

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALIVECOR, INC.,
Petitioner,

v.

APPLE INC.,
Patent Owner

Case IPR2023-01434
Patent 10,270,898

**PATENT OWNER'S
PRELIMINARY RESPONSE**

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RELEVANT CLAIM LANGUAGE

Claim Elements	Claim Limitations
[1.pre]	A non-transitory computer-readable storage medium storing one or more programs, the one or more programs comprising instructions, which when executed by an electronic device with a display, cause the device to:
[1.a]	receive information identifying a plurality of approved sources of wellness data, wherein the plurality of approved sources comprise an electronic device or software application;
[1.b]	receive information identifying a plurality of approved destinations of wellness data, wherein the plurality of approved destinations comprise an electronic device or software application;
[1.c]	display a detailed view of a sub-category of wellness data, the detailed view comprising:
[1.c.i]	a graph representation of the sub-category of wellness data that includes aggregated values of the subcategory of wellness data, wherein the sub-category of wellness data is

	from the plurality of approved sources for the sub-category of wellness data, and;
[1.c.ii]	a selectable data sharing option;
[1.d]	receive user selection of the selectable data sharing option;
[1.e]	in response to receiving the selection of the selectable data sharing option, display:
[1.e.i]	the plurality of approved sources for the subcategory of wellness data, wherein the sub-category of wellness data is approved to be received from the plurality of approved sources and stored in a wellness database; and
[1.e.ii]	the plurality of approved destinations for the subcategory of wellness data, wherein the sub-category of wellness data is approved to be accessed from the wellness database by the plurality of approved destinations of wellness data.
[23.pre]	A computer-implemented method comprising:
[23.a]	at an electronic device: receiving information identifying a plurality of approved sources of wellness data, wherein the plurality of approved sources comprise an electronic device or software application;

[23.b]	receiving information identifying a plurality of approved destinations of wellness data, wherein the plurality of approved destinations comprise an electronic device or software application;
[23.c]	displaying a detailed view of a sub-category of wellness data, the detailed view comprising:
[23.c.i]	a graph representation of the sub-category of wellness data that includes aggregated values of the sub-category of wellness data, wherein the sub-category of wellness data is from the plurality of approved sources for the sub-category of wellness data; and
[23.c.ii]	a selectable data sharing option;
[23.d]	receiving user selection of the selectable data sharing option; and
[23.e]	in response to receiving the selection of the selectable data sharing option, displaying:
[23.e.i]	the plurality of approved sources for the sub-category of wellness data, wherein the sub-category of wellness data is

	approved to be received from the plurality of approved sources and stored in a wellness database; and
[23.e.ii]	the plurality of approved destinations for the sub-category of wellness data, wherein the sub-category of wellness data is approved to be accessed from the wellness database by the plurality of approved destinations of wellness data.

I. INTRODUCTION

Patent Owner, Apple Inc. (“Apple”), submits this preliminary response to Petitioner, AliveCor Inc.’s (“AliveCor”), Petition for *inter partes* review of U.S. Pat. No. 10,270,898 (“the ’898 patent”) in IPR2023-01434. The Petition challenges the patentability of claims 1-11, 16, 18, 20-23, 25-34, 41, and 43-45 (the “Challenged Claims”) of the ’898 patent based on alleged anticipation and obviousness in view of three prior art references—Molettiere (Ex-1005), Cohen (Ex-1006), and Yuen (Ex-1007). The grounds advanced based on these references, however, are substantively defective and demonstrate that AliveCor has not shown that the Challenged Claims are unpatentable over the asserted prior art.

All the Petition’s invalidity grounds are deficient because they fail to demonstrate that the prior art anticipates or renders obvious the requirement of independent claims 1 and 23 to display “a detailed view of a sub-category of wellness data,” which, under plain meaning, comprises two things: (1) a “graph representation” and (2) a “selectable data sharing option.” With this language, displaying the claimed “detailed view” requires display of a view comprising **both** constituent elements. *See* §II.A, *infra*. AliveCor’s prior art mappings for the “detailed view” are each deficient because AliveCor has not identified any prior art that allegedly has a “detailed view” comprising both elements. Instead, in its

analysis, AliveCor improperly points to different user interfaces that are not part of the same detailed view. *See* §II.B.1-3, *infra*. This deficiency—which is present in each ground—is dispositive of all of AliveCor’s grounds.

Specifically, in Ground 1, AliveCor relies on different figures of Molettiere—Figures 8 and 16 (each providing distinct “views”)—in mapping Molettiere’s interface elements to each of the claimed “graph representation” and “selectable data sharing option.” *See* Pet. at 10-14. In Ground 2, AliveCor similarly uses Cohen’s Figures 15 and 19 (which are distinct “views”) to address the two elements that comprise the claimed “detailed view.” *See id.* at 43-48. Worst, in Ground 3, AliveCor fails to identify any user interface element in Yuen for the “selectable data sharing option,” let alone one in the user interface of Yuen’s Figure 7B, which AliveCor relies on for its mapping to the recited “graph representation.” *See id.* at 68-73. AliveCor instead resorts to obviousness based on a combination of Yuen and Molettiere that provides no additional explanation or evidence beyond what AliveCor advanced in Ground 1. For these reasons, AliveCor’s grounds are deficient, and the Board should deny institution.

II. ALIVECOR FAILS TO MEET ITS BURDEN OF SHOWING THAT THE CHALLENGED CLAIMS ARE UNPATENTABLE

AliveCor fails to demonstrate a reasonable likelihood of establishing unpatentability on the merits for the reasons that follow with respect to each of

Grounds 1-3. As discussed below, the Petition fails to identify, with particularity, prior art teachings of the “detailed view” feature recited in claims 1 and 23 of the ’898 patent. The Petition instead applies prior art in a manner inconsistent with the plain meaning—rendering the grounds deficient. AliveCor therefore has failed to establish a reasonable likelihood of showing that the Challenged Claims would have been anticipated or obvious based on the prior art asserted in the Petition.

A. Under Plain Meaning, the “Detailed View” Feature Recited in Claims 1 and 23 Requires a View Comprising a “Graph Representation” and a “Selectable Data Sharing Option”

Claims 1 and 23 each recite display of “a detailed view of a sub-category of wellness data,” where the “detailed view” comprises:

a graph representation of the sub-category of wellness data that includes aggregated values of the sub-category of wellness data, wherein the sub-category of wellness data is from the plurality of approved sources for the sub-category of wellness data; *and*
a selectable data sharing option.

See Ex-1001 at 77:25-32, 80:5-12. AliveCor addresses these limitations in the Petition as [1.c], [1.c.i], [1.c.ii] (claim 1) and [23.c], [23.c.i], [23.c.ii] (claim 23). *See, e.g.*, Pet., 10-14 ([1.c], [1.c.i], [1.c.ii]), 34-35 ([23.c], [23.c.i], [23.c.ii]).

Based on plain meaning, the above-referenced limitations require that the “detailed view” comprise two elements—a “graph representation” and a “selectable data sharing option.”

Claim terms are to be given their ordinary and customary meaning with two exceptions—(1) when a patentee acts as his own lexicographer, and (2) when a patentee disavows the full scope of a claim term. *Thorner v. Sony Computer Entertainment America LLC*, No. 11-1114 (Fed. Cir. Feb. 1, 2012). Neither exception is applicable for the “detailed view” feature or its two constituent elements (i.e., “graph representation,” “selectable data sharing option”). Neither the ’898 patent specification nor the prosecution history includes a redefinition of these claim features that would justify departure from the ordinary and customary, i.e., plain, meaning.

Indeed, the plain meaning of “detailed view” explained above finds explicit support in the ’898 patent specification. As described in the specification, “[v]iews are made up of controls and other elements that a user can see on the display.” Ex-1001, 22:1-3. The specification also includes several example “views” that confirm that elements of a “view” are displayed on a single interface. As one example, “in an application view in which three user-interface objects are displayed on touch-sensitive display 112, when a touch is detected on touch-sensitive display 112, event comparator 184 performs a hit test to determine which of the three user-interface objects is associated with the touch (sub-event).” *Id.*, 23:57-67. As another example, annotated FIG. 30—which shows a “detailed view” of a “Calories Burned” sub-category shown in interfaces 2800 (FIG. 28) and

2900 (FIG. 29), Ex-1001 at 55:42-47—shows an interface 3000 with a graph representation 3002 (e.g., “graph representation”) (in purple) and options 3010 and 3016 for sharing data (e.g., “selectable data sharing option”) (in blue):

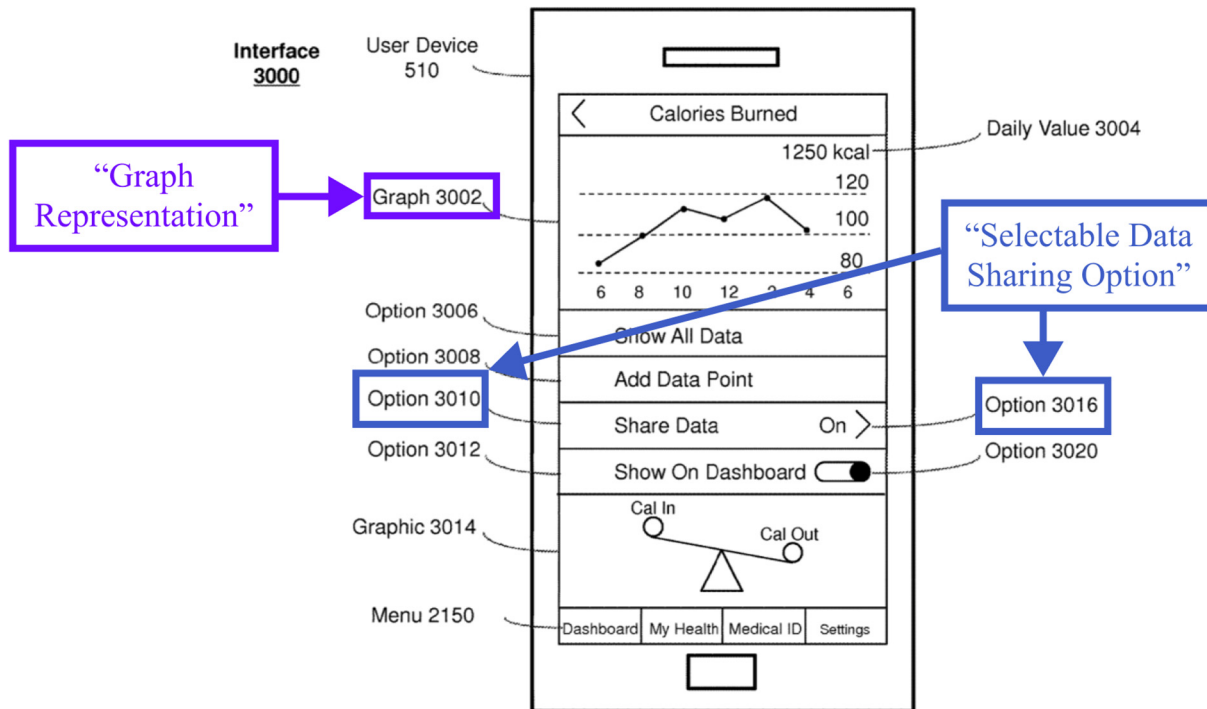


FIG. 30

Ex-1001, FIG. 30 (annotated)

Interface 3000 in FIG. 30 “represents information associated with Calories burned” which is an example of a sub-category of “wellness data.” Ex-1001, 55:42-53.

Graph representation 3002 shows “the number of Calories burned over time throughout the day.” *Id.*, 55:54-67. Interface 3000 further includes “‘Share Data’ option 3010 having option 3016 for turning data sharing on or off.” *Id.*, 57:13-27.

As described in the '898 patent, “[d]ata sharing” “represent[s] the ability for other devices or applications to access a user’s wellness or non-wellness data (e.g., stored in wellness database 511).” Ex-1001, 46:5-16. Thus, as shown in FIG. 30, interface 3000 is an example “detailed view” of Calories burned (“a subset of wellness data”) that comprises both a graph representation 3002 of Calories burned over time during the day (“graph representation of the sub-category of wellness data that includes aggregated values of the sub-category of wellness data”) and an option 3016 that may be selected to enable/disable data sharing (“selectable data sharing option”). And, consistent with the plain meaning of the “detailed view” recited in claims 1 and 23, the graph representation 3002 and option 3016 are displayed in the same interface 3000 (e.g., the same detailed view).

B. AliveCor Fails to Establish a *Prima Facie* Case That the Asserted Prior Art Satisfies the Plain Meaning of the “Detailed View” Feature

1. Ground 1 is Deficient Because AliveCor’s Mapping to Molettiere Relies On Two Distinct Views

AliveCor identifies Molettiere’s Figures 8 and 18 in addressing the “detailed view” feature recited in [1.c]. *See* Pet., 10-12.

Ex. 1005, Fig. 8 (annotated)

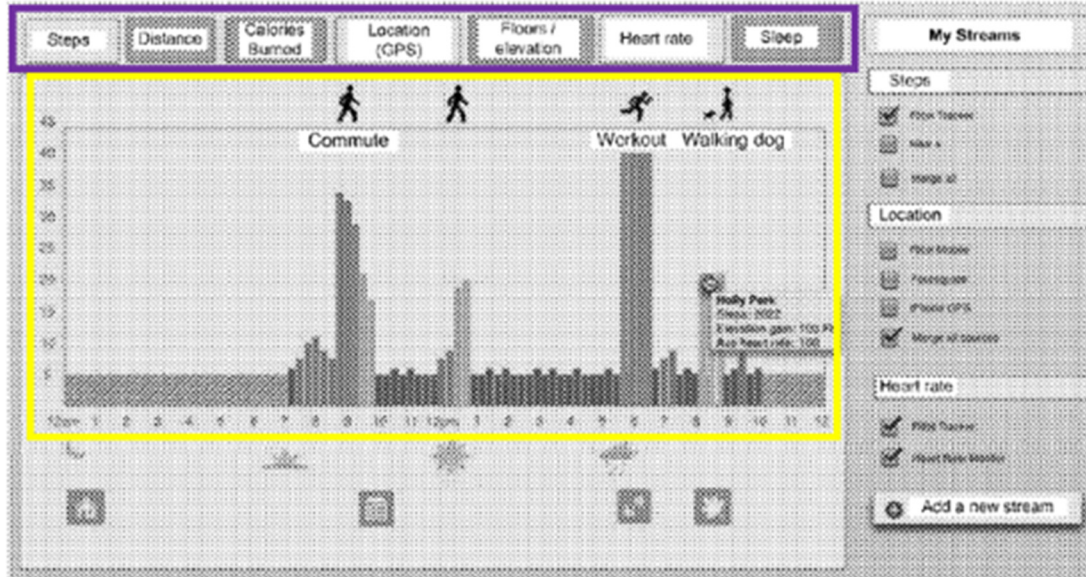


Fig. 8

Pet., 11 (citing Ex-1005, FIG. 8) (annotations in original)

Ex. 1005, Fig. 18 (annotated)



Fig. 18

Pet., 12 (citing Ex-1005, FIG. 18) (annotations in original)

AliveCor cites to Molettiere’s description of Figure 8 as “a user interface screen showing data from all sources merged and displayed as a graph...” Pet., 12 (citing Ex-1005, 12:14-16). Thus, AliveCor maps the alleged “graph” shown in Molettiere’s Figure 8 interface to the claimed “graph representation” recited in [1.c.i]. *Id.* Although AliveCor does not cite Figure 18 in its discussion of the “graph representation” element [1.c.i], it also contends in its discussion of element [1.c] that Figure 18 illustrates a “graphical depiction.” Pet., 11 (citing Ex-1005, 21:13-23).

In addressing the “selectable data sharing option” recited in [1.c.ii], however, AliveCor does not refer to Molettiere’s Figure 8 or Figure 18 and does not argue that the views shown in these figures include a “selectable data sharing option.” Instead, AliveCor changes course and identifies a *different* view found in Molettiere’s Figure 16:

Ex. 1005, Fig. 16 (annotated)

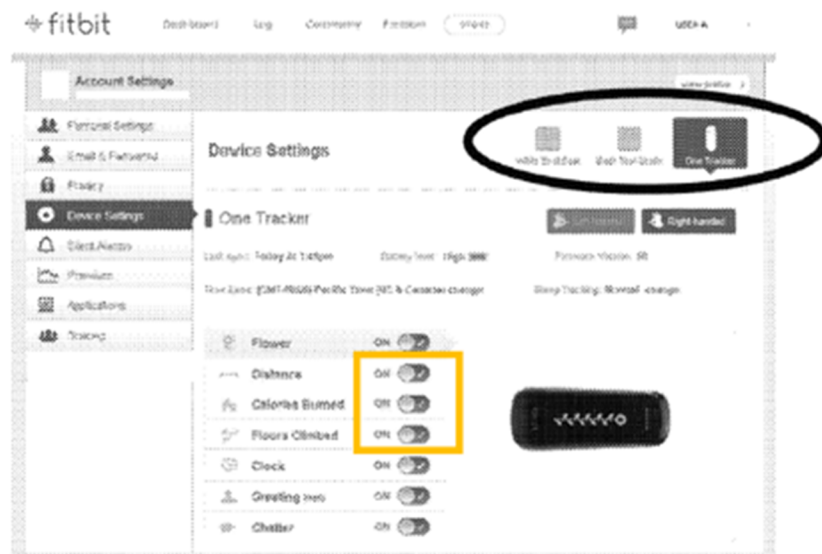


Fig. 16

Pet., 13 (citing Ex-1005, FIG. 16) (annotations in original)

According to AliveCor, Molettiere’s Figure 16 interface “provides selectable options for each type of information tracked or collected.” *Id.* (citing Ex-1005, 21:64-65, 22:32-39). Thus, AliveCor’s mapping to Molettiere implicates Figure 8 (or Figure 18) for the recited “graph representation,” but refers only to Figure 16 for the recited “selectable data sharing option.” Such a mapping is inconsistent with the plain meaning of the “detailed view” feature (discussed in §II.A), as the two recited elements are not part of the same detailed view of a sub-category of wellness data.

Moreover, despite express statements that Molettiere “anticipates and/or renders obvious” each of the three above-referenced claim limitations, AliveCor

fails provide any further contention or evidence regarding how or why a person of ordinary skill in the art (“POSITA”) would have combined the user interfaces of Molettiere’s Figures 8/18 and 16 to arrive at a user interface with a single “detailed view” comprising both the “graph representation” and the “selectable data sharing option.” *See* Pet., 10-13. AliveCor’s omission is not surprising as the cited portions of Molettiere relied on by AliveCor provide no suggestion to perform such a modification. AliveCor therefore fails to provide sufficient motivation to combine different embodiments of Molettiere, making its Petition deficient. *See* IPR2017-01204, Pap. 8, at 11 (PTAB Oct. 23, 2017) (denying institution because petitioner failed to “provide a sufficient rationale to combine the teachings of [prior art reference’s] different embodiments” and “simply fails to explain sufficiently why one skilled in the art would have found it obvious to combine those teachings”); *see also In re Stepan*, 868 F.3d 1342, 1346, n.1 (Fed. Cir. 2017) (when rejecting claims based on “combining multiple embodiments from a single reference, or selecting from large lists of elements in a single reference, there must be a motivation to make the combination and a reasonable expectation that such a combination would be successful, otherwise a skilled artisan would not arrive at the claimed combination”).

Further, like the Petition, the Rosenberg Declaration improperly evaluates the claimed “detailed view” by pointing to the same disclosures in Molettiere and

otherwise fails to provide any further evidence that Molettiere satisfies its plain meaning. Ex-1003, ¶¶124-144. Thus, the Petition fails to establish a *prima facie* case of obviousness based on Molettiere since both AliveCor and its expert fail to explain how Molettiere’s user interface screens satisfy the claimed “detailed view” under the plain meaning of the term.

2. Ground 2 is Also Deficient Because AliveCor’s Mapping to Cohen Similarly Relies on Two Distinct Views

In Ground 2, AliveCor focuses on Cohen’s Figure 19 in addressing the “detailed view” feature recited in [1.c] and the “graph representation” element recited in [1.c.i]. *See* Pet., 43-46. AliveCor further states that “[a] POSITA would understand that wellness data collected by *Cohen* would be displayed to the host and/or remote monitor.” *Id.*, 45 (citing Ex-1006, 50:20-24, Ex-1003, ¶¶367–368, 372).

Ex. 1006, Fig. 19 (annotated)

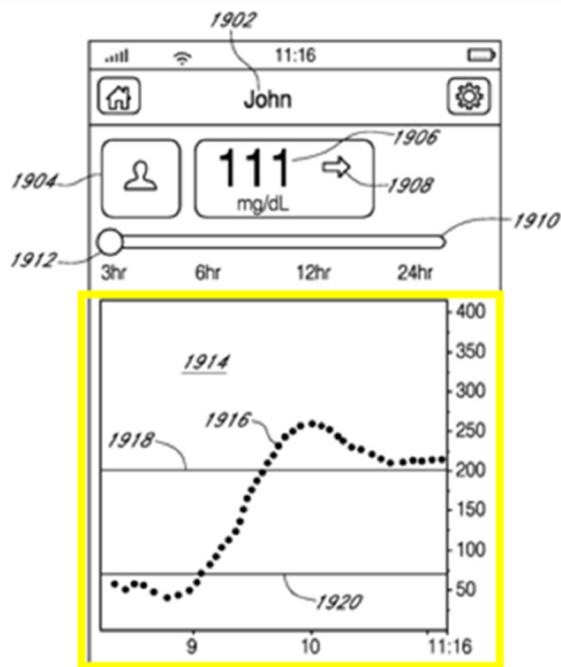


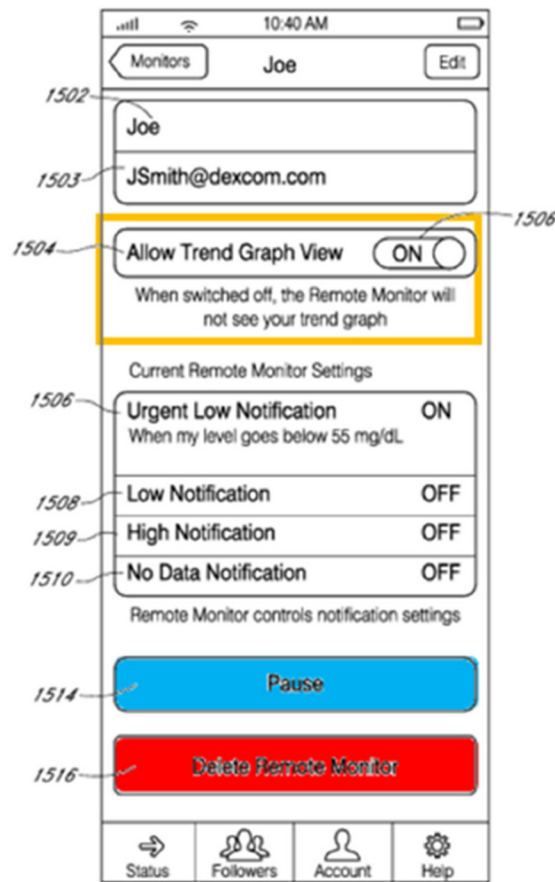
FIG. 19

Pet., 45 (citing Ex-1006, FIG. 19) (annotations in original)

However, in mapping Cohen to the “selectable data sharing option” recited in [1.c.ii], AliveCor points to an entirely different figure from Cohen—Figure 15.

Pet., 47-48.

Ex. 1006, Fig. 15 (annotated)



Pet., 47 (citing Ex-1006, Fig. 15 (annotations in original))

And, like the deficient mappings in Ground 1, AliveCor fails to provide any contention or evidence regarding combinability of the user interfaces of Cohen's Figures 15 and 19 to arrive at a single view comprising the mapped user interface elements. *See* Pet., 43-48. The Rosenberg Declaration similarly improperly identifies the same user interface screens in Cohen and otherwise fails to provide any evidence that the relied-upon disclosures in Cohen satisfy the plain meaning of

“detailed view.” Ex-1003, ¶¶364-386. Thus, the Petition fails to establish a *prima facie* case of obviousness based on Cohen because both AliveCor and its expert fail to explain how Cohen’s software application provides a view with ***both a graph*** (which AliveCor contends the Figure 19 interface displays) ***and a selectable data sharing option*** (which AliveCor contends the Figure 15 interface displays).

3. Ground 3 Is Deficient – AliveCor’s Proposed Combination of Yuen and Molettiere Does Not Remedy any of the Deficiencies of Ground 1

In its third ground, AliveCor proposes a combination of Yuen and Molettiere but fails to provide any disclosure from Yuen that remedies the particular deficiencies of Molettiere for the “detailed view” feature. *See* §II.B.1, *supra*. AliveCor instead maps this limitation to Yuen’s Figure 7B, which AliveCor contends “depicts a graph representation of a sub-category of wellness data (highlighted in YELLOW).” Pet., 69 (citing Ex-1003, ¶497):

Ex. 1007, Fig. 7B (annotated)

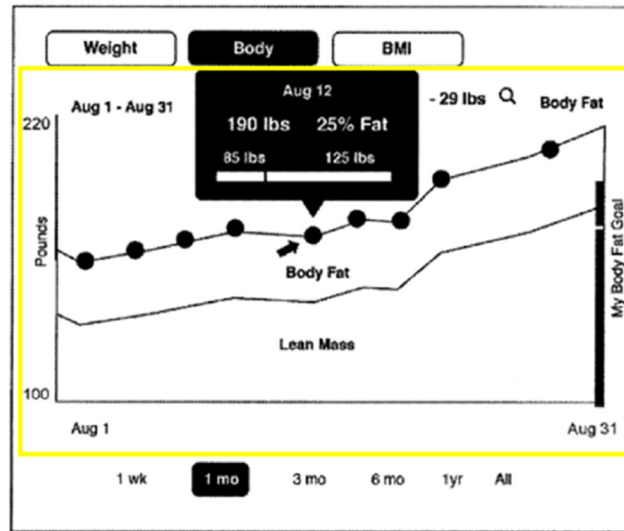


FIGURE 7B

Pet., 69 (citing Ex-1007, FIG. 7B) (annotations in original)

But AliveCor fails to identify any corresponding user interface or user interface element in Yuen that meets the “selectable data sharing option” recited in [1.c.ii]. See Pet., 72-73. Focusing on Yuen’s general capability to share monitoring data, AliveCor instead states that “the user can turn on or off the biometric monitoring device’s ability to collect different types of physiologic data...” Pet., 72 (citing Ex-1007, 10:10-40, Ex-1003, ¶¶514-515). AliveCor similarly contends that Yuen allows a user to “control[], among other things, the ability of or for data destinations to receive the data” collected. Pet., 72 (citing Ex-1007, 12:30-33). According to AliveCor, “a POSITA would have understood that the user could control the type of physiologic information collected and/or shared by the

biometric device via use of a ‘selectable data sharing option’...” *Id.*, 72-73.

However, even if AliveCor’s characterization of the relied-upon Yuen disclosure is correct (it is not), it *still fails* to identify a user interface element that is displayed on a display of an electronic device, much less an interface with a detailed view of a “selectable data sharing option” *and* “graph representation.” Indeed, AliveCor never explains how any of the alleged sharing and/or control capabilities are present in Yuen’s Figure 7B interface—the interface AliveCor contends shows the recited “detailed view” feature and ostensibly includes the recited “graph representation.”

Recognizing these deficiencies, AliveCor turns to Molettiere, which, according to AliveCor, “specifically discloses...interfaces for configuring a device to collect data that include selectable data sharing options” and would have motivated a POSITA to “combine *Molettiere*’s user interfaces for configuring a biometric device that include selectable data sharing options with *Yuen*’s biometric device.” Pet., 73. This proposal is ineffective since the relied-upon Molettiere disclosure, even if appropriately combined with Yuen, still fails to properly address the “detailed view” feature under its plain meaning. As explained in §II.B.1, *supra*, AliveCor never identifies any disclosure in Molettiere of a “detailed view” that includes a “selectable data sharing option” and a “graph representation,” and fails to provide any contention or evidence regarding obviousness of combining the

user interfaces depicted in Molettiere's Figures 16 and 8/18 to arrive at the claimed interface. *See* Pet., 43-48. Likewise, AliveCor fails to explain why or how a POSITA would have been motivated to combine Yuen and Molettiere in a way that would address this aspect of the claim language. *See* Pet., 61-65. The Rosenberg Declaration is similarly deficient, improperly evaluating the "detailed view" feature and otherwise failing to provide any evidence that the relied-upon disclosures in Yuen and Molettiere satisfy the plain meaning. Ex-1003, ¶¶454-468, 494-525. Thus, the Petition fails to establish a *prima facie* case of obviousness based on Yuen and Molettiere because both AliveCor and its expert fail to explain how Yuen's biometric device in view of Molettiere's user interfaces provides a view with both a graph (which AliveCor contends is disclosed in Yuen's Figure 7B interface) **and** a selectable data sharing option (which AliveCor contends is elsewhere disclosed in Yuen or Molettiere).

III. CONCLUSION

For the reasons set forth above, AliveCor fails to establish a reasonable likelihood of prevailing with respect to at least one claim of the '898 patent. Accordingly, Apple respectfully requests the Board to deny institution of *inter partes* review of the Petition against the '898 patent.

Respectfully submitted,

Date: January 5, 2024

/Jeremy J. Monaldo/

W. Karl Renner, Reg. No. 41,265
Jeremy Monaldo, Reg. No. 58,680
Ryan Chowdhury, Reg. No. 74,466
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Tel: 202-783-5070
Fax: 877-769-7945

Attorneys for Patent Owner

CERTIFICATION UNDER 37 CFR § 42.24(d)

Under the provisions of 37 CFR § 42.24(d), the undersigned hereby certifies that the word count for the foregoing Patent Owner's Response to Petition totals 2,660, which is less than the 14,000 allowed under 37 CFR § 42.24(b)(1).

Respectfully submitted,

Date: January 5, 2024

/Jeremy J. Monaldo/
W. Karl Renner, Reg. No. 41,265
Jeremy Monaldo, Reg. No. 58,680
Ryan Chowdhury, Reg. No. 74,466
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Tel: 202-783-5070
Fax: 877-769-7945

Attorneys for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), the undersigned certifies that on January 5, 2024, a complete and entire copy of this Patent Owner's Response to Petition were provided via email, to the Petitioner by serving the email correspondence addresses of record as follows:

Christopher TL Douglas, Reg. No. 56,950
Scott M. Stevens, Reg. No. 54,762
Philip Ducker, *Pro Hac Vice*
Katherine G. Rubschlager, *Pro Hac Vice*
J. Ravindra Fernando, Reg. No. 73,762
Thomas F. Finch, *Pro Hac Vice*
Erin Beaton, Reg. No. 79,218

ALSTON & BIRD LLP
Vantage South End
1120 South Tryon Street, Suite 300
Charlotte, NC 28203-6818
Phone: 704.444.1000
Fax: 704.444.1111

E-mail: apple-alivecor-ndcal@alston.com

/Crena Pacheco/
Crena Pacheco
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
pacheco@fr.com