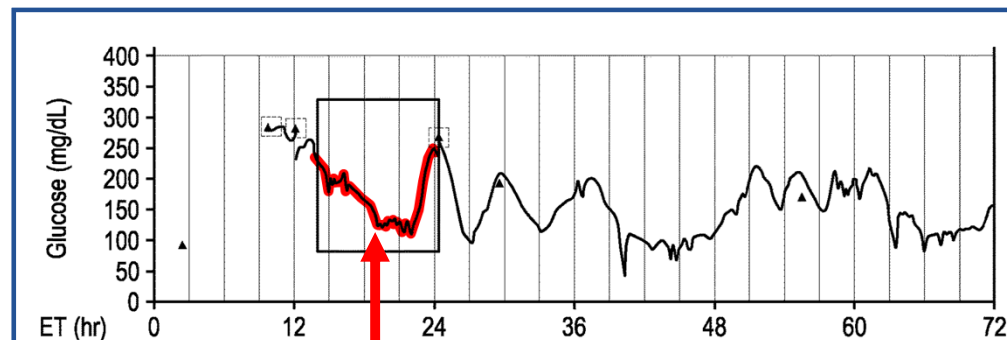


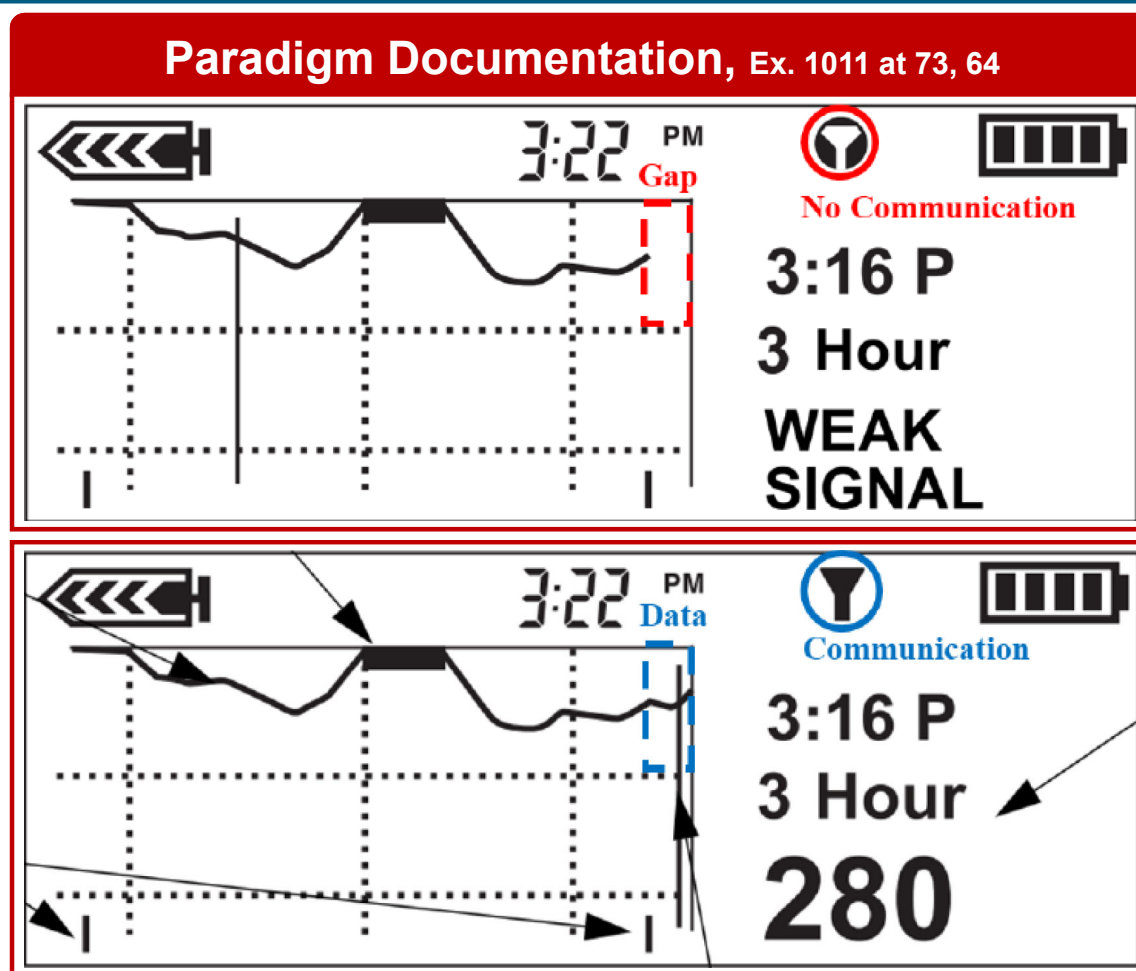
FIG. 7A



**Second Line
Graph**

FIG. 7B

Petition juxtaposed two disparate figures



The Board agreed Petitioner's inference was unsupported

Institution Decision at 33

described as being part of a sequence of events that includes the other illustration.” *Id.* at 2–3. We presently agree with Patent Owner that “[t]here is no express or implicit disclosure in Ex. 1011 that the Chapter 5 rendering is showing a backfilled data gap from the Chapter 6 rendering.” *Id.* at 33.

DexCom's new piecemeal argument is improper

Reply at 17-18

Element [1.L] adds one thing: the backfilled data gets displayed *as a line*. PO does not dispute that the combination teaches displaying sensor data as a line, [1.H]. Nor does PO contest that the combination teaches displaying a data gap in that line corresponding with an adverse condition, [1.I]. As shown in the discussion of [1.K] above, Paradigm depicts 3- and 24-hour “History” trend graphs, with both original and repopulated data graphed *as a line*. *Supra* 3-4; EX1011, 30, 64, 73; *supra* 4-6. Accordingly, these same disclosures teach element [1.L]. *See Echelon Fitness Multimedia, LLC v. Peloton Interactive, Inc.*, IPR2020-01541, Paper 16 at 26-27

Petitioner cannot rely on conclusory statements or untimely arguments to fill missing limitations



“IPR508 is different. In that proceeding, Medtronic did not include in its petition the same citations to or assertions about the Michelson passage that it included in the IPR507 petition. In IPR508, unlike IPR507, there was no notice of the Figure 18 point before NuVasive filed its Patent Owner Response. The opportunity to file that Response therefore did not provide the required opportunity to address the factual assertion about Figure 18 on which the Board ultimately relied.”

In re Nuvasive, Inc., 841 F.3d 966 (Fed. Cir. 2016)



“To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petitioner must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.”

In re Magnum Oil Tools Int’l, Ltd., 829 F.3d 1364, 1380 (Fed. Cir. 2016)

[1.H], [1.I], and [1.K] are different from [1.L]

'056 Patent, elements [1.H], [1.I], [1.K]

[1.H] output to the display of the receiver unit, a **first line graph** that is a substantially continuous depiction of the processed sensor data over time,

[1.I] wherein the glucose monitoring system is configured to detect an adverse condition, wherein the adverse condition results in the receiver unit displaying **a data gap such that the first line graph** displayed on the receiver unit has an end corresponding to a time associated with a start of the adverse condition;

[1.K] wherein the receiver unit is configured to output to the display, after the adverse condition is corrected, processed sensor data for the time period corresponding to the adverse condition such that the **data gap is backfilled**, and

≠

≠

≠

'056 Patent, element [1.L]

[1.L] wherein the processed sensor data for the time period corresponding to the adverse condition that is outputted to the display after the adverse condition is corrected **comprises a second line graph** having a first end corresponding to the time associated with the start of the adverse condition and a second end corresponding to a time associated with an end of the adverse condition.

Petitioner's expert admitted benefits of displaying backfilled data differently



Dr. Ahmann Testimony, Ex. 2041 at 95:23-96:8, 97:8-98:23

- Q.** And in order for the patient to understand that, one way to inform the patient that there was no alarm because of a data gap would be to display backfilled data differently, correct?
- A.** I don't know if that's within my scope of expertise, actually. But the -- I mean, theoretically, that would be a benefit. I've never seen it, so I don't know why it's not -- technically why it's never been done, to my knowledge.

Petitioner cannot rely on common sense to fill missing limitations



“[W]e have invoked common sense to fill in a *missing* limitation only when the limitation in question was unusually simple and the technology particularly straightforward.”

DSS Tech. Mgmt., Inc. v. Apple Inc., 885 F.3d 1367, 1374 (Fed. Cir. 2018)



“[I]n an obviousness analysis, conclusory assertions from a third party about general knowledge in the art cannot, without supporting evidence of record, supply a limitation that is not evidently and indisputably within the common knowledge of those skilled in the art.”

Consolidated Trial Practice Guide (“CTPG”) at 36 (Nov. 2019)

Roadmap

1 Overview of the Claimed Invention of the '056 Patent

2 **Petitioner Fails to Establish Independent Claim 1 Is Unpatentable**

a Ground 1 (Patel-2009 + Paradigm Documentation)

b Ground 3 (Patel-2008 Combination)

3 Overview of the Claimed Invention of the '056 Patent

Claim 1 of the '056 patent is patentable over Ground 3

Patel-2008

'056 Patent, Claim 1	Patel-2008
[1.K] wherein the receiver unit is configured to output to the display, after the adverse condition is corrected, processed sensor data for the time period corresponding to the adverse condition such that the data gap is backfilled, and	
[1.L] wherein the processed sensor data for the time period corresponding to the adverse condition that is outputted to the display after the adverse condition is corrected comprises a second line graph having a first end corresponding to the time associated with the start of the adverse condition and a second end corresponding to a time associated with an end of the adverse condition.	


 US 2008019705A1

(19) **United States**
 (12) **Patent Application Publication** (10) **Pub. No.: US 2008/019705 A1**
 Patel et al. (43) **Pub. Date: May 22, 2008**

(54) **SYSTEMS AND METHODS FOR DIABETES MANAGEMENT USING CONSUMER ELECTRONIC DEVICES** **Related U.S. Application Data**
 (60) Provisional application No. 60/866,409, filed on Nov. 17, 2006.

(75) **Inventors:** Himanshu Patel, Northridge, CA (US); Emil S. Istoe, Waukegan, CA (US); Jack E. Lin, Stevenson Ranch, CA (US); Ajit S. Narang, North Hills, CA (US) **Publication Classification**
 (51) **Int. Cl.** A61B 5/05 (2006.01)
 (52) **U.S. Cl.** 600/347
 (57) **ABSTRACT**

Correspondence Address:
 MEDTRONIC MINIMED, INC.,
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(73) **Assignee:** MEDTRONIC MINIMED, INC., Northridge, CA (US)

(21) **Appl. No.:** 11/931,263

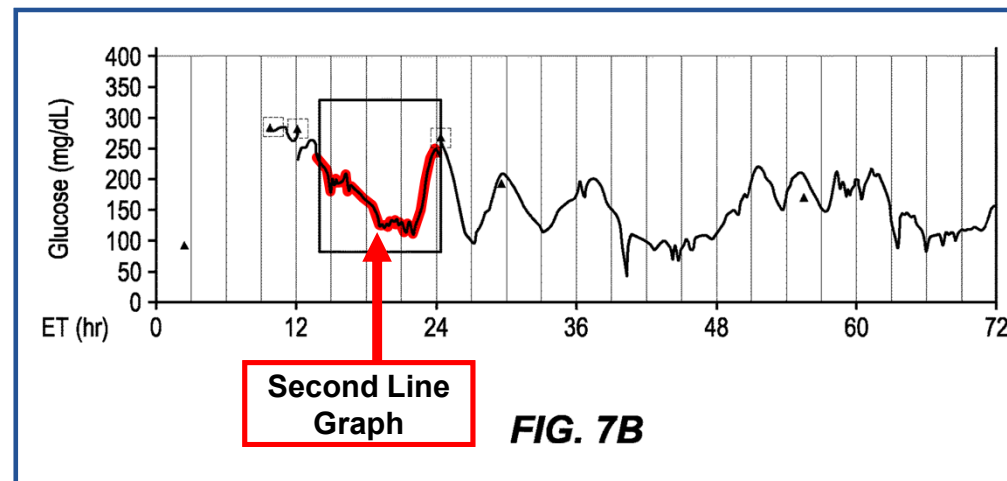
(22) **Filed:** Oct. 31, 2007

The invention is embodied in a system for diabetes management including a medical device (MD) and a consumer electronic device (CED). The CED may be used to monitor and/or control the MD. In particular embodiments, the system may include a connector that plugs into the CED to allow communication between the MD and the CED. The medical device may be an external infusion device, implantable pump, glucose meter, glucose monitor, continuous glucose monitoring system, or the like. The CED may be any type of consumer electronic device including, but not limited to, cellular phones, personal digital assistants (PDAs), BlackBerry, Smartphones, pocketpc phones, mp3 players, radios, CD players, and the like.

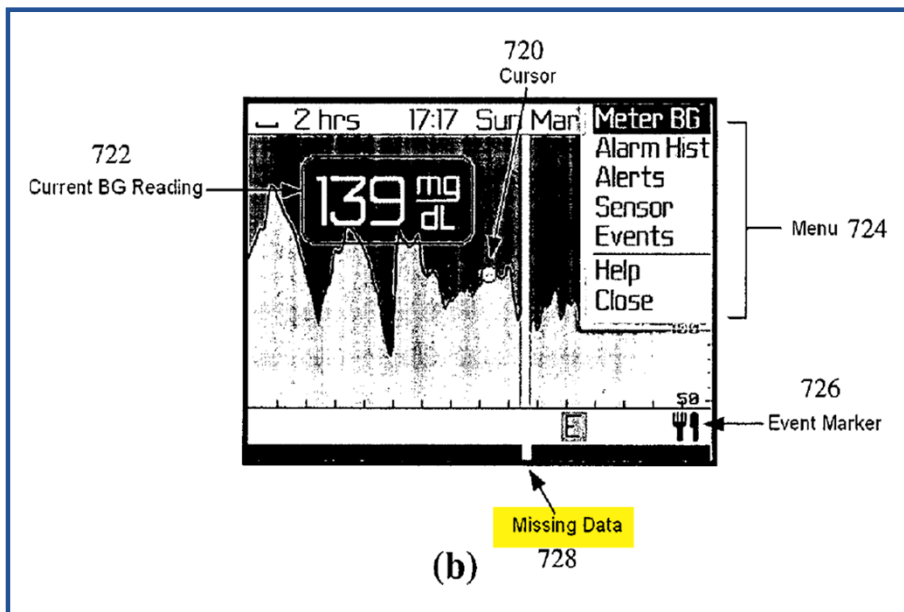
[1.K] requires displaying backfilled data “after an adverse condition is corrected”

'056 Patent, element [1.K]

wherein the receiver unit is configured to output to the display, after the adverse condition is corrected, processed sensor data for the time period corresponding to the adverse condition such that the data gap is back-filled, and



Patel-2008 does not disclose displaying backfilling data gaps “after an adverse condition is corrected”



Patel-2008, Ex. 1015 at Fig. 7(b), [0057]

of the various sub-menus is described below. Also, FIG. 7(b) shows an example of missing data 728 and how the data bar 718 shows a blank white space during the time no data was received. Event marker 726 shows in event bar 716 that a meal

Shahmirian's two embodiments don't disclose backfilling data

Shahmirian, Ex. 1023 at [0103]

[0103] In still other alternative embodiments, the dedicated key 122 (or other dedicated interface) is used to cause the BG monitoring system 20 to send the most recent sensor data, such as one or more raw sensor data points, one or more calibrated sensor measurements, or the like, to the infusion pump 30. Once the sensor data is received, the infusion pump 30 shows the most recent sensor measurement on the display 100. In particular alternative embodiments, the infusion pump 30 indicates to the BG monitoring system 20 the most recent sensor data that the infusion pump 30 has received, and in response, the BG monitoring system 20 sends any additional sensor data that the BG monitoring system 20 has that has not been received by the infusion pump 30.

Causey displays updated calibrated data, not backfilled data

Causey, Ex. 1017 at 15:59-65

the characteristic monitor **2200**. In addition, the calibrated data using results from the characteristic meter **2300** can be displayed to provide a user with updated trend and glucose level data. This may also be used to update and show differences between the newly calibrated (or additional calibration) data and the data as it was prior to the new calibration (or additional calibration).

Petitioner's Reply raises three new arguments

Reply at 22-23

- 1** As discussed above (*supra* Section II.B), element [1.L]'s addition of graphing backfilled data as a “second line graph” should be considered in context of [1.H], [1.I], and [1.K]. *E.g., Echelon Fitness*, IPR2020-01541, Paper 16 at 26-27. In the context of filling the gap in Patel-2008's line graph (Pet. 99-100 (discussing [1.H] and [1.I])), a POSITA would have displayed the missing data as a line on the same graph. Pet. 102; EX1008, ¶¶217-18.
- 2** Alternatively, POSITAs would have “display[ed] [glucose] information to the patient” according to Patel-2008's normal
- 3** line graph operation or would have at least found it obvious to try. *E.g., Perfect Web*, 587 F.3d at 1330-31; *supra* Section II.A.1-2.

Petitioner establishes no reason to combine

Reply at 21-22

Additionally, POSITAs would recognize that retransmission or calibration of previously missing glucose data and the display of this data would fill in associated missing data gaps. EX1008, ¶¶58-60, 216. Alternatively, considering *Shahmirian* and *Causey*'s disclosures, POSITAs would have found it obvious to re-populate glucose data gaps with retransmitted or newly calibrated data following failed communication or calibration. EX1008, ¶¶58-60, 216



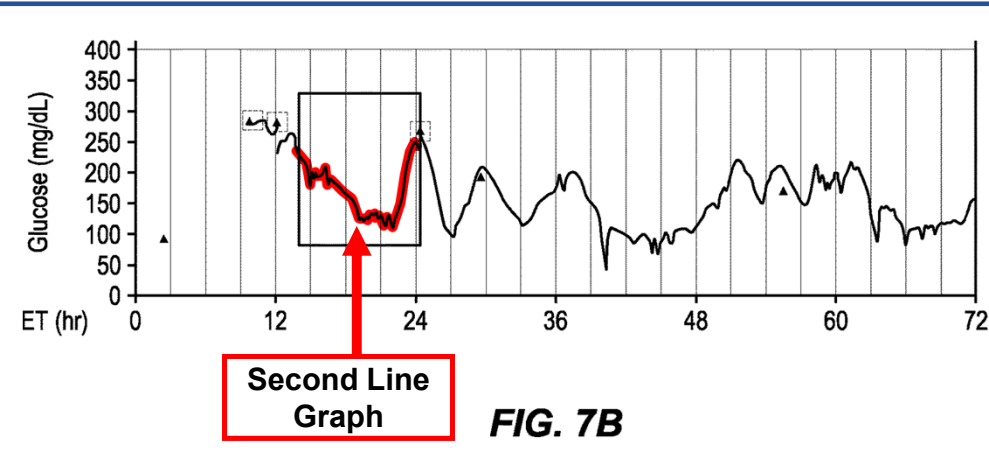
“It is not sufficient to demonstrate that each of the components in a challenged claim is known in the prior art. ... The Petitioner also must explain how a [POSITA] would combine the elements disclosed in [a single reference], and why such a person would be motivated to do so.”

Nat'l Environmental Prods. v. Dri-Steem, IPR2014-01502, Paper 13 at 12 (P.T.A.B. Apr. 3, 2015)

Element [1.L] requires displaying the backfilled data as a second line graph

'056 Patent, element [1.L]

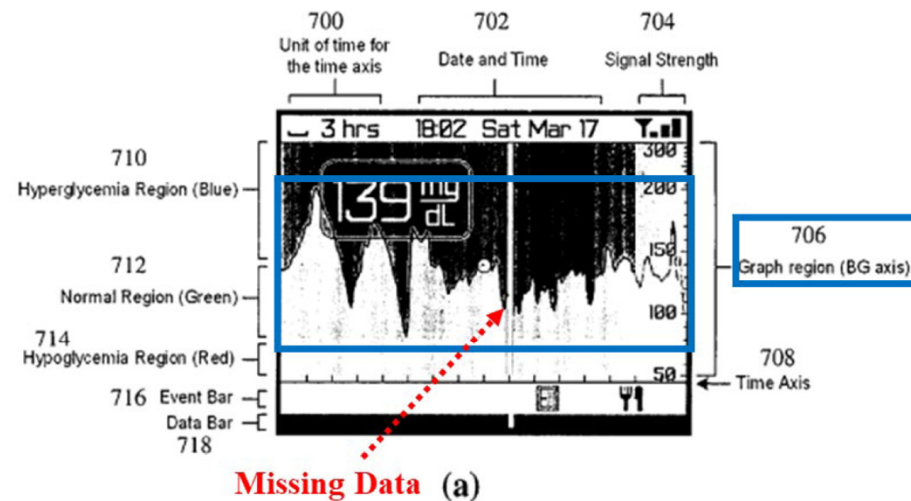
[1.L] wherein the processed sensor data for the time period corresponding to the adverse condition that is outputted to the display after the adverse condition is corrected comprises a second line graph having a first end corresponding to the time associated with the start of the adverse condition and a second end corresponding to a time associated with an end of the adverse condition.



Petition failed to show any evidence of backfilled data as a second line graph

Pet. at 102

Patel-2008 discloses a glucose line graph with a missing data gap:



EX1015, [0057], Fig. 7(a) (annotated in red, blue). EX1008, ¶217.

POSITAs would have found it obvious to display missing data on the same graph when retransmitted or newly calibrated. EX1008, ¶¶60, 218.

Roadmap

1 Overview of the Claimed Invention of the '056 Patent

2 Petitioner Fails to Establish Independent Claim 1 Is Unpatentable

a Ground 1 (Patel-2009 + Paradigm Documentation)

b Ground 3 (Patel-2008 Combination)

3 **Petitioner Additionally Fails to Establish Dependent Claim 21 Is Unpatentable**

Claim 21 requires transmitter and glucose sensor in a single integrated housing

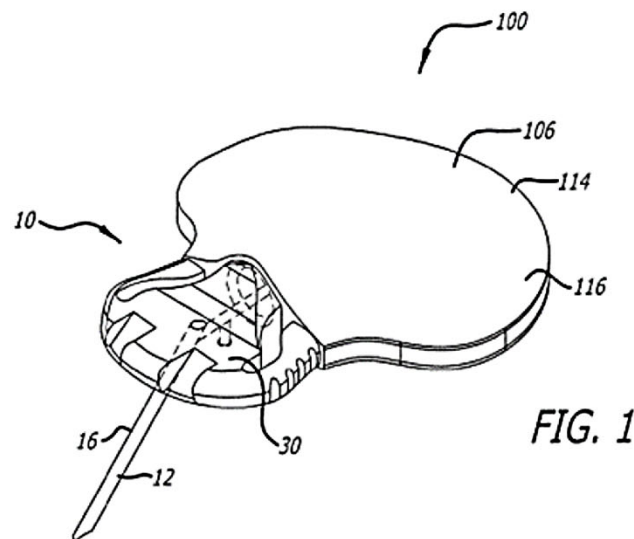
'056 Patent, claim 21

21. The glucose monitoring system of claim 1, wherein the data processing and transmitter unit and at least a portion of the glucose sensor are disposed within a single integrated housing.

Petition failed to show any evidence of a “single integrated housing” (Ground 1)

Pet. at 56-57

Patel-2009 provides that transceiver 100 fits directly onto and is supported by sensor set 10 itself:

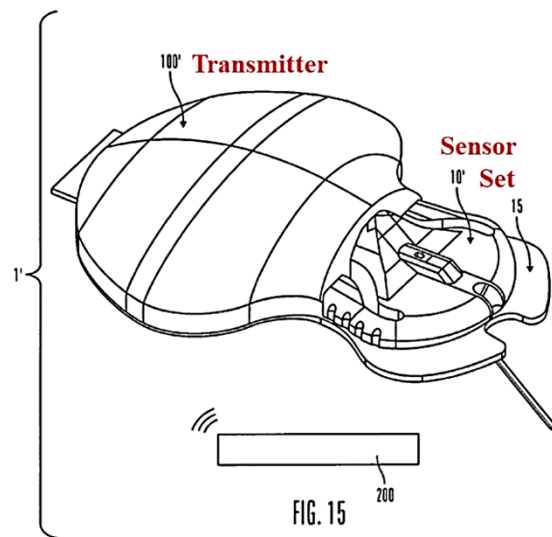


EX1012, [0056], [0059], Figs. 1-2; EX1008, ¶132.

Petition failed to show any evidence of a “single integrated housing” (Ground 3)

Pet. at 110

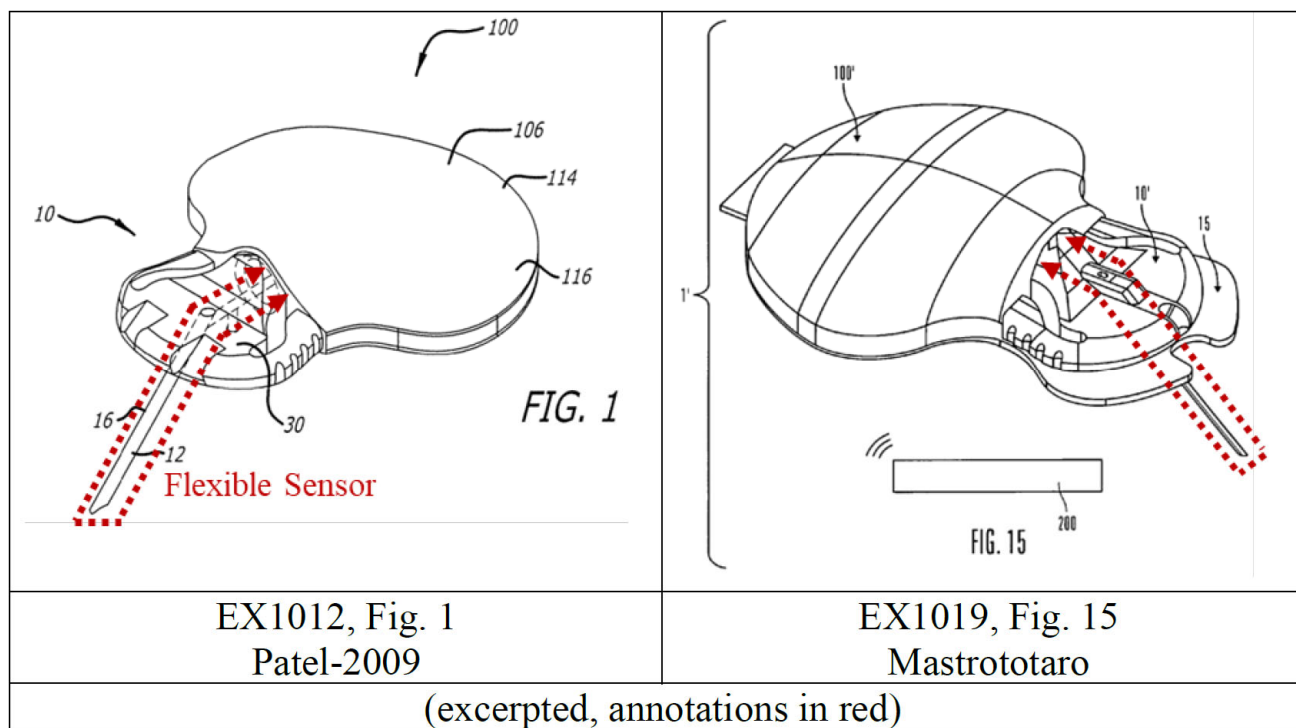
Mastrototaro provides that transmitter 100' fits directly onto and is supported by sensor set 10' itself:



EX1019, [0050], Fig. 15 (annotated in red). Indeed, *Mastrototaro* discloses discarding the transmitter and directly connected sensor set together after the 3-to-5-day use period. EX1019, [0050]. EX1008, ¶250.

Petitioner's reply arguments are both improper and mischaracterize Patel-2009 and Mastrototaro

Reply at 26-27



Petitioner cannot rely on conclusory statements or untimely arguments to fill missing limitations



"Elbit fails to present any evidence supporting this contention beyond attorney argument, see id. at 37–41, and attorney argument is not evidence and cannot rebut other admitted evidence."

Elbit Sys. of Am., LLC v. Thales Visionix, Inc., 881 F.3d 1354, 1359 (Fed. Cir. 2018) (cleaned up)



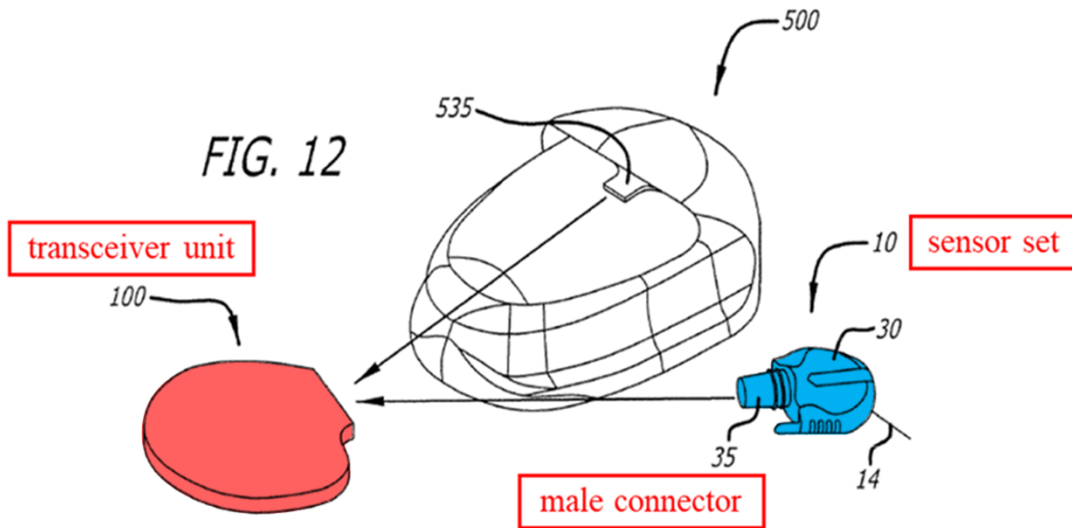
"For a drawing alone to disclose a claim limitation, the limitation must be shown clearly."

Mahle Behr Charleson Inc. v. Catalano, IPR2023-00861, Paper 15 at 6 (Vidal Apr. 5, 2024) (cleaned up)

Patel-2009 teaches separate components with separate housings

Patel-2009, Ex. 1012 (annotated)

FIG. 12



Transceiver unit

Female Connector

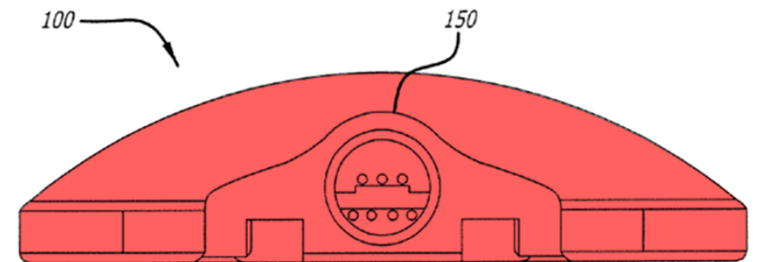


FIG. 13

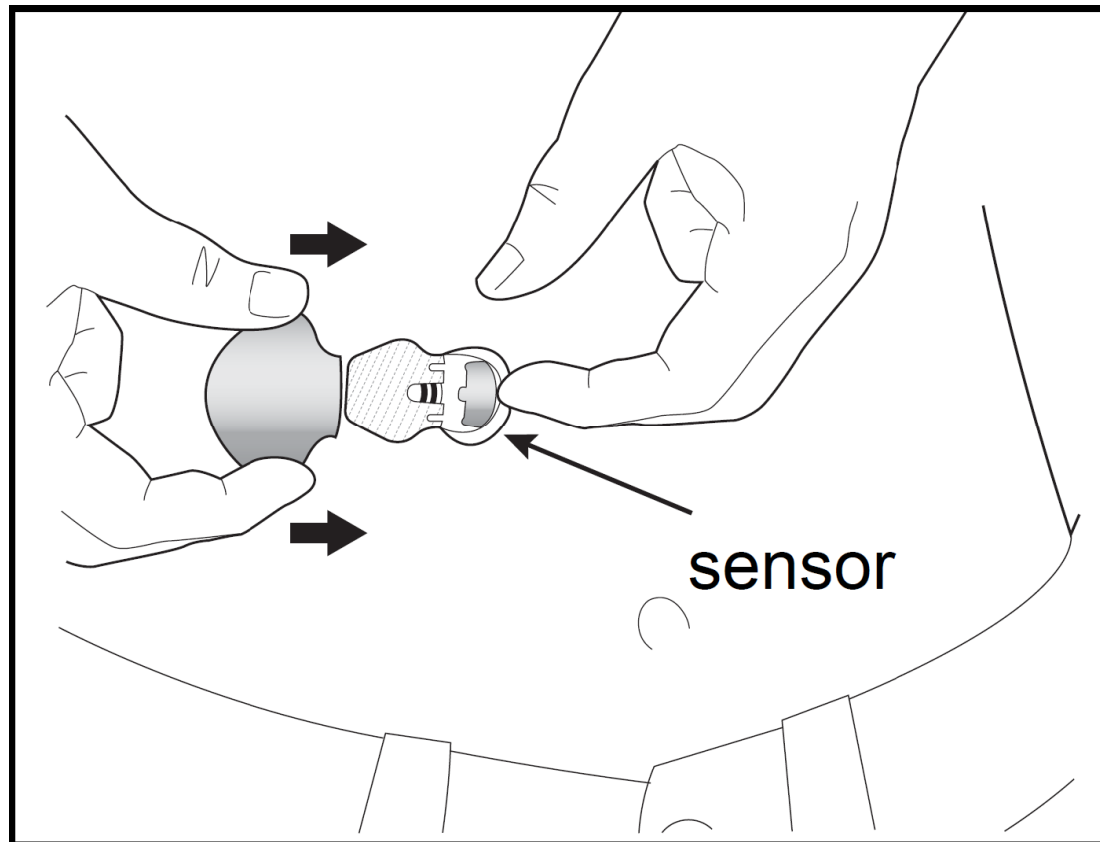
Patel-2009's sensor cannot be within the transmitter housing

Patel-2009, Ex. 1012 at [0056]

Accordingly, the transceiver 100 is coupled to the sensor set after the sensor set has been placed into body 100 of the user. In addition, the transceiver 100 may be detached from the sensor set 10 while the sensor set 10 is implanted in the body 1000 of the user, thus allowing the transceiver 100 to independently attach to other complementary devices if desired.

The transmitter “fits directly onto” the sensor base

Paradigm Documentation, Ex. 1011 at 59



Mastrototaro and Patel-2009 represent the same system

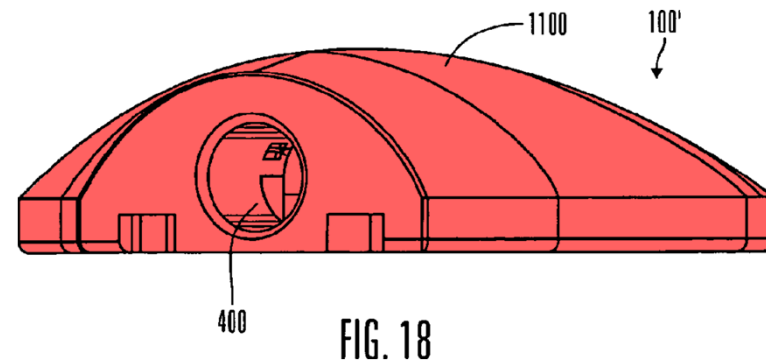
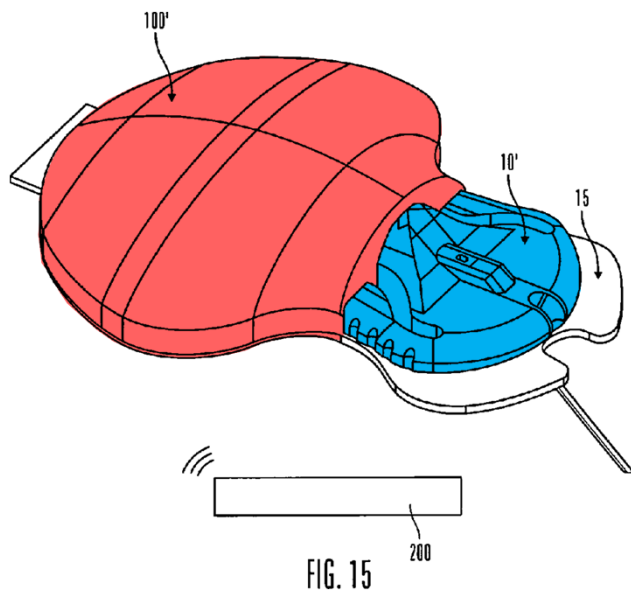
Reply at 26

As recognized by the POR, Patel-2009 and Mastrototaro include “much of the same disclosure” and illustrate a MiniLink Transmitter from different perspectives.

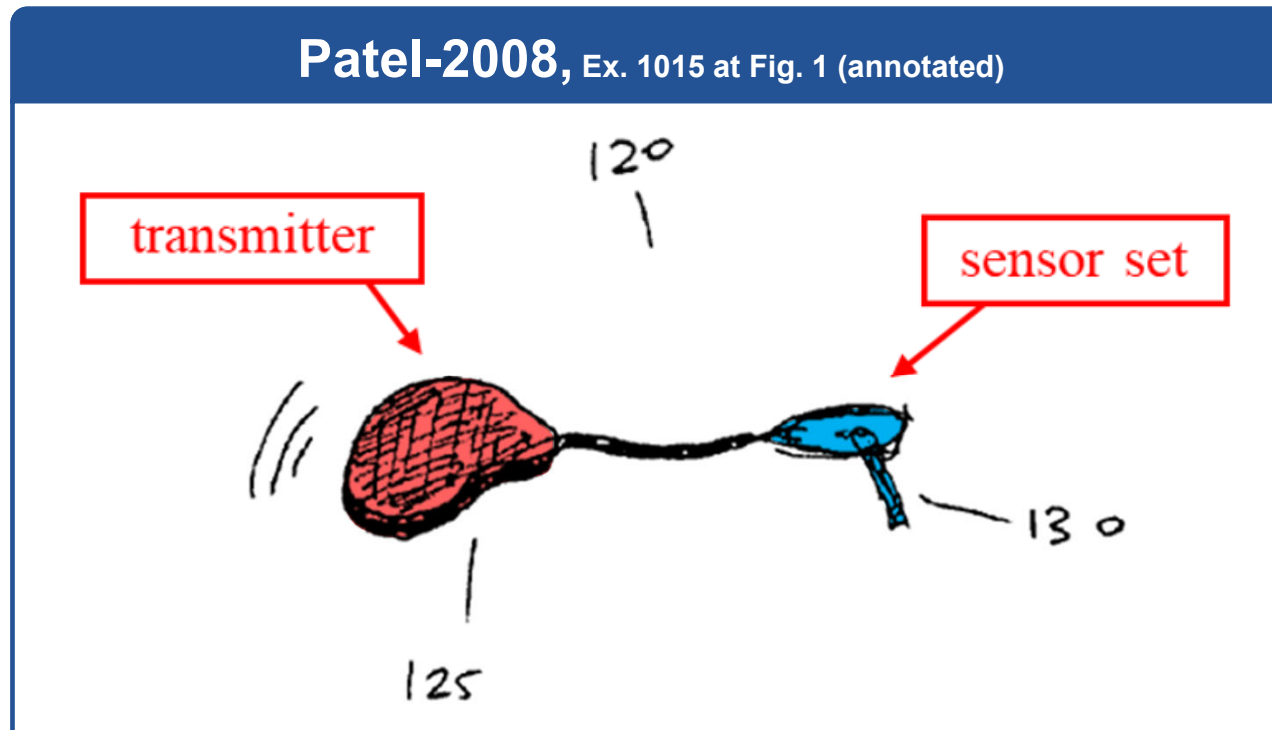
POR, 66-67. Both Patel-2009 and Mastrototaro’s illustrations demonstrate that a portion of the glucose sensor is disposed within the transmitter’s housing:

Mastrototaro teaches the same system as Patel-2009

Mastrototaro, Ex. 1019 at Figs. 15 and 18 (annotated)



Patel-2008 shows a transmitter and sensor with separate housings, not a “single integrated housing”



Petitioner cannot rely on conclusory statements or untimely arguments to fill missing limitations



“To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petitioner must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.”

In re Magnum Oil Tools Int’l, Ltd., 829 F.3d 1364, 1380 (Fed. Cir. 2016)



“IPR508 is different. In that proceeding, Medtronic did not include in its petition the same citations to or assertions about the Michelson passage that it included in the IPR507 petition. In IPR508, unlike IPR507, there was no notice of the Figure 18 point before NuVasive filed its Patent Owner Response. The opportunity to file that Response therefore did not provide the required opportunity to address the factual assertion about Figure 18 on which the Board ultimately relied.”

In re Nuvasive, Inc., 841 F.3d 966 (Fed. Cir. 2016)

Petitioner's conclusory statements don't show how the references meet element [1.L]

'056 Patent, element [1.L]

[1.L] wherein the processed sensor data for the time period corresponding to the adverse condition that is outputted to the display after the adverse condition is corrected comprises a second line graph having a first end corresponding to the time associated with the start of the adverse condition and a second end corresponding to a time associated with an end of the adverse condition.

