

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent:

Patent Number: US 10,478,635
Issued: November 19, 2019
Title of Invention: Photobiomodulation Therapy Systems and Methods
Inventors: Scott Nelson and Justin Strahan
Assignee: Joovv, Inc.
Atty Docket No.: 210407-07RE

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REQUEST FOR *EX PARTE* REEXAMINATION

Dear Sir or Madam:

The undersigned, as representative of the real party in interest (“Requestor”), respectfully requests *ex parte* reexamination of claims 1-20 of U.S. Patent No. 10,478,635 (hereinafter “Nelson”), issued November 19, 2019. Prior art cited in this request was not considered or applied by the Examiner during prosecution and renders all issued claims of Nelson unpatentable under 35 U.S.C. §102 or 35 U.S.C. §103.

Per 37 CFR 1.510b and MPEP §2214, the documents listed in the following table are submitted herewith. The required fee was paid through EFS web.

Respectfully submitted,

/Jason T. Daniel/

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I. IDENTIFICATION OF CLAIMS THAT SHOULD BE REEXAMINED

Requestor respectfully requests reexamination of claims 1-20 of Nelson under 35 USC §§ 301-307 and 37 CFR § 1.510 *et seq.*, and issuance of a reexamination certificate canceling these claims.

II. PROSECUTION HISTORY OF NELSON

Nelson filed its Continuation-in-part application on October 22, 2018, as application 16/227,289 claiming priority to Nonprovisional application 16/167,385 filed on October 22, 2018.

The application was promptly examined on February 15, 2019, where Claims 1-13 and 15-19 were rejected, and claims 14 and 20 were indicated as allowable. A Telephone interview was conducted on March 7, 2019 and a corresponding response was filed by Nelson on March 18 cancelling several claims and adding new claims. On May 25, the Office issued a second Office Action rejecting claims 1,2,4-6, 8, 10, 13-15, 21-27 and 30. The Office action indicated claims 28 and 29 as being allowable. On June 14, 2019, Nelson cancelled claims 1-20, 22, 26-28, and added new claims 31-44.

On July 10, 2019, a Notice of Allowance was issued along with an examiners amendment to cure informalities to claim numbering. However, no rejection was given for any of the new claims added, and no reasoning as to why the application was allowed was provided. On October 21, 2019 Nelson submitted an Information Disclosure Statement, and on October 21, 2019 a second Notice of allowance was issued. The second Notice of Allowance provided no reasoning as to why the application was allowed. On October 30, 2019, the USPTO issued the Nelson patent.

III. PRIOR ART APPLIED HEREIN AND SUBSTANTIAL NEW QUESTIONS OF PATENTABILITY OF EVERY CLAIM OF NELSON

1. U.S. Publication No. 2019/0030359 (“Dijkstra”) filed on October 2, 2018, published on January 31, 2019.

Dijkstra discloses a light therapy device for providing therapeutic treatment to a user's body.

A reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable, as the disclosure of Dijkstra presents a

new, non-cumulative technological teaching that was not previously considered or discussed during the prosecution of Nelson.

The **substantial new question of patentability** is whether claims 1-20 of Nelson would have been anticipated or obvious in light of Dijkstra.

2. U.S. Patent No. 8,425,577 (“Vargas”) filed on December 13, 2011, Issued on April 23, 2013.

Vargas discloses an LED Phototherapy Apparatus utilizing red and near infra-red light phototherapy.

A reasonable examiner would consider the teaching of Vargas to be important in deciding whether or not the claim is patentable, as the disclosure of Vargas presents a new, non-cumulative technological teaching that was not previously considered or discussed during the prosecution of Nelson.

The **substantial new question of patentability** is whether claims 1-20 of Nelson would have been anticipated or obvious in light of Vargas.

3. US Publication US2020/0269065 (“Broeng”) filed February 14, 2018, published August 27, 2020.

Broeng discloses a light therapy system that uses LED’s to biostimulate tissue using visible light.

A reasonable examiner would consider the teaching of Broeng to be important in deciding whether or not the claim is patentable, as the disclosure of Carroll presents a new, non-cumulative technological teaching that was not previously considered or discussed during the prosecution of Nelson.

The **substantial new question of patentability** is whether claims 1-20 of Nelson would have been anticipated or obvious in light of Broeng.

4. U.S. Patent No. 10,881,550 (“Tedford”) filed on December 1, 2015, issued January 5, 2021.

Tedford discloses multi-wavelength phototherapy devices systems and methods for treatments of disorders and diseases including multi-wavelength low level light therapy

A reasonable examiner would consider the teaching of Tedford to be important in

deciding whether or not the claim is patentable, as the disclosure of Tedford presents a new, non-cumulative technological teaching that was not previously considered or discussed during the prosecution of Nelson.

The **substantial new question of patentability** is whether claims 1-20 of Nelson would have been anticipated or obvious in light of Tedford.

5. U.S. Publication No. 2002/0198575 (“Sullivan”) filed May 22, 2002, and published on December 26, 2002.

Sullivan discloses a photo-therapy device that uses photon or light waves to stimulate healing process in an organism.

A reasonable examiner would consider the teaching of Sullivan to be important in deciding whether or not the claim is patentable, as the disclosure of Sullivan presents a new, non-cumulative technological teaching that was not previously considered or discussed during the prosecution of Nelson.

The **substantial new question of patentability** is whether claims 1-20 of Nelson would have been anticipated or obvious in light of Sullivan.

6. U.S. Publication No. 2020/0360714 (“Shterzer”) filed August 4, 2020 having a priority date of February 5, 2018, and published on November 19, 2020.

Shterzer discloses an intense pulse light (IPL) apparatus utilizing a pulse forming network to generate light sequences for the treatment of a patient.

A reasonable examiner would consider the teaching of Shterzer to be important in deciding whether or not the claim is patentable, as the disclosure of Shterzer presents a new, non-cumulative technological teaching that was not previously considered or discussed during the prosecution of Nelson.

The **substantial new question of patentability** is whether claims 1-20 of Nelson would have been anticipated or obvious in light of Shterzer.

IV. PROPOSED REJECTIONS OF THE CLAIMS OF THE NELSON PATENT and DETAILED EXPLANATION THEREOF

1. Obviousness Standard

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under **35 U.S.C. 103** are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

MPEP §2141.

2. Field of Art and Ordinary Skill in the Art

The field of art for Nelson is light therapy devices. Nelson at Abstract.

The prior art references cited in this request for re-examination include US patents, and US patent publications, in the field of light therapy devices. As each of these references are directed toward the same subject matter as Nelson, the combination of the references for teaching the elements specifically described below would have been obvious to a person of ordinary skill in the art. See MPEP §2141.03.

3. Claim 1 of Nelson

Claim 1 of Nelson recites in full:

1. A light therapy system, comprising:
 - a first light therapy device comprising a first housing, a first plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a first communication module communicatively coupled to the first plurality of lights and located within the first housing;
 - a second light therapy device comprising a second housing, a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second communication module communicatively coupled to the second plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module;
 - a first control panel coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and

- configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and
- a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light.

Ground 1: Claim 1 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

A light therapy system, comprising:	<u>Dijkstra</u> at Abstract teaches: “The invention provides a light therapy device for providing therapeutic treatment to a user's body, wherein the user may be a person or an animal. The device is using a light projection method for treating the body problems and/or skin disorders. Further, the device is having a rotatable assembly that automatically follows the movement of the desired area of the body needs to be treated. The device uses artificial intelligence, machine learning, localization modules, object detection module, image processing module, and 3D-mapping to automatically identify and treating the desired area of the body. Furthermore, the user can manually identify, select and prioritize desired treatment portion and can select the type of treatment required.”
a first light therapy device comprising a first housing, a first plurality of lights arranged and configured to emit at least one of red	<u>Dijkstra</u> at paragraph 0059 and FIG. 1 teach: “Referring to FIG. 1 shows a block diagram of components of a light therapy device 200

light and near infrared light, and a first communication module communicatively coupled to the first plurality of lights and located within the first housing;	according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130. <u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.”
a second light therapy device comprising a second housing, a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second communication module communicatively coupled to the second plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module;	<u>Dijkstra</u> at paragraph 0059 and FIG. 1 teach: “Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130.

a first control panel coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and	<u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.” <u>Dijkstra</u> at paragraph 0098 teaches: “Referring to FIG. 9, show a light therapy system 100 according to an exemplary embodiment of the FIG. 2, wherein a user is using a plurality of light therapy devices 200 for full body treatment at a time. In this, the user is surrounded by the plurality of light therapy devices and each light therapy device is projecting light towards a separate treatment portion on the user body.” <u>Dijkstra</u> at paragraph 0021 teaches: “According to yet another aspect of the present disclosure, the light therapy device further comprises a wired or wireless (NFC, Wi-Fi, Bluetooth) communication means to connect with a remote device for displaying the image data, the treatment portion of the user body, the external body condition, the internal body condition and the treatment information, wherein, the remote device is adapted to send input to the controller unit via communication means.” <u>Dijkstra</u> at paragraph 0059 teaches: “Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable
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	manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130.” <u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.” <u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each
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a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light.	other and are being used together to cover the maximum body portion of the user at one time.” <u>Dijkstra</u> at paragraph 0021 teaches: “According to yet another aspect of the present disclosure, the light therapy device further comprises a wired or wireless (NFC, Wi-Fi, Bluetooth) communication means to connect with a remote device for displaying the image data, the treatment portion of the user body, the external body condition, the internal body condition and the treatment information, wherein, the remote device is adapted to send input to the controller unit via communication means.” <u>Dijkstra</u> at paragraph 0059 teaches: “Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130.” <u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.”
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	<u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.”
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Dijkstra discloses each and every limitation of claim 1 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 1 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 1 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 1 should be reexamined and found to be unpatentable.

Ground 2: Claim 1 of Nelson should be rejected under 35 USC §102 as being anticipated by Vargas, or alternatively rejected under 35 USC §103(a) as being obvious over Vargas.

A light therapy system, comprising: a first light therapy device comprising a first housing, a first plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a first communication module communicatively coupled to the first plurality of lights and located within the first housing;	<u>Vargas</u> at abstract teaches: “A red and near infra-red light phototherapy apparatus designed to accommodate an adult user. <u>Vargas</u> at claim 1 teaches: “A red and near infra-red light, phototherapy apparatus, comprising: a user support having a user surface comprising an acrylic support portion and a lower red-light source attached beneath said acrylic support portion, said acrylic support portion being substantially transparent to a range of wavelengths emitted by a red-light Light Emitting Diode (LED) source and by and infra-red light LED source; and wherein said light sources are positioned to provide red-light and infra-red light illumination to substantially the entirety of said acrylic support portion from below; a canopy; an upper red and infra-red light LED source attached to said canopy such that, when said canopy is adjusted to an operational position, said upper red and infra-red light LED sources are located to provide red and infrared light illumination to substantially the entirety of said user surface of the user support, from above; and wherein said upper and lower red and infra-red light LED sources comprise at least one removable multi-bulb LED strip, said removable multi-bulb LED strip having a rigid base substantially equal in length to the support and being comprised of evenly spaced alternating red and infra-red LED light sources; and wherein said red-light LED source provides light substantially exclusively in a narrow bandwidth, wavelength range of approximately 625 nm to 645 nm, and said infra-red light LED source provides light substantially exclusively in a narrow bandwidth,
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a second light therapy device comprising a second housing, a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second communication module communicatively coupled to the second plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module;	wavelength range of approximately 820 nm to 860 nm.” <u>Vargas</u> at column 5 lines 14-25 teach: “The LEDs may be supplied with power by the power-source 210 under the control of the exposure control unit 350 that may have a suitable user interface 360. The exposure control unit 350 may further be controlled by a wireless user interface 370 that may be operated by the user 110 while undergoing therapy, or by the therapist overseeing the therapy, or some combination thereof. The power-source 210 may be a suitable source of electricity such as, but not limited to, an electrical battery or an electrical mains connection, or some combination thereof. The exposure control unit 350 may, for instance, include a suitably programmed general purpose computer.” <u>Vargas</u> at claim 1 teaches: “A red and near infra-red light, phototherapy apparatus, comprising: a user support having a user surface comprising an acrylic support portion and a lower red-light source attached beneath said acrylic support portion, said acrylic support portion being substantially transparent to a range of wavelengths emitted by a red-light Light Emitting Diode (LED) source and by and infra-red light LED source; and wherein said light sources are positioned to provide red-light and infra-red light illumination to substantially the entirety of said acrylic support portion from below; a canopy; an upper red and infra-red light LED source attached to said canopy such that, when said canopy is adjusted to an operational position, said upper red and infra-red light LED sources are located to provide red and infrared light illumination to substantially the entirety of said user surface of the user support, from above; and wherein said upper and lower red and infra-red light LED sources comprise at least one
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a first control panel coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is	removable multi-bulb LED strip, said removable multi-bulb LED strip having a rigid base substantially equal in length to the support and being comprised of evenly spaced alternating red and infra-red LED light sources; and wherein said red-light LED source provides light substantially exclusively in a narrow bandwidth, wavelength range of approximately 625 nm to 645 nm, and said infra-red light LED source provides light substantially exclusively in a narrow bandwidth, wavelength range of approximately 820 nm to 860 nm.” <u>Vargas</u> at column 5 lines 14-25 teach: “The LEDs may be supplied with power by the power-source 210 under the control of the exposure control unit 350 that may have a suitable user interface 360. The exposure control unit 350 may further be controlled by a wireless user interface 370 that may be operated by the user 110 while undergoing therapy, or by the therapist overseeing the therapy, or some combination thereof. The power-source 210 may be a suitable source of electricity such as, but not limited to, an electrical battery or an electrical mains connection, or some combination thereof. The exposure control unit 350 may, for instance, include a suitably programmed general purpose computer.” <u>Vargas</u> at column 4 lines 34-42 teach: “With the canopy 130 closed, a user 110 (not shown in this view) residing on the user surface 125 may be illuminated by both the upper red and infra-red light source 140 and the lower red and infra-red light source 160 that may both now be turned on. The red and infra-red light sources may, for instance, be made operative by means of a power-source 210 that may be controlled by a control panel 220. Both the power-source 210 and the control panel 220 may, for
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emitting near infrared light; and a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light.	instance, be incorporated into the canopy 130.” <u>Vargas</u> at column 5 lines 14-25 teach: “The LEDs may be supplied with power by the power-source 210 under the control of the exposure control unit 350 that may have a suitable user interface 360. The exposure control unit 350 may further be controlled by a wireless user interface 370 that may be operated by the user 110 while undergoing therapy, or by the therapist overseeing the therapy, or some combination thereof. The power-source 210 may be a suitable source of electricity such as, but not limited to, an electrical battery or an electrical mains connection, or some combination thereof. The exposure control unit 350 may, for instance, include a suitably programmed general purpose computer.” <u>Vargas</u> at column 4 lines 34-42 teach: “With the canopy 130 closed, a user 110 (not shown in this view) residing on the user surface 125 may be illuminated by both the upper red and infra-red light source 140 and the lower red and infra-red light source 160 that may both now be turned on. The red and infra-red light sources may, for instance, be made operative by means of a power-source 210 that may be controlled by a control panel 220. Both the power-source 210 and the control panel 220 may, for instance, be incorporated into the canopy 130.” <u>Vargas</u> at column 5 lines 14-25 teach: “The LEDs may be supplied with power by the power-source 210 under the control of the exposure control unit 350 that may have a suitable user interface 360. The exposure control unit 350 may further be controlled by a wireless user interface 370 that may be operated by the user 110 while undergoing therapy, or by the therapist overseeing the therapy, or some combination thereof. The
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	power-source 210 may be a suitable source of electricity such as, but not limited to, an electrical battery or an electrical mains connection, or some combination thereof. The exposure control unit 350 may, for instance, include a suitably programmed general purpose computer.”
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Vargas discloses each and every limitation of claim 1 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Vargas teaches that the functionality of each of the limitations of claim 1 were known in the art. Therefore, a reasonable examiner would consider the teaching of Vargas to be important in deciding whether or not the claim is patentable.

Vargas was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 1 would have been anticipated or obvious in light of Vargas. Requestor submits that claim 1 should be reexamined and found to be unpatentable.

Ground 3: Claim 1 of Nelson should be rejected under 35 USC §102 as being anticipated by Tedford, or alternatively rejected under 35 USC §103(a) as being obvious over Tedford.

A light therapy system, comprising:	<u>Tedford</u> at Abstract teaches: A multi-wavelength phototherapy device, system and method for the treatment of a disorder or disease, including multi-wavelength low level light therapy ("PBM"), in particular to multi-wavelength PBM and other phototherapy systems and methods.
a first light therapy device comprising a first housing, a first plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a first communication module communicatively coupled to the first plurality of lights and located within the first housing;	<u>Tedford</u> at Abstract teaches: “a first light source producing a first light beam having a first therapeutic wavelength and disposed within the housing; a second light source producing a second light beam having a second therapeutic wavelength and disposed within the housing, where the second therapeutic wavelength differs from the first therapeutic wavelength by at least 25 nm.”

a second light therapy device comprising a second housing, a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second communication module communicatively coupled to the second	<u>Tedford</u> at claim 6 teaches: “The light delivery apparatus of claim 5, wherein the first, the second, and the third therapeutic wavelengths are each selected from yellow, red, or near-infrared wavelengths.” <u>Tedford</u> at column 27, lines 25-36 teach: “In at least some embodiments, the device is connected wirelessly or through a wire to an external control unit. The external unit may contain control electronics, associated drivers, software, and the like, or any combination of these. It may be tethered to the wearable device with a fiber optic cable for the delivery of light. In at least some embodiments, the control unit is connected to the wearable device with a cable, supplying signals or electrical power. In at least some embodiments, the control unit interfaces wirelessly with the wearable unit. The control unit and/or wearable device may be powered by one or more batteries, or may be powered via an external power source.” <u>Tedford</u> at FIG. 12A and column 29, lines 47-54 teach: “FIG. 12A illustrates another embodiment of a wearable light therapy device 1200 that includes a frame 1202, front piece 1204, earpieces 1206, light source 1210 and one or more frame casings 1212 in which electronics or a battery can be stored. All of the design considerations, properties, and description provided for similarly named elements of other embodiments is also applicable to the elements of device 1200, unless indicated otherwise.” <u>Tedford</u> at Abstract teaches: Provided are multi-wavelength phototherapy devices, systems and methods for the treatment of a disorder or disease, including multi-wavelength low level light therapy ("PBM").” AND
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plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module;	“a first light source producing a first light beam having a first therapeutic wavelength and disposed within the housing; a second light source producing a second light beam having a second therapeutic wavelength and disposed within the housing, where the second therapeutic wavelength differs from the first therapeutic wavelength by at least 25 nm.” <u>Tedford</u> at claim 6 teaches: “The light delivery apparatus of claim 5, wherein the first, the second, and the third therapeutic wavelengths are each selected from yellow, red, or near-infrared wavelengths.” <u>Tedford</u> at column 27, lines 25-36 teach: “In at least some embodiments, the control unit interfaces wirelessly with the wearable unit. The control unit and/or wearable device may be powered by one or more batteries, or may be powered via an external power source.” <u>Tedford</u> at FIG. 12A and column 29, lines 47-54 teach: “FIG. 12A illustrates another embodiment of a wearable light therapy device 1200 that includes a frame 1202, front piece 1204, earpieces 1206, light source 1210 and one or more frame casings 1212 in which electronics or a battery can be stored. All of the design considerations, properties, and description provided for similarly named elements of other embodiments is also applicable to the elements of device 1200, unless indicated otherwise.”
a first control panel coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first	<u>Tedford</u> at Abstract teaches: “a first light source producing a first light beam having a first therapeutic wavelength and disposed within the housing; a second light source producing a second light beam having a second therapeutic wavelength and

plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light.	disposed within the housing, where the second therapeutic wavelength differs from the first therapeutic wavelength by at least 25 nm.” <u>Tedford</u> at claim 6 teaches: “The light delivery apparatus of claim 5, wherein the first, the second, and the third therapeutic wavelengths are each selected from yellow, red, or near-infrared wavelengths.” <u>Tedford</u> at column 27, lines 25-36 teach: “In at least some embodiments, the device is connected wirelessly or through a wire to an external control unit. The external unit may contain control electronics, associated drivers, software, and the like, or any combination of these. It may be tethered to the wearable device with a fiber optic cable for the delivery of light. In at least some embodiments, the control unit is connected to the wearable device with a cable, supplying signals or electrical power. In at least some embodiments, the control unit interfaces wirelessly with the wearable unit. The control unit and/or wearable device may be powered by one or more batteries, or may be powered via an external power source.” <u>Tedford</u> at column 28, lines 19-40 teach: “FIGS. 10A and 10B illustrate one embodiment of a wearable light therapy device 1000 that includes a frame 1002, front piece 1004, earpieces 1006, right and left arrays 1008 of light sources 1010a, 1010b, 1010c and one or more frame casings 1012 in which electronics or a battery can be stored. The earpieces 1006 are one example of an affixation element of the frame 1002 which is attached to the front piece 1004 to hold the device 1000 on the wearer. Examples of other affixation elements include, but are not limited to, a headband, a helmet, a mask, or the like or any combination thereof. The light sources 1010a, 1010b, 1010c can be the same or
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	different. The one or more frame casings 1012 can include a controller, light source electronics, a battery or any combination thereof within the casing. In at least some embodiments, the frame casing 1012 or other part of the frame 1002 may also incorporate at least one button or other user input element that can be used to initiate, terminate, or alter operation of the device 1000. Alternatively or additionally, the device can be initiated, terminated, or parameters of the light delivery can be entered or altered wirelessly or through a wired connection to a port in the frame.” <u>Tedford</u> at column 31, lines 24-45 teach: FIG. 15 illustrates another embodiment of a system 1570 for operating the devices for treatment of ocular disease, disorders, degeneration, and the like. The system 1570 includes a controller 1550, a user interface 1560, a power supply 1556, a memory 1552, and one or more wearable devices 1500 (for example, any of the wearable devices 900, 1000, 1100, 1200, 1300, 1400 described above). The wearable device 1500 includes the light source(s) 1510 (for example, light sources 910a, 910b, 910c, 1010a, 1010b, 1010c, 1110a, 1110b, 1110c, 1210, 1310, 1410 described above), an optional internal controller 1556, one or more optional sensor(s)/camera 1554, memory 1564, and a power supply 1562. Alternatively or additionally, the sensor(s)/camera 1554 can be external to the device 1500, but provide information to either external controller 1550 or internal controller 1556. These components are described in more detail below. It will be recognized that other systems can include more or fewer components and that the components may be linked together in arrangements different from those illustrated in FIG. 15. In addition, any linkage between components can be through wired or wireless communication or any combination thereof.”
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Tedford discloses each and every limitation of claim 1 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Tedford teaches that the functionality of each of the limitations of claim 1 were known in the art. Therefore, a reasonable examiner would consider the teaching of Tedford to be important in deciding whether or not the claim is patentable.

Tedford was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 1 would have been anticipated or obvious in light of Tedford. Requestor submits that claim 1 should be reexamined and found to be unpatentable.

Ground 4: Claim 1 of Nelson should be rejected under 35 USC §102 as being anticipated by Broeng, or alternatively rejected under 35 USC §103(a) as being obvious over Broeng.

A light therapy system, comprising:	<u>Broeng</u> at abstract teaches: “In certain embodiments a light therapy system (e.g., phototherapy device), such as for treatment of Alzheimer's disease, depression, dementia, short-term memory, or for improved learning, improved athletic performance or improved cognitive performance, is provided where the light system comprises a blue light source that operates at a frequency in the range from 20 to 50 Hz (preferably around 40 Hz), whereby the system enables retinal ganglion cells of a human to be exposed in order to stimulate brain waves (gamma oscillations in the human's brain).”
a first light therapy device comprising a first housing, a first plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a first communication module communicatively coupled to the first plurality of lights and located within the first housing;	<u>Broeng</u> at 0066 teaches: “The device according to any one of embodiments 1-46, wherein the orange/red light comprising said first light source, or the orange/red spectral component of said first light source, or the orange/red light emitted by a lamp comprising said second light source is primarily in the wavelength range from about 590 nm up to about 750

	nm, or from about 600 nm up to about 700 nm, or up to about 650 nm.” <u>Broeng</u> at 0072-0074 teache: “The device of embodiment 50, wherein: said second light source comprises or consists of a lamp that emits primarily a blue/green light, a lamp that emits primarily an orange light, and a lamp that emits primarily a red/far red light; or said second light source comprises or consists of a lamp that emits primarily a green light, and a lamp that emits primarily an orange/red light.” <u>Broeng</u> at 0101-0103 teache: “The device according to any one of embodiments 1-77, wherein said first light source comprises one or more light emitting diodes (LEDs). The device of embodiment 78, wherein the first light source comprises at least one different LED for each spectral component. The device according to any one of embodiments 1-79, wherein said second light source comprises one or more light emitting diodes.” <u>Broeng</u> at 0111 teaches: “The device according to any one of embodiments 1-85, wherein said first light source and said second light source are in different units or housings.” <u>Broeng</u> at 0269 teaches: “In certain embodiments the controller may be wirelessly interconnected with one or phototherapy device(s) for wireless transmission of control signals from the controller to the respective device(s). For example, the light controller and a phototherapy device may comprise an interface to a wired Local Area-Network (LAN) and/or to a wireless LAN (BlueTooth, WiFi), and/or a to a mobile telephone network, and/or to another Wide-Area-Network (WAN), such as the internet.
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a second light therapy device comprising a second housing, a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second communication module communicatively coupled to the second plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module;	In this way networks already present may be utilized for control of the phototherapy device.” <u>Broeng</u> at 0066 teaches: “The device according to any one of embodiments 1-46, wherein the orange/red light comprising said first light source, or the orange/red spectral component of said first light source, or the orange/red light emitted by a lamp comprising said second light source is primarily in the wavelength range from about 590 nm up to about 750 nm, or from about 600 nm up to about 700 nm, or up to about 650 nm.” <u>Broeng</u> at 0072-0074 teach: “The device of embodiment 50, wherein: said second light source comprises or consists of a lamp that emits primarily a blue/green light, a lamp that emits primarily an orange light, and a lamp that emits primarily a red/far red light; or said second light source comprises or consists of a lamp that emits primarily a green light, and a lamp that emits primarily an orange/red light.” <u>Broeng</u> at 0101-0103 teaches: “The device according to any one of embodiments 1-77, wherein said first light source comprises one or more light emitting diodes (LEDs). The device of embodiment 78, wherein the first light source comprises at least one different LED for each spectral component. The device according to any one of embodiments 1-79, wherein said second light source comprises one or more light emitting diodes.” <u>Broeng</u> at 0111 teaches: “The device according to any one of embodiments 1-85, wherein said first light source and said second light source are in
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a first control panel coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and	different units or housings.” <u>Broeng</u> at 0269 teaches: “In certain embodiments the controller may be wirelessly interconnected with one or phototherapy device(s) for wireless transmission of control signals from the controller to the respective device(s). For example, the light controller and a phototherapy device may comprise an interface to a wired Local Area-Network (LAN) and/or to a wireless LAN (BlueTooth, WiFi), and/or a to a mobile telephone network, and/or to another Wide-Area-Network (WAN), such as the internet. In this way networks already present may be utilized for control of the phototherapy device.” <u>Broeng</u> at 0013 teaches: “In certain embodiments a light therapy system is described herein that uses two light sources comprising different wavelengths. FIG. 2 shows chromaticity diagram from which it can be seen that a specific white light color can be generated with different wavelengths combinations. As an example of one preferred embodiment, a system is provided, where a first light source comprises the wavelengths 460 nm, 650 nm, and 570 nm, and a second light source comprises the wavelengths 490 nm, 770 nm (or 670 nm) and 600 nm. The system uses alternating combination of the light sources, such as a 50% duty cycle at 40 HZ. I.e. the first light source comprising 460 nm light is stroboscopic at 40 HZ and the second light source (that does not comprise light at 460 nm) is stroboscopic (e.g., blinking) at 40 HZ. The two light sources are substantially synchronized such that when the first light source is turned on, the second light source is turned off, and vice versa. Hence, the experience by a human is constant white light illumination, but the white light is
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	composed of two different light sources of which one provides substantially more light from 440 nm to 480 nm at the non-visual ganglion cells at the retina and therefore increased brain activity via stroboscopic light around 460 nm. Alternative duty cycles are also within the scope of the invention, such as 10% duty cycle of the first light source and 90% duty cycle of the second light source (10/90), such as 5/95, such as 25/75, such as 75/25, such as 95/5.” <u>Broeng</u> at 0066 teaches: “The device according to any one of embodiments 1-46, wherein the orange/red light comprising said first light source, or the orange/red spectral component of said first light source, or the orange/red light emitted by a lamp comprising said second light source is primarily in the wavelength range from about 590 nm up to about 750 nm, or from about 600 nm up to about 700 nm, or up to about 650 nm.” <u>Broeng</u> at 0072-0074 teach: “The device of embodiment 50, wherein: said second light source comprises or consists of a lamp that emits primarily a blue/green light, a lamp that emits primarily an orange light, and a lamp that emits primarily a red/far red light; or said second light source comprises or consists of a lamp that emits primarily a green light, and a lamp that emits primarily an orange/red light.” <u>Broeng</u> at 0111-0112 teach: “The device according to any one of embodiments 1-85, wherein said first light source and said second light source are in different units or housings. The device according to any one of embodiments 1-88, wherein said device comprises a controller that controls one or more of the intensity of said first light source and/or said second light source, the blinking rate of said first light source and/or
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a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair	said second light source, the phase of said first light source and/or said second light source, the spectral composition of said first light source and/or said second light source, and the intensity of said first light source and/or said second light source.” <u>Broeng</u> at 0263 teaches: “In certain embodiments the controller may simply provide an on-off and/or brightness control (see, e.g., 112 in the illustrative, but non-limiting embodiments shown in FIG. 1). However, in certain embodiments numerous other functions may be controlled. In certain embodiments illustrative controls can include one or more of the following: on/off and/or brightness (112 FIG. 1), a blink frequency control (113 FIG. 1), a phase and/or duty cycle control ((114 FIG. 1), a color temperature and/or hue control (115 FIG. 1), and the like.” <u>Broeng</u> at 0269 teaches: “In certain embodiments the controller may be wirelessly interconnected with one or phototherapy device(s) for wireless transmission of control signals from the controller to the respective device(s). For example, the light controller and a phototherapy device may comprise an interface to a wired Local Area-Network (LAN) and/or to a wireless LAN (Bluetooth, WiFi), and/or a to a mobile telephone network, and/or to another Wide-Area-Network (WAN), such as the internet. In this way networks already present may be utilized for control of the phototherapy device.” <u>Broeng</u> at 0013 teaches: “In certain embodiments a light therapy system is described herein that uses two light sources comprising different wavelengths. FIG. 2 shows chromaticity
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of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light.

diagram from which it can be seen that a specific white light color can be generated with different wavelengths combinations. As an example of one preferred embodiment, a system is provided, where a first light source comprises the wavelengths 460 nm, 650 nm, and 570 nm, and a second light source comprises the wavelengths 490 nm, 770 nm (or 670 nm) and 600 nm. The system uses alternating combination of the light sources, such as a 50% duty cycle at 40 HZ. I.e. the first light source comprising 460 nm light is stroboscopic at 40 HZ and the second light source (that does not comprise light at 460 nm) is stroboscopic (e.g., blinking) at 40 HZ. The two light sources are substantially synchronized such that when the first light source is turned on, the second light source is turned off, and vice versa. Hence, the experience by a human is constant white light illumination, but the white light is composed of two different light sources of which one provides substantially more light from 440 nm to 480 nm at the non-visual ganglion cells at the retina and therefore increased brain activity via stroboscopic light around 460 nm. Alternative duty cycles are also within the scope of the invention, such as 10% duty cycle of the first light source and 90% duty cycle of the second light source (10/90), such as 5/95, such as 25/75, such as 75/25, such as 95/5.”

Broeng at 0066 teaches:

“The device according to any one of embodiments 1-46, wherein the orange/red light comprising said first light source, or the orange/red spectral component of said first light source, or the orange/red light emitted by a lamp comprising said second light source is primarily in the wavelength range from about 590 nm up to about 750 nm, or from about 600 nm up to about 700 nm, or up to about 650 nm.”

Broeng at 0072-0074 teach:

“The device of embodiment 50, wherein:

	said second light source comprises or consists of a lamp that emits primarily a blue/green light, a lamp that emits primarily an orange light, and a lamp that emits primarily a red/far red light; or said second light source comprises or consists of a lamp that emits primarily a green light, and a lamp that emits primarily an orange/red light.” <u>Broeng</u> at 0111-0112 teach: “The device according to any one of embodiments 1-85, wherein said first light source and said second light source are in different units or housings. The device according to any one of embodiments 1-88, wherein said device comprises a controller that controls one or more of the intensity of said first light source and/or said second light source, the blinking rate of said first light source and/or said second light source, the phase of said first light source and/or said second light source, the spectral composition of said first light source and/or said second light source, and the intensity of said first light source and/or said second light source.” <u>Broeng</u> at 0263 teaches: “In certain embodiments the controller may simply provide an on-off and/or brightness control (see, e.g., 112 in the illustrative, but non-limiting embodiments shown in FIG. 1). However, in certain embodiments numerous other functions may be controlled. In certain embodiments illustrative controls can include one or more of the following: on/off and/or brightness (112 FIG. 1), a blink frequency control (113 FIG. 1), a phase and/or duty cycle control ((114 FIG. 1), a color temperature and/or hue control (115 FIG. 1), and the like.” <u>Broeng</u> at 0269 teaches: “In certain embodiments the controller may be wirelessly interconnected with one or
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	phototherapy device(s) for wireless transmission of control signals from the controller to the respective device(s). For example, the light controller and a phototherapy device may comprise an interface to a wired Local Area-Network (LAN) and/or to a wireless LAN (BlueTooth, WiFi), and/or a to a mobile telephone network, and/or to another Wide-Area-Network (WAN), such as the internet. In this way networks already present may be utilized for control of the phototherapy device.”
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Broeng discloses each and every limitation of claim 1 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Broeng teaches that the functionality of each of the limitations of claim 1 were known in the art. Therefore, a reasonable examiner would consider the teaching of Broeng to be important in deciding whether or not the claim is patentable.

Broeng was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 1 would have been anticipated or obvious in light of Broeng. Requestor submits that claim 1 should be reexamined and found to be unpatentable.

Ground 5: Claim 1 of Nelson should be rejected under 35 USC §102 as being anticipated by Sullivan, or alternatively rejected under 35 USC §103(a) as being obvious over Sullivan.

A light therapy system, comprising:	<u>Sullivan</u> at Abstract teaches: “A device is disclosed which is therapeutically beneficial to the well-being of living organisms such as humans, animals, and/or plant life, using photon or light waves.”
a first light therapy device comprising a first housing, a first plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a first communication module communicatively coupled to the first plurality of lights and located within the first housing;	<u>Sullivan</u> at 0060 teaches: “Referring now to FIG. 5, there is shown another embodiment of a photo-therapy device of the present invention which is used primarily for humans. The photo-therapy device takes the form of a full body bed 22 with a hollow enclosure 23 and a lid

a second light therapy device comprising a second housing, a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second communication module communicatively coupled to the second plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module;

24 and LED's embedded within the hollow enclosure 23 and lid 24. The full body bed 22 has the following dimensions: 3 feet wide, 6 1/2 feet long and a 20 inch depth; obviously, these dimensions could vary. A control box (not shown) is built into the front side of the hollow enclosure 23 and control knobs 26 are connected to the control box. An electrical cord 27 will connect the control box to an electrical outlet or generator. There are a total of 2,304 LED's inside the full body bed 22 with 1,152 LED's on the inside of the lid 24 and 1,152 LED's on the inside floor of the hollow enclosure 23. On the inside of the lid 24, there are 230 LED's emitting red light at 630 nm, 230 LED's emitting IR light at 880 nm, 231 LED's emitting blue light at 479 nm, 565 LED's emitting green light at 565 nm and 230 LED's emitting amber light at 590 nm. The numbers of specific LED's emitting in a particular wavelength on the inside of the hollow enclosure 23 are the same as those on the inside of the lid 24. Each LED for a given wavelength alternates in a repeated pattern, for example, blue, green, amber, red and IR. A person for treatment would lie down in the full body bed 22, face up, with the lid 24 partially closed; the photo-therapy treatment would provide a relaxation effect, pain reduction or healing of the person. This embodiment of the invention could also be used in a hospital or nursing home for the treatment of bedsores or it can be combined with piped-in music and thus produce a "wave effect" for deep relaxation or pain relief after an operation. It could also be used to stimulate the immune system of a human with a disease such as cancer, etc. FIG. 5 shows the full body bed 22 with the lid 24 in the fully open position whereas FIG. 5A shows a patient 28 lying within the full body bed 22 for treatment with the lid 24 being partially closed."

a first control panel coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light.

Sullivan at 0062 teaches:

“FIGS. 7 and 7 A are circuit diagrams showing how the LED's of the various embodiments of this invention are connected to a control box with control knobs for controlling or regulating the operation of the LED arrays in the various embodiments. The circuit diagrams show the general scheme of a photo-therapy device of this invention that is designed to provide a luminous pattern for a specific therapeutic application. The geometric pattern and color(s) of the LED array, the frequency and duty cycle of the LED array and the total time of operation of the photo-therapy device can be varied to satisfy the requirements of an intended therapeutic application.

Sullivan at 0063 teaches:

For example, FIG. 7 shows a circuit diagram for a photo-therapy device of the present invention which operates three different light source types (LED 1, LED 2 and LED 3) each of which is energized independently by a processor 29 (or microprocessor) via a switch network 30. The series strings of a particular light source type (LED 1, LED 2 and LED 3) are divided into two groups, A and B, as shown in the circuit diagram. Each group A and B of series light strings will normally be switched on and off in an alternate fashion to minimize the maximum power requirements of the system. Each series of light strings A and B is energized by a constant current source 31 that insures proper operation of the photo-therapy device under varying conditions of temperature and supply voltage. In some therapeutic applications, the value of the constant current can be modified under the control of the processor 29 to conform to a custom pattern. The processor operation is controlled by the operator of the photo-therapy device by the setting of the control switch positions for TIME, FREQUENCY,

	PATTERN and CUSTOM. The TIME control switch will set the desired period of operation, the FREQUENCY control switch will set the alternating on/off rate between the A and B groups of light strings, the PATTERN control switch will directly select which light source type(s) (LED 1, LED 2 or LED 3) to be energized or will select the CUSTOM mode of operation, and the CUSTOM control switch will select which pattern from the pattern memory module 32 that the processor 29 is to perform. In this mode, the processor 29 can vary the time, frequency, power level and light source strings in any prearranged (programmed) sequence. For example, the processor 29 can be preprogrammed to provide the following patterns of illumination: a) each color set on individually, b) all color sets on simultaneously, c) at least two color sets on simultaneously and d) at least two color sets on for preset periods of time. The processor 29 may also be programmed to sequentially pulse the LED sets of the photo-therapy device to emit light of different colors. The control circuit may also be adjusted for pulsed operation of at least two sets of LED's with pulse durations of in the range of from about 0.001 sec. to about 0.2 sec. and pulse repetition rates in the range of from about 4 Hz to about 10,000 Hz. The pulse duration may be approximately half the period of each cycle. The processor 29 can also provide indications of low battery level and an elapsed time of operation in the form of a lamp and, if enabled, an audible beep. For an indication of the elapsed time of operation, the treatment timer may be connected to a visual or audio means for indicating the remaining treatment time. Although the means for indicating low battery level and elapsed time of operation are not shown, the addition of such means to the circuitry and equipment of the present invention would be obvious to one skilled in the art and is, therefore, not detailed here."
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Sullivan discloses each and every limitation of claim 1 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Sullivan teaches that the functionality of each of the limitations of claim 1 were known in the art. Therefore, a reasonable examiner would consider the teaching of Sullivan to be important in deciding whether or not the claim is patentable.

Sullivan was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 1 would have been anticipated or obvious in light of Sullivan. Requestor submits that claim 1 should be reexamined and found to be unpatentable.

Ground 6: Claim 1 of Nelson should be rejected under 35 USC §103(a) as being obvious over Shterzer in view of Dijkstra.

A light therapy system, comprising:	<u>Shterzer</u> at Abstract teaches: “An IPL apparatus utilizing a Pulse Forming Network (PFN) for generating a plurality of light pulse sequences, comprising a treatment unit comprising one or more lamps adapted to emit a plurality of light pulses towards a treatment face of the IPL apparatus, a PFN and a control unit adapted to operate the PFN to generate a regulated energized pulse driven to the lamp(s). The regulated energized pulse having a desired multi-level voltage waveform with a maximum voltage level and a minimum voltage level which is in a range of 30-50 percent of the maximum voltage level. Rapidly varying heat is induced by a sequence of the plurality of light pulses emitted by the “lamp(s) according to the multi-level voltage waveform.”
a first light therapy device comprising a first housing,	<u>Shterzer</u> at FIG. 9A, FIG. 12 and 0196 teach:

	“Reference is now made to FIG. 12, which is a schematic illustration of an exemplary IPL apparatus utilizing a PFN and comprising a plurality of treatment units captures of a treatment unit, according to some embodiments of the present invention. A multi treatment units system IPL 1200 may operate as master slave system in which an extended base unit 102A such as the base unit 102 serves as a master to support multiple slave treatment units 104, for example, a treatment unit 104A, a treatment unit 104B to a treatment unit 104N. Each of the treatment units 104 may connect to the extended base unit 102A through a dedicated cable comprising a primary wired interface such as the primary wired interface 150 and optionally an auxiliary wired interface such as the auxiliary wired interface 152. Each of the treatment units 104 may include a wireless communication interface such as the wireless communication interface 132. Using the wireless communication interface 132, a front-end controller such as the front-end controller 134 of one or more of the treatment units 104A through 104N may communicate with a control unit such as the control unit 114 of the extended base unit 102A. One or more of the front-end controllers 134 may communicate with the control unit 114 through a dedicated wireless communication channel. Additionally and/or alternatively, one or more of the front-end controllers 134 may share one or more common wireless communication channels for communicating with the control unit 114. In such implementation(s), each of the treatment units 104 sharing a common wireless communication channel may be assigned a unique identifier (ID) to uniquely identify each treatment unit 104 while communicating with the extended base unit 102A. Each of the treatment units 104A through 104N may be operated by one or more users such as the user 160 where
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a first plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a first communication module communicatively coupled to the first plurality of lights and located within the first housing;	typically each of the treatment units 104A through 104N is operated by a respective user 160A through 160N.” <u>Shterzer</u> at 0004 teaches: The IPL technology uses a high-powered energy source delivering intense, visible, broad-spectrum pulses of light, generally in a spectral range of 400 to 1200 nm (nanometer). Xenon flash lamps may typically be used for IPL treatments as they may produce high output bursts of broad spectrum. The resulting light has a spectral range that targets specific structures and chromophores (e.g. melanin in hair, or oxyhemoglobin in blood vessels) that are heated to destruction and reabsorbed by the body” <u>Shterzer</u> at 0006 teaches: According to a first aspect of the present invention there is provided an intense pulse light (IPL) apparatus utilizing a pulse forming network (PFN) for generating a plurality of light pulse sequences, comprising: <u>Dijkstra</u> at 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion.
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	Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time” <u>Dijkstra</u> at 0099 teaches: “According to yet another embodiment of the present disclosure, the light therapy system uses a master-slave model. Further, the two or more light therapy devices are used in which one light therapy device acts as a master light therapy device and the rest of the light therapy devices acts as a slave to the master light therapy device. All the light therapy devices including master light therapy device and slave light therapy devices are linked with each other and forming a peer to peer network. In this, the master light therapy device has a controlling unit which is controlling the all other slave light therapy devices, each of the slave light therapy devices is having a communication module to communicate with the master light therapy device and a light projection unit works as per the master light therapy device input. To use this, the user activates the master light therapy device and the master light therapy device establishes a wired or wireless connection with other slave light therapy devices, the master device identifies the location and position of the user and allocates separate treatment portion to each slave light therapy device by using artificial intelligence, machine learning, object detection and localization module or the user may manually select, identify, locate and treat the separate treatment portion for each light therapy device”
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	<u>Dijkstra</u> at 0059-0063 teaches: Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130. [0060]The second housing 220 is including a rotation unit 150, a display unit 160, and a power unit 170. A first end 231 of the spindle 230 is connected to a motor mounted inside the rotation unit 150 and a second end 232 of the spindle 230 is connected to the rotatable head 250. Further, the motor rotates the spindle 230 as per the controlling unit 130 input. [0061]The light projection unit 110 is having a light head 111, a light direction controller 112, and a light source 113. In this, the light source 113 projects a light on the light direction controller 112 which is able to control and divert the light as per the controlling unit 130 input. Further, the light direction controller 112 uses saccade mirror, direction tuning film, laser sintering, or mirror type galvanometer etc. techniques for controlling a direction of a light emitted from the light source 113. [0062]The controlling unit 130 is having a processor 131 in order to control the light projecting unit 110, the memory unit 140, the rotation unit 150, the camera unit 120 and the display unit 160. [0063]According to another embodiment of
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a second light therapy device comprising a second housing,	the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person. <u>Shterzer</u> at FIG. 9A, FIG. 12 and 0196 teach: “Reference is now made to FIG. 12, which is a schematic illustration of an exemplary IPL apparatus utilizing a PFN and comprising a plurality of treatment units captures of a treatment unit, according to some embodiments of the present invention. A multi treatment units system IPL 1200 may operate as master slave system in which an extended base unit 102A such as the base unit 102 serves as a master to support multiple slave treatment units 104, for example, a treatment unit 104A, a treatment unit 104B to a treatment unit 104N. Each of the treatment units 104 may connect to the extended base unit 102A through a dedicated cable comprising a primary wired interface such as the primary wired interface 150 and optionally an auxiliary wired interface such as the auxiliary wired interface 152. Each of the treatment units 104 may include a wireless communication interface such as the wireless communication interface 132. Using the wireless communication interface 132, a front-end controller such as the front-end controller 134 of one or more of the treatment units 104A through 104N may communicate with a control unit such as the control unit 114 of the extended base unit 102A. One or more of the front-end controllers 134 may communicate with the control unit 114 through a dedicated wireless communication channel. Additionally and/or alternatively, one or more of the front-end controllers 134 may
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	share one or more common wireless communication channels for communicating with the control unit 114. In such implementation(s), each of the treatment units 104 sharing a common wireless communication channel may be assigned a unique identifier (ID) to uniquely identify each treatment unit 104 while communicating with the extended base unit 102A. Each of the treatment units 104A through 104N may be operated by one or more users such as the user 160 where typically each of the treatment units 104A through 104N is operated by a respective user 160A through 160N.”
a second plurality of lights arranged and configured to emit at least one of red light and near infrared light,	<u>Shterzer</u> at 0004 teaches: The IPL technology uses a high-powered energy source delivering intense, visible, broad-spectrum pulses of light, generally in a spectral range of 400 to 1200 nm (nanometer). Xenon flash lamps may typically be used for IPL treatments as they may produce high output bursts of broad spectrum. The resulting light has a spectral range that targets specific structures and chromophores (e.g. melanin in hair, or oxyhemoglobin in blood vessels) that are heated to destruction and reabsorbed by the body” <u>Shterzer</u> at 0006 teaches: According to a first aspect of the present invention there is provided an intense pulse light (IPL) apparatus utilizing a pulse forming network (PFN) for generating a plurality of light pulse sequences, comprising:
and a second communication module communicatively coupled to the second plurality of lights and located within the second housing,	<u>Dijkstra</u> at 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light

	therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time” <u>Dijkstra</u> at 0099 teaches: “According to yet another embodiment of the present disclosure, the light therapy system uses a master-slave model. Further, the two or more light therapy devices are used in which one light therapy device acts as a master light therapy device and the rest of the light therapy devices acts as a slave to the master light therapy device. All the light therapy devices including master light therapy device and slave light therapy devices are linked with each other and forming a peer to peer network. In this, the master light therapy device has a controlling unit which is controlling the all other slave light therapy devices, each of the slave light therapy devices is having a communication module to communicate with the master light therapy device and a light projection unit works as per the master light therapy
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	device input. To use this, the user activates the master light therapy device and the master light therapy device establishes a wired or wireless connection with other slave light therapy devices, the master device identifies the location and position of the user and allocates separate treatment portion to each slave light therapy device by using artificial intelligence, machine learning, object detection and localization module or the user may manually select, identify, locate and treat the separate treatment portion for each light therapy device” <u>Dijkstra</u> at 0059-0063 teaches: Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130. [0060]The second housing 220 is including a rotation unit 150, a display unit 160, and a power unit 170. A first end 231 of the spindle 230 is connected to a motor mounted inside the rotation unit 150 and a second end 232 of the spindle 230 is connected to the rotatable head 250. Further, the motor rotates the spindle 230 as per the controlling unit 130 input. [0061]The light projection unit 110 is having a light head 111, a light direction controller 112, and a light source 113. In this, the light source 113 projects a light on
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wherein the first communication module is configured to communicate directly with the second communication module;	the light direction controller 112 which is able to control and divert the light as per the controlling unit 130 input. Further, the light direction controller 112 uses saccade mirror, direction tuning film, laser sintering, or mirror type galvanometer etc. techniques for controlling a direction of a light emitted from the light source 113. [0062]The controlling unit 130 is having a processor 131 in order to control the light projecting unit 110, the memory unit 140, the rotation unit 150, the camera unit 120 and the display unit 160. [0063]According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person. <u>Dijkstra</u> at 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from
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a first control panel coupled to the first housing and communicatively coupled to the first communication module,	their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time” <u>Shterzer</u> at 0186-0187 teaches: “The treatment unit 104A may further comprises a user interface such as the user interface 136 which may include one or more status indication lights 908 which may be used to provide status indications and/or status information to the user 160. In particular, the status indication lights 908 may be located around the perimeter of the treatment face 142 such that the user 160 concentrating on the treatment area may have clear and direct visibility of the status indication lights 908. The user may thus avoid the need to shift his gaze from the treatment area to another location to check the status indication lights 908. The status indication lights 908 may emit light in one or more colors, for example, red, green, yellow, blue and/or the like. [0187]The status indication(s) provided by the status indication light(s) 908 may include, for example, an ON/OFF indication, an operational status indication, a malfunction (failure) indication and/or the like. For example, the status indication lights 908 may include a ready indication light which may indicate that the PFN 116 is charged and ready to discharge the regulated energized pulse to the lamp(s) 140. Once the ready indication light is activated (e.g. ON, flashing, etc.), after placing the treatment face 142 over the treatment area, the user 160 may initiate a trigger event to instruct release of the regulated energized pulse to cause the lamp(s) 140 to emit the light pulses. In another example, the status
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the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first plurality of input buttons,	indication lights 908 may include a lamp cooling indication light which may indicate status of a cooling progress of the lamp(s) 140. In another example, the status indication lights 908 may include a failure indication light which may indicate of one or more failures in the treatment unit 104A and/or in the base unit 102, for example, failure to charge the capacitor units 210, a failure of a ventilation fan of the treatment unit 104A to cycle air over the lamp(s) 140 for cooling them and/or the like. In another example, the status indication lights 908 may include a maintenance indication light which may indicate of a required maintenance operation, for example, battery replacement and/or the like.” <u>Shterzer</u> at 0191 teaches: Reference is now made to FIG. 10A, FIG. 10B, FIG. 10C and FIG. 10D, which are captures of a treatment unit of an exemplary IPL apparatus utilizing a PFN, according to some embodiments of the present invention. FIG. 10A, FIG. 10B, FIG. 10C and FIG. 10D present different views of an exemplary treatment unit such as the treatment unit 104A. As shown in FIG. 10A, the treatment unit 104A may be ergonomically shaped for easy and comfortable grip for a user such as the user 160 holding the treatment unit 104A and maneuvering it to the treatment areas on the patient's body. As shown in FIG. 10B, the treatment unit 104A may include a lamp compartment such as the lamp compartment 910 adapted to receive and accommodate one or more lamps such as the lamp 140. The lamp compartment 910 may include a detachable cover which may be removed to remove and/or install the lamp(s) 140 in their designated location(s) in the lamp compartment 910. As shown in FIG. 10C, the treatment unit 104A may include a user interface such as the user interface 136, specifically a trigger button
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the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and a second control panel coupled to the second housing and communicatively coupled to the second communication module,	for triggering release of the regulated energized pulse from a PFN such as the PFN 116 to the lamp(s) 140. As shown in FIG. 10D, the treatment unit 104A may include two such trigger buttons adapted for right handed users such as the user 160 and/or for left handed users such as the user 160.” <u>Shterzer</u> at 0004 teaches: The IPL technology uses a high-powered energy source delivering intense, visible, broad-spectrum pulses of light, generally in a spectral range of 400 to 1200 nm (nanometer). Xenon flash lamps may typically be used for IPL treatments as they may produce high output bursts of broad spectrum. The resulting light has a spectral range that targets specific structures and chromophores (e.g. melanin in hair, or oxyhemoglobin in blood vessels) that are heated to destruction and reabsorbed by the body. <u>Shterzer</u> at 0186-0187 teaches: “The treatment unit 104A may further comprises a user interface such as the user interface 136 which may include one or more status indication lights 908 which may be used to provide status indications and/or status information to the user 160. In particular, the status indication lights 908 may be located around the perimeter of the treatment face 142 such that the user 160 concentrating on the treatment area may have clear and direct visibility of the status indication lights 908. The user may thus avoid the need to shift his gaze from the treatment area to another location to check the status indication lights 908. The status indication lights 908 may emit light in one or more colors, for example, red, green, yellow, blue and/or the like. [0187]The status indication(s) provided by the status indication light(s) 908 may include, for example, an ON/OFF
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the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons,	indication, an operational status indication, a malfunction (failure) indication and/or the like. For example, the status indication lights 908 may include a ready indication light which may indicate that the PFN 116 is charged and ready to discharge the regulated energized pulse to the lamp(s) 140. Once the ready indication light is activated (e.g. ON, flashing, etc.), after placing the treatment face 142 over the treatment area, the user 160 may initiate a trigger event to instruct release of the regulated energized pulse to cause the lamp(s) 140 to emit the light pulses. In another example, the status indication lights 908 may include a lamp cooling indication light which may indicate status of a cooling progress of the lamp(s) 140. In another example, the status indication lights 908 may include a failure indication light which may indicate of one or more failures in the treatment unit 104A and/or in the base unit 102, for example, failure to charge the capacitor units 210, a failure of a ventilation fan of the treatment unit 104A to cycle air over the lamp(s) 140 for cooling them and/or the like. In another example, the status indication lights 908 may include a maintenance indication light which may indicate of a required maintenance operation, for example, battery replacement and/or the like.” <u>Shterzer</u> at 0191 teaches: Reference is now made to FIG. 10A, FIG. 10B, FIG. 10C and FIG. 10D, which are captures of a treatment unit of an exemplary IPL apparatus utilizing a PFN, according to some embodiments of the present invention. FIG. 10A, FIG. 10B, FIG. 10C and FIG. 10D present different views of an exemplary treatment unit such as the treatment unit 104A. As shown in FIG. 10A, the treatment unit 104A may be ergonomically shaped for easy and comfortable grip for a user such as the user 160 holding the treatment unit
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the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light.	104A and maneuvering it to the treatment areas on the patient's body. As shown in FIG. 10B, the treatment unit 104A may include a lamp compartment such as the lamp compartment 910 adapted to receive and accommodate one or more lamps such as the lamp 140. The lamp compartment 910 may include a detachable cover which may be removed to remove and/or install the lamp(s) 140 in their designated location(s) in the lamp compartment 910. As shown in FIG. 10C, the treatment unit 104A may include a user interface such as the user interface 136, specifically a trigger button for triggering release of the regulated energized pulse from a PFN such as the PFN 116 to the lamp(s) 140. As shown in FIG. 10D, the treatment unit 104A may include two such trigger buttons adapted for right handed users such as the user 160 and/or for left handed users such as the user 160.” <u>Shterzer</u> at 0004 teaches: The IPL technology uses a high-powered energy source delivering intense, visible, broad-spectrum pulses of light, generally in a spectral range of 400 to 1200 nm (nano-meter). Xenon flash lamps may typically be used for IPL treatments as they may produce high output bursts of broad spectrum. The resulting light has a spectral range that targets specific structures and chromophores (e.g. melanin in hair, or oxyhemoglobin in blood vessels) that are heated to destruction and reabsorbed by the body. <u>Shterzer</u> at 0186-0187 teaches: “The treatment unit 104A may further comprises a user interface such as the user interface 136 which may include one or more status indication lights 908 which may be used to provide status indications and/or status information to the user 160. In particular, the status indication lights 908
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	may be located around the perimeter of the treatment face 142 such that the user 160 concentrating on the treatment area may have clear and direct visibility of the status indication lights 908. The user may thus avoid the need to shift his gaze from the treatment area to another location to check the status indication lights 908. The status indication lights 908 may emit light in one or more colors, for example, red, green, yellow, blue and/or the like. [0187]The status indication(s) provided by the status indication light(s) 908 may include, for example, an ON/OFF indication, an operational status indication, a malfunction (failure) indication and/or the like. For example, the status indication lights 908 may include a ready indication light which may indicate that the PFN 116 is charged and ready to discharge the regulated energized pulse to the lamp(s) 140. Once the ready indication light is activated (e.g. ON, flashing, etc.), after placing the treatment face 142 over the treatment area, the user 160 may initiate a trigger event to instruct release of the regulated energized pulse to cause the lamp(s) 140 to emit the light pulses. In another example, the status indication lights 908 may include a lamp cooling indication light which may indicate status of a cooling progress of the lamp(s) 140. In another example, the status indication lights 908 may include a failure indication light which may indicate of one or more failures in the treatment unit 104A and/or in the base unit 102, for example, failure to charge the capacitor units 210, a failure of a ventilation fan of the treatment unit 104A to cycle air over the lamp(s) 140 for cooling them and/or the like. In another example, the status indication lights 908 may include a maintenance indication light which may indicate of a required maintenance operation, for example, battery replacement and/or the like.”
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The combination of Shterzer and Dijkstra disclose each and every limitation of claim 1

as set forth in the chart above, and as described in detail at Section III above. Alternatively, the combination of Shterzer and Dijkstra teach that the functionality of each of the limitations of claim 1 were known in the art. Therefore, a reasonable examiner would consider the teachings of Shterzer and Dijkstra to be important in deciding whether or not the claim is patentable.

Neither Shterzer or Dijkstra was cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 1 would have been obvious in light of the combination of Shterzer and Dijkstra. Requestor submits that claim 1 should be reexamined and found to be unpatentable.

4. Claim 2 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

2. The light therapy system of claim 1, wherein the first communication module and the second communication module are communicatively coupled via a wireless connection.	<u>Dijkstra</u> teaches the features of claim 1. See section IV. 3., Grounds 1-6 above. <u>Dijkstra</u> at 0021 teaches: According to yet another aspect of the present disclosure, the light therapy device further comprises a wired or wireless (NFC, Wi-Fi, Bluetooth) communication means to connect with a remote device for displaying the image data, the treatment portion of the user body, the external body condition, the internal body condition and the treatment information, wherein, the remote device is adapted to send input to the controller unit via communication means.”
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Dijkstra discloses each and every limitation of claim 2 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 2 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 2 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 2 should be reexamined and found to be unpatentable.

5. Claim 3 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

3) The light therapy system of claim 1, further comprising a third light therapy device comprising a third housing, a third plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a third communication module communicatively coupled to the third plurality of lights and located within the third housing, wherein the third communication module is configured to communicate directly with at least one of the first communication module and the second communication module.	<u>Dijkstra</u> teaches the features of claim 1. See section IV. 3., Grounds 1-6 above. <u>Dijkstra</u> at paragraph 0059 teaches: “Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130.” <u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.” <u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user
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	activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.” <u>Dijkstra</u> at paragraph 0098 teaches: “Referring to FIG. 9, show a light therapy system 100 according to an exemplary embodiment of the FIG. 2, wherein a user is using a plurality of light therapy devices 200 for full body treatment at a time. In this, the user is surrounded by the plurality of light therapy devices and each light therapy device is projecting light towards a separate treatment portion on the user body.”
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Dijkstra discloses each and every limitation of claim 3 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 3 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 3 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 3 should be reexamined and found to be unpatentable.

6. **Claim 4 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.**

4 The light therapy system of claim 3, further comprising a fourth light therapy device comprising a fourth housing, a fourth plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a fourth communication module communicatively coupled to the fourth plurality of lights and located within the fourth housing, wherein the fourth communication module is configured to communicate directly with at least one of the first communication module, second communication module, and the third communication module.	<u>Dijkstra</u> teaches the features of claim 1. See section IV. 3., Grounds 1-6 above. <u>Dijkstra</u> at paragraph 0059 teaches: “Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130.” <u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.” <u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or
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	by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.” <u>Dijkstra</u> at paragraph 0098 teaches: “Referring to FIG. 9, show a light therapy system 100 according to an exemplary embodiment of the FIG. 2, wherein a user is using a plurality of light therapy devices 200 for full body treatment at a time. In this, the user is surrounded by the plurality of light therapy devices and each light therapy device is projecting light towards a separate treatment portion on the user body.”
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Dijkstra discloses each and every limitation of claim 4 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 4 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 4 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 4 should be reexamined and found to be unpatentable.

7. **Claim 5 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.**

5 The light therapy system of claim 4, wherein the first light therapy device and the second light therapy device are each configured to operate in one of a lead mode, a follow mode, and a neutral mode, wherein when the first light therapy device operates in the lead mode and the second light therapy device operates in the follow mode the second light therapy device performs operations as instructed by the first light therapy device.	<u>Dijkstra</u> teaches the features of claim 1. See section IV. 3., Grounds 1-6 above. <u>Dijkstra</u> at paragraph 0099 teaches: “According to yet another embodiment of the present disclosure, the light therapy system uses a master-slave model. Further, the two or more light therapy devices are used in which one light therapy device acts as a master light therapy device and the rest of the light therapy devices acts as a slave to the master light therapy device. All the light therapy devices including master light therapy device and slave light therapy devices are linked with each other and forming a peer to peer network. In this, the master light therapy device has a controlling unit which is controlling the all other slave light therapy devices, each of the slave light therapy devices is having a communication module to communicate with the master light therapy device and a light projection unit works as per the master light therapy device input. To use this, the user activates the master light therapy device and the master light therapy device establishes a wired or wireless connection with other slave light therapy devices, the master device identifies the location and position of the user and allocates separate treatment portion to each slave light therapy device by using artificial intelligence, machine learning, object detection and localization module or the user may manually select, identify, locate and treat the separate treatment portion for each light therapy device.” <u>Dijkstra</u> at paragraph 0101 teaches: “Master-slave model: Master/slave is a model of communication where one device or process has unidirectional control over one or more devices. In some systems, a
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	master is elected from a group of eligible devices, with the other devices acting in the role of slaves.”
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Dijkstra discloses each and every limitation of claim 2 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 2 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 5 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim5 should be reexamined and found to be unpatentable.

8. Claim 6 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

6 The light therapy system of claim 5, wherein the third light therapy device and the fourth light therapy device are each configured to operate in one of a lead mode, a follow mode, and a neutral mode, wherein when the first light therapy device operates in the lead mode and the second light therapy device, third light therapy device, and fourth light therapy device operate in the follow mode the second light therapy device, third light therapy device, and fourth light therapy device perform operations as instructed by the first light therapy device.	<u>Dijkstra</u> teaches the features of claim 5. See above. <u>Dijkstra</u> at paragraph 0099 teaches: “According to yet another embodiment of the present disclosure, the light therapy system uses a master-slave model. Further, the two or more light therapy devices are used in which one light therapy device acts as a master light therapy device and the rest of the light therapy devices acts as a slave to the master light therapy device. All the light therapy devices including master light therapy device and slave light therapy devices are linked with each other and forming a peer to peer network. In this, the master light therapy device has a controlling unit which is controlling the all other slave light therapy devices, each of the slave light therapy devices is having a communication module to communicate with the master light therapy device and a light projection
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	unit works as per the master light therapy device input. To use this, the user activates the master light therapy device and the master light therapy device establishes a wired or wireless connection with other slave light therapy devices, the master device identifies the location and position of the user and allocates separate treatment portion to each slave light therapy device by using artificial intelligence, machine learning, object detection and localization module or the user may manually select, identify, locate and treat the separate treatment portion for each light therapy device.”
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Dijkstra discloses each and every limitation of claim 6 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 6 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 6 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 6 should be reexamined and found to be unpatentable.

9. Claim 7 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

7 The light therapy system of claim 6, wherein when at least one of the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device operates in the neutral mode, the at least one of the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device is configured to ignore instructions from a respective light therapy device operating in the lead mode.	<u>Dijkstra</u> teaches the features of claim 6. See above. <u>Dijkstra</u> at FIG. 8 shows two units in association with a user. Each of the units can be selectively turned on or off. Therefore, when one unit is shut off, that unit will ignore instructions from another unit.
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Dijkstra discloses each and every limitation of claim 7 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 7 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 7 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 7 should be reexamined and found to be unpatentable.

10. Claim 8 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

8 The light therapy system of claim 6, wherein at least two of the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device operate in the lead mode simultaneously.	<u>Dijkstra</u> teaches the features of claim 6. See above. <u>Dijkstra</u> at paragraph 0099 teaches: “According to yet another embodiment of the present disclosure, the light therapy system uses a master-slave model. Further, the two or more light therapy devices are used in which one light therapy device acts as a master light therapy device and the rest of the light therapy devices acts as a slave to the master light therapy device. All the light therapy devices including master light therapy device and slave light therapy devices are linked with each other and forming a peer to peer network. In this, the master light therapy device has a controlling unit which is controlling the all other slave light therapy devices, each of the slave light therapy devices is having a communication module to communicate with the master light therapy device and a light projection unit works as per the master light therapy device input. To use this, the user activates the master light therapy device and the master light therapy device establishes a
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	wired or wireless connection with other slave light therapy devices, the master device identifies the location and position of the user and allocates separate treatment portion to each slave light therapy device by using artificial intelligence, machine learning, object detection and localization module or the user may manually select, identify, locate and treat the separate treatment portion for each light therapy device”
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Dijkstra discloses each and every limitation of claim 8 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 8 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 8 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 8 should be reexamined and found to be unpatentable.

11. Claim 9 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

9 The light therapy system of claim 4, wherein the first communication module, the second communication module, the third communication module, and the fourth communication module are communicatively coupled via a wireless connection.	<u>Dijkstra</u> teaches the features of claim 4. See above. <u>Dijkstra</u> at paragraph 0021 teaches: “According to yet another aspect of the present disclosure, the light therapy device further comprises a wired or wireless (NFC, Wi-Fi, Bluetooth) communication means to connect with a remote device for displaying the image data, the treatment portion of the user body, the external body condition, the internal body condition and the treatment information, wherein, the remote device is adapted to send input to the controller unit via communication means.”
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	<u>Dijkstra</u> at paragraph 0098 teaches: “Referring to FIG. 9, show a light therapy system 100 according to an exemplary embodiment of the FIG. 2, wherein a user is using a plurality of light therapy devices 200 for full body treatment at a time. In this, the user is surrounded by the plurality of light therapy devices and each light therapy device is projecting light towards a separate treatment portion on the user body.”
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Dijkstra discloses each and every limitation of claim 9 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 9 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 9 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 9 should be reexamined and found to be unpatentable.

12. Claim 10 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

10 The light therapy system of claim 4, further comprising a third control panel coupled to the third housing and communicatively coupled to the third communication module, the third control panel comprising a third plurality of input buttons and a third pair of indication lights communicatively coupled to the third plurality of input buttons, the third pair of indication lights arranged and configured to indicate whether a portion of red lights of the third plurality of lights is emitting red light and whether a portion of near infrared lights of the third plurality of lights is	<u>Dijkstra</u> teaches the features of claim 4. See above. <u>Dijkstra</u> at paragraph 0021 teaches: “According to yet another aspect of the present disclosure, the light therapy device further comprises a wired or wireless (NFC, Wi-Fi, Bluetooth) communication means to connect with a remote device for displaying the image data, the treatment portion of the user body, the external body condition, the internal body condition and the treatment information, wherein, the remote device is adapted to send input to the controller unit via communication means”
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emitting near infrared light; and	<u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.” <u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.”
a fourth control panel coupled to the fourth housing and communicatively coupled to	<u>Dijkstra</u> at paragraph 0021 teaches: “According to yet another aspect of the

the fourth communication module, the fourth control panel comprising a fourth plurality of input buttons and a fourth pair of indication lights communicatively coupled to the fourth plurality of input buttons, the fourth pair of indication lights arranged and configured to indicate whether a portion of red lights of the fourth plurality of lights is emitting red light and whether a portion of near infrared lights of the fourth plurality of lights is emitting near infrared light.

present disclosure, the light therapy device further comprises a wired or wireless (NFC, Wi-Fi, Bluetooth) communication means to connect with a remote device for displaying the image data, the treatment portion of the user body, the external body condition, the internal body condition and the treatment information, wherein, the remote device is adapted to send input to the controller unit via communication means”

Dijkstra at paragraph 0063 teaches:

“According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.”

Dijkstra at paragraph 0096 teaches:

“Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective

	treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.”
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Dijkstra discloses each and every limitation of claim 10 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 10 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 10 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 10 should be reexamined and found to be unpatentable.

13. Claim 11 of Nelson should be rejected under 35 USC §103(a) as being obvious over Dijkstra in view of obvious to try.

11 The light therapy system of claim 10, wherein the third control panel is coupled to a side surface of the third housing, and the fourth control panel is coupled to a side surface of the fourth housing.	<u>Dijkstra</u> teaches the features of claim 1. See section IV. 3., Grounds 1-6 above. <u>Dijkstra</u> teaches the placement of multiple devices at varying locations about a user. Therefore, it would have been obvious to one of skill in the art to arrange the housings of the Dijkstra in the claimed manner, as a simple design choice.
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Dijkstra teaches that the functionality of each of the limitations of claim 11 were known in the art or were obvious to try. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 11 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 11 should be reexamined and found to be unpatentable.

14. Claim 12 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

12 The light therapy system of claim 10, wherein the third plurality of input buttons comprises a third time button configured to control a treatment time of the third light therapy device, a third play/pause button, and a third mode button configured to cause light to be emitted from at least a portion of the third plurality of lights, and cause light to not be emitted from at least a portion of the third plurality of lights, and wherein the fourth plurality of input buttons comprises a fourth time button configured to control a treatment time of the fourth light therapy device, a fourth play/pause button, and a fourth mode button configured to cause light to be emitted from at least a portion of the fourth plurality of lights, and cause light to not be emitted from at least a portion of the fourth plurality of lights.	<u>Dijkstra</u> teaches the features of claim 10. See above. <u>Dijkstra</u> at paragraph 0026 teaches: “According to yet another aspect of the present disclosure, the light therapy device allows the user to select a type of treatment, treatment time, intensity of light projection and shape of a light projection based on his/her body condition.” <u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.”
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	<u>Dijkstra</u> at paragraph 0098 teaches: “Referring to FIG. 9, show a light therapy system 100 according to an exemplary embodiment of the FIG. 2, wherein a user is using a plurality of light therapy devices 200 for full body treatment at a time. In this, the user is surrounded by the plurality of light therapy devices and each light therapy device is projecting light towards a separate treatment portion on the user body.”
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Dijkstra discloses each and every limitation of claim 12 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 12 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 12 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 12 should be reexamined and found to be unpatentable.

15. Claim 13 of Nelson should be rejected under 35 USC §103(a) as being obvious over Dijkstra in view of obvious to try.

13 The light therapy system of claim 12, wherein a first press of the third mode button causes at least a portion of red lights of the third plurality of lights to emit red light and at least a portion of near infrared lights of the third plurality of lights to not emit near infrared light, and a second press of the third mode button causes at least a portion of red lights of the third plurality of lights to not emit red light and at least a portion of near infrared lights of the third plurality of lights to emit near infrared light; and wherein a first press of the fourth mode button causes at least a portion of red lights of the fourth plurality of lights to emit red light and at least a portion of near infrared lights of the fourth plurality of lights to not	<u>Dijkstra</u> teaches the features of claim 12. See above. <u>Dijkstra</u> teaches that each device can be selectively activated to operate in a near infrared mode and in a non-near infrared mode. Although <u>Dijkstra</u> does not appear to explicitly teach the exact combination of buttons to establish these modes, it is asserted that such operation would be obvious to try, and a simple matter of design choice in configuring the operating panel of <u>Dijkstra</u>.
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emit near infrared light, and a second press of the fourth mode button causes at least a portion of red lights of the fourth plurality of lights to not emit red light and at least a portion of near infrared lights of the fourth plurality of lights to emit near infrared light.	
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Dijkstra teaches that the functionality of each of the limitations of claim 13 were known in the art or obvious to try. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 13 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 13 should be reexamined and found to be unpatentable.

16. Claim 14 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

14 The light therapy system of claim 4, further comprising a remote computing device communicatively coupled to at least one of the first communication module, second communication module, third communication module, and fourth communication module, whereby the at least one of the first communication module, second communication module, third communication module, and fourth communication module is configured to receive operation instructions from the remote computing device.	<u>Dijkstra</u> teaches the features of claim 4. See above. <u>Dijkstra</u> at paragraph 0021 teaches: “According to yet another embodiment of the present disclosure, a remote device connected to the light therapy device 200 via a wired or wireless (NFC, Wi-Fi, Bluetooth) communication means, which is configured to display the image data from the camera unit. Further, the remote device allows the user to manually identify, select, and prioritize the at least one body condition, and the user is allowed to select a treatment based on the body condition and provide input to the light projection unit based upon his own intellect. Further, the user can select the intensity, shape, time period of the light projection as per the body condition. Wherein, the remote device is a mobile, laptop, remote control or any other device allows the user to provide inputs.
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	<u>Dijkstra</u> at paragraphs 0091-0092 teaches: The light therapy device 200 is also used by a professional (a physician, a dermatologist, a lab technician, a beautician etc.) to provide therapy to others. In this, the professionals can remotely monitor and provide inputs to the patient through the remote device. Further, the light therapy device can be used by the normal person and can be used for treating animals as well.”
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Dijkstra discloses each and every limitation of claim 14 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 14 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 14 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 14 should be reexamined and found to be unpatentable.

17. Claim 15 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

15 The light therapy system of claim 14, wherein the remote computing device comprises at least one of a smartphone, a tablet, and a computer.	<u>Dijkstra</u> teaches the features of claim 14. See above. <u>Dijkstra</u> at paragraph 0030 teaches: “According to yet another aspect of the present disclosure, the light therapy system has a remote device connected to the light therapy device via wired or wireless (NFC, Bluetooth, Wi-Fi) connection means. Further, the remote display device is a mobile phone, laptop, desktop, computer, remote control or any other suitable display means, capable of displaying the image data from the camera unit and allows the user to
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	provide inputs to the controlling unit.”
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Dijkstra discloses each and every limitation of claim 15 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 15 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 15 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 15 should be reexamined and found to be unpatentable.

18. Claim 16 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

16 The light therapy system of claim 4, wherein the first light therapy device comprises a first plurality of communication ports coupled to the first housing and communicatively coupled to the first communication module, the second light therapy device comprises a second plurality of communication ports coupled to the second housing and communicatively coupled to the second communication module, the third light therapy device further comprises a third plurality of communication ports coupled to the third housing and communicatively coupled to the third communication module, the fourth light therapy device further comprises a fourth plurality of communication ports coupled to the fourth housing and communicatively coupled to the fourth communication module, and	<u>Dijkstra</u> teaches the features of claim 4. See above. <u>Dijkstra</u> at claim 19 teaches: “The system according to claim 16, wherein the system has two or more light therapy devices connected to each other via a wired or wireless communication means, wherein the system allocates the at least one treatment portion of the user body to each two or more light therapy devices and prevents an overlap of the light, projected from the two or more light therapy devices, wherein the light therapy system provides treatment for a portion of the user body or full body.” <u>Dijkstra</u> at paragraph 0059 teaches: “Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210
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	includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130.” <u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.” <u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective
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wherein the first light therapy device, the second light therapy device, the third light therapy device, and the fourth light therapy device are communicatively coupled via a wired connection from the first plurality of communication ports to the second plurality of communication ports, from the second plurality of communication ports to the third plurality of communication ports, and from the third plurality of communication ports to the fourth plurality of communication ports.	treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.” <u>Dijkstra</u> at paragraph 0098 teaches: “Referring to FIG. 9, show a light therapy system 100 according to an exemplary embodiment of the FIG. 2, wherein a user is using a plurality of light therapy devices 200 for full body treatment at a time. In this, the user is surrounded by the plurality of light therapy devices and each light therapy device is projecting light towards a separate treatment portion on the user body.” <u>Dijkstra</u> at claim 19 teaches: “The system according to claim 16, wherein the system has two or more light therapy devices connected to each other via a wired or wireless communication means, wherein the system allocates the at least one treatment portion of the user body to each two or more light therapy devices and prevents an overlap of the light, projected from the two or more light therapy devices, wherein the light therapy system provides treatment for a portion of the user body or full body.” <u>Dijkstra</u> at paragraph 0059 teaches: “Referring to FIG. 1 shows a block diagram of components of a light therapy device 200 according to an embodiment of the present disclosure. Further, referring to FIG. 1 and FIG. 2, the light therapy device 200 is having a first housing 210 mounted on a second housing 220. The first housing 210 includes a rotatable head 250 that is mounted on a spindle 230 in a rotatable manner. Further, the rotatable head 250 includes a light projection unit 110, a camera unit 120, a controlling unit 130 and a memory unit 140. Furthermore, the light
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	projection unit 110, the camera unit 120, and the memory unit 140 are electronically and communicatively connected to the controlling unit 130.” <u>Dijkstra</u> at paragraph 0063 teaches: “According to another embodiment of the present disclosure, the light source 113 may be a LED light, infrared light, a UV light, a laser light, photo reactive chemical producing light, phosphorus or any other suitable light source generating the light in a range of 100-1600 nm wavelength for treating a person.” <u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.”
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	<u>Dijkstra</u> at paragraph 0098 teaches: “Referring to FIG. 9, show a light therapy system 100 according to an exemplary embodiment of the FIG. 2, wherein a user is using a plurality of light therapy devices 200 for full body treatment at a time. In this, the user is surrounded by the plurality of light therapy devices and each light therapy device is projecting light towards a separate treatment portion on the user body.”
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Dijkstra discloses each and every limitation of claim 16 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 16 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 16 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 16 should be reexamined and found to be unpatentable.

19. Claim 17 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

17The light therapy system of claim 16, wherein the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device are communicatively coupled in at least one of series and parallel wired connections	<u>Dijkstra</u> teaches the features of claim 16. See above. <u>Dijkstra</u> at paragraph 0099 teaches: “According to yet another embodiment of the present disclosure, the light therapy system uses a master-slave model. Further, the two or more light therapy devices are used in which one light therapy device acts as a master light therapy device and the rest of the light therapy devices acts as a slave to the master light therapy device. All the light therapy devices including master light therapy device and slave light therapy devices are linked with each other and forming a peer to peer network. In
--	--

	this, the master light therapy device has a controlling unit which is controlling the all other slave light therapy devices, each of the slave light therapy devices is having a communication module to communicate with the master light therapy device and a light projection unit works as per the master light therapy device input. To use this, the user activates the master light therapy device and the master light therapy device establishes a wired or wireless connection with other slave light therapy devices, the master device identifies the location and position of the user and allocates separate treatment portion to each slave light therapy device by using artificial intelligence, machine learning, object detection and localization module or the user may manually select, identify, locate and treat the separate treatment portion for each light therapy device.” Comment: In this reference, light therapy devices having a communication module to communicate with the other light therapy device is shown. However, communication module coupled in at least one of series and parallel wired connections is explicitly not mentioned here. However, it would be obvious to try in light of design choice.
--	---

Dijkstra discloses each and every limitation of claim 16 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 16 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 16 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 16 should be reexamined and found to be unpatentable.

20. Claim 18 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

18 The light therapy system of claim 1, wherein the first control panel is coupled to a side surface of the first housing, and the second control panel is coupled to a side surface of the second housing.	<u>Dijkstra</u> teaches the features of claim 1. See section IV. 3., Grounds 1-6 above. <u>Dijkstra</u> at FIG. 8 shows two devices each having a control panel on the side.
---	--

Dijkstra discloses each and every limitation of claim 18 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 18 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 18 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 18 should be reexamined and found to be unpatentable.

21. Claim 19 of Nelson should be rejected under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra.

19 The light therapy system of claim 1, wherein the first plurality of input buttons comprises a first time button configured to control a treatment time of the first light therapy device, a first play/pause button, and a first mode button configured to cause light to be emitted from at least a portion of the first plurality of lights, and cause light to not be emitted from at least a portion of the first plurality of lights, and wherein the second plurality of input buttons comprises a second time button configured to control a treatment time of the second light therapy	<u>Dijkstra</u> teaches the features of claim 1. See section IV. 3., Grounds 1-6 above. <u>Dijkstra</u> at paragraph 0026 teaches: “According to yet another aspect of the present disclosure, the light therapy device allows the user to select a type of treatment, treatment time, intensity of light projection and shape of a light projection based on his/her body condition.” <u>Dijkstra</u> at paragraph 0096 teaches: “Referring to FIG. 8, the light therapy system 100 is having two light therapy device 200 according to an exemplary
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device, a second play/pause button, and a second mode button configured to cause light to be emitted from at least a portion of the second plurality of lights, and cause light to not be emitted from at least a portion of the second plurality of lights.	embodiment of the FIG. 2, the first light therapy device 200 is placed towards the front side of the user and the second light therapy device 200 is placed towards the backside of the user. To use, the user activates the first and second light therapy device by turning ON the power button or by a head movement or by a hand gesture. The first and second device establish a connection through wired or wireless means with each other in order to work in synchronization. The first and the second devices start scanning the corresponding body portions of the user body and each identifies the at least one treatment portion. Here, first and second light therapy devices have separate treatment portions. Further, the first and second light therapy devices identify the at least one body condition from their respective treatment portions. Further, the first and second light therapy device projects the light on their respective treatment portions. The first and the second light therapy devices are identical to each other and are being used together to cover the maximum body portion of the user at one time.” <u>Dijkstra</u> at paragraph 0098 teaches: “Referring to FIG. 9, show a light therapy system 100 according to an exemplary embodiment of the FIG. 2, wherein a user is using a plurality of light therapy devices 200 for full body treatment at a time. In this, the user is surrounded by the plurality of light therapy devices and each light therapy device is projecting light towards a separate treatment portion on the user body.”
---	--

Dijkstra discloses each and every limitation of claim 19 as set forth in the chart above, and as described in detail at Section III above. Alternatively, Dijkstra teaches that the functionality of each of the limitations of claim 19 were known in the art. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 19 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 19 should be reexamined and found to be unpatentable.

22. Claim 20 of Nelson should be rejected under 35 USC §103(a) as being obvious over Dijkstra in view of obvious to try.

20The light therapy system of claim 19, wherein a first press of the first mode button causes at least a portion of red lights of the first plurality of lights to emit red light and at least a portion of near infrared lights of the first plurality of lights to not emit near infrared light, and a second press of the first mode button causes at least a portion of red lights of the first plurality of lights to not emit red light and at least a portion of near infrared lights of the first plurality of lights to emit near infrared light; and wherein a first press of the second mode button causes at least a portion of red lights of the second plurality of lights to emit red light and at least a portion of near infrared lights of the second plurality of lights to not emit near infrared light, and a second press of the second mode button causes at least a portion of red lights of the second plurality of lights to not emit red light and at least a portion of near infrared lights of the second plurality of lights to emit near infrared light.	<u>Dijkstra</u> teaches the features of claim 19. See above. <u>Dijkstra</u> at paragraph 0059 teaches: <u>Dijkstra</u> teaches that each device can be selectively activated to operate in a plurality of different modes. Although <u>Dijkstra</u> does not appear to explicitly teach the exact sequence of buttons to be pressed in order to activate each of these modes, Requestor respectfully submits that such operation would be obvious to try. Moreover, such a combination would result as a matter of design choice with no specialized skill or unexpected results to achieve in configuring the operating panel of <u>Dijkstra</u> .
---	---

Dijkstra teaches that the functionality of each of the limitations of claim 20 were known in the art and obvious to try. Therefore, a reasonable examiner would consider the teaching of Dijkstra to be important in deciding whether or not the claim is patentable.

Dijkstra was not cited in the prosecution of Nelson. The **substantial new question of patentability** is whether claim 20 would have been anticipated or obvious in light of Dijkstra. Requestor submits that claim 20 should be reexamined and found to be unpatentable.

V. CONCLUSION

As noted herein, none of the above noted references were cited in the prosecution of Nelson, and each of the references raise a **substantial new question of patentability** for claims 1-20. Accordingly, requestor respectfully requests reexamination of claims 1-20 of U.S. Patent No. 10,478,635 to Nelson, and issuance of a reexamination certificate cancelling these claims.

Respectfully submitted,

/Jason T. Daniel/

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Attorney for Requestor
Daniel Law Offices, P.A.
605 E. Robinson St. unit 105
Orlando, FL 32801
Tel: 407-841-8375 Fax: 407-841-8372

VI. COPIES OF PRIOR ART ATTACHED

U.S. Publication No. 2019/0030359 (“Dijkstra”) published on January 31, 2019.

U.S. Patent No. 8,425,577 (“Vargas”) Issued on April 23, 2013.

US Publication US2020/0269065 (“Broeng”), published August 27, 2020.

U.S. Patent No. 10,881,550 (“Tedford”) issued January 5, 2021.

U.S. Publication No. 2002/0198575 (“Sullivan”) published on December 26, 2002.

U.S. Publication No. 2020/0360714 (“Shterzer”) published on November 19, 2020.

VII. COPY OF US PATENT 10,478,635 ATTACHED.

VIII. CERTIFICATION UNDER 37 CFR §1.510(b)(5)

Requestor hereby certifies that a copy of this reexamination request been served in its entirety via USPS Priority Mail to the patent owner at the address as provided for in 37 CFR

Request for Reexamination of US 10,478,635

§1.33(c). The patent Owner's address was obtained from the USPTO patent assignment database:

JOOVV, INC.
940 Calle Amanecer
Unit d
San Clemente, California 92673

A copy is also served in its entirety via USPS Priority Mail to the correspondent address listed below obtained from the USPTO patent assignment database.

Schwie Law, LLC
445 Minnesota St.
Suite 1500
St. Paul, Mn 55101

IX. CERTIFICATION UNDER 37 CFR §1.510(b)(5)

Requestor hereby certifies that the statutory estoppel provisions of 35 USC 315(e)(1) or 35 USC 325(e)(1) do not prohibit the requestor from filing this Ex Parte Reexamination Request.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/014,851	09/01/2021	10478635	210407-7-RE	9824
124179	7590	10/07/2021		
Gallium Law 445 Minnesota St Suite 1500 St. Paul, MN 55101			EXAMINER JASTRZAB, JEFFREY R	
			ART UNIT	PAPER NUMBER
			3993	
			MAIL DATE	DELIVERY MODE
			10/07/2021	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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DANIEL LAW OFFICES, PA
605 EAST ROBINSON STREET
SUITE 105
ORLANDO, FL 32801

***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/014,851 .

PATENT UNDER REEXAMINATION 10,478,635 .

ART UNIT 3993 .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

/JEFFREY R JASTRZAB/

Order Granting Request For Ex Parte Reexamination	Control No. 90/014,851	Patent Under Reexamination 10478635	
	Examiner JEFFREY R JASTRZAB	Art Unit 3993	AIA (FITF) Status Yes

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The request for *ex parte* reexamination filed 09/01/2021 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a) ☐ PTO-892, b) ☒ PTO/SB/08, c) ☐ Other: _____

1. ☐ The request for *ex parte* reexamination is GRANTED.

RESPONSE TIMES ARE SET AS FOLLOWS:

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

/JEFFREY R JASTRZAB/
Reexamination Specialist, Art Unit 399

/BMF/

/EDL/

cc:Requester (if third party requester)

Decision Granting *Ex Parte* Reexamination

A substantial new question of patentability affecting claims 1-20 of United States Patent Number 10,478,635 is raised by the request for *ex parte* reexamination.

Notice of Pre-AIA or AIA Status

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Waiver of Right to File Patent Owner Statement

Patent Owner waived the right under 37 C.F.R. 1.530 to file a Patent Owner Statement in an interview on 9/16/21. A First Office action will follow in due course.

Substantial New Question

The substantial new question of patentability (SNQP) is based on:

U.S. Publication No. 2019/0030359 (“Dijkstra”) filed on October 2, 2018,
published on January 31, 2019;

U.S. Patent No. 8,425,577 (“Vargas”) filed on December 13, 2011, Issued on
April 23, 2013;

US Publication No. 2020/0269065 (“Broeng”) filed February 14, 2018, published
August 27, 2020;

U.S. Patent No. 10,881,550 (“Tedford”) filed on December 1, 2015, issued
January 5, 2021;

U.S. Publication No. 2002/0198575 ('Sullivan') filed May 22, 2002, and published on December 26, 2002; and

U.S. Publication No. 2020/0360714 ("Shterzer") filed August 4, 2020 having a priority date of February 5, 2018, and published on November 19, 2020.

A discussion of the specifics now follows:

Prosecution History in Brief

In a First Office Action on 2/15/19, Claims 1-13 and 15-19 were rejected as being either anticipated by, or obvious over Mitchell, US 2011/0054573, and claims 14 and 20 (red light indicators on both housings) were indicated as allowable.

A telephone interview was conducted 3/7/19 wherein the teachings of Mitchell were discussed (per the Applicant Interview Agenda of 3/5/19) and amendments were agreed upon to overcome Mitchell (Applicant Interview Summary of 3/18/19).

The Examiner Interview Summary of 3/21/19 indicates that the suggested amendment to require separate control units in each housing and to add the input buttons of Claim 8 (to Claim 1), would likely overcome Mitchell, subject to further search.

On 5/24/19, a Final Office Action was sent rejecting claims 1, 2, 4-6, 8, 10, 13-15, and 22 under 35 USC 112 first paragraph, and rejecting Claims 21, 23-27 and 30 over Mitchell. The Office action indicated claims 28 and 29 (red light indicators) as being allowable.

On 6/14/19, application cancelled claims 1-20, 22, 26-28, and added new claims 31-44, incorporating the subject matter of indicated allowable Claim 28 regarding red indicator lights on both housings into Claim 21.

After the filing of an RCE on 6/14/19, the application was allowed.

Accordingly, it is readily apparent that the concept of a light therapy system with two light therapy devices configured to emit one of red or near infrared light, each having a communication module, and in particular, each having a control panel coupled to the respective communication modules with input buttons and indication lights to indicate whether a portion of red lights or near infrared lights are emitting light was believed to be absent in the art applied by the original Examiner.

Issues Raised by the Requester

The Requester states that a substantial new question of patentability under 35 U.S.C. §103 is raised by the following combinations of references:

Claims 1-20 are stated to be unpatentable under 35 USC §102 as being anticipated by Dijkstra, or alternatively rejected under 35 USC §103(a) as being obvious over Dijkstra;

Claim 1 is stated to be unpatentable under 35 USC §102 as being anticipated by Vargas, or alternatively rejected under 35 USC §103(a) as being obvious over Vargas;

Claim 1 is stated to be unpatentable under 35 USC §102 as being anticipated by Tedford, or alternatively rejected under 35 USC §103(a) as being obvious over Tedford;

Claim 1 is stated to be unpatentable under 35 USC §102 as being anticipated by Broeng, or alternatively rejected under 35 USC §103(a) as being obvious over Broeng;

Claim 1 is stated to be unpatentable under 35 USC §102 as being anticipated by Sullivan, or alternatively rejected under 35 USC §103(a) as being obvious over Sullivan;

Claim 1 is stated to be unpatentable under 35 U.S.C. § 103(a) over Shterzer in view of Dijkstra.

Analysis of the Prior Art Provided in the Request

Dijkstra:

It is agreed that the consideration of Dijkstra raises a SNQP as to Claims 1-20 of the '635 Patent.

As pointed out in the request on pages 6-11, Dijkstra teaches first and second light therapy devices, each with its own control panel wherein the devices are operated in synchrony.

Dijkstra was not cited or applied during the original prosecution. Thus the teaching of first and second light therapy devices, each with its own control panel and being operated in synchrony amounts to a new, non-cumulative technological teaching that was not previously considered and discussed on the record during the prosecution of the '635 patent.

Further, there is a substantial likelihood that a reasonable examiner would consider this teaching important in deciding whether or not these claims are patentable.

Accordingly, Dijkstra raises a substantial new question of patentability as to Claims 1-20 which question has not been decided in a previous examination of the '635 Patent.

Vargas:

It is agreed that the consideration of Vargas raises a SNQP as to Claim 1.

As pointed out in the request on page 12-16, Vargas teaches first and second light sources that are operated by two control panels 220 and 350.

Vargas was not cited or applied during the original prosecution. Thus the teaching of first and second light sources that are operated by two control panels amounts to a new, non-cumulative technological teaching that was not previously considered and discussed on the record during the prosecution of the '635 patent.

Further, there is a substantial likelihood that a reasonable examiner would consider this teaching important in deciding whether or not these claims are patentable.

Accordingly, Vargas raises a substantial new question of patentability as to Claim 1 which question has not been decided in a previous examination of the '635 Patent.

Tedford:

It is agreed that the consideration of Tedford raises a SNQP as to Claim 1.

As pointed out in the request on page 16-20, Tedford teaches first and second light sources that are operated by two control panels, noting the discussion at Tedford col. 28:19-40 stating that there can be more than one or more casings 1012 each with a controller.

Tedford was not cited or applied during the original prosecution. Thus the teaching of first and second light sources that are operated by two control panels amounts to a new, non-cumulative technological teaching that was not previously considered and discussed on the record during the prosecution of the '635 patent.

Further, there is a substantial likelihood that a reasonable examiner would consider this teaching important in deciding whether or not these claims are patentable.

Accordingly, Tedford raises a substantial new question of patentability as to Claim 1 which question has not been decided in a previous examination of the '635 Patent.

Broeng:

It is disagreed that the consideration of Broeng raises a SNQP as to Claim 1.

As pointed out in the request on page 21-29, Broeng teaches that multiple devices can be used at [0299] and hence appears to teach first and second light sources that are operated by two control panels, one associated with each device.

Broeng was not cited or applied during the original prosecution. Thus the teaching of first and second light sources that operated by two control panels amounts to a new, non-cumulative technological teaching that was not previously considered and discussed on the record during the prosecution of the '635 patent.

Further, there is a substantial likelihood that a reasonable examiner would consider this teaching important in deciding whether or not these claims are patentable.

Accordingly, Broeng raises a substantial new question of patentability as to Claim 1 which question has not been decided in a previous examination of the '635 Patent.

Sullivan:

It is disagreed that the consideration of Sullivan raises a SNQP as to Claim 1.

As pointed out in the request on page 29-32, Sullivan teaches first and second light sources that are operated by a processor 29 with a control panel (switched for time, frequency, pattern, etc.), however, it is not seen that Sullivan allows for more than one processor. This teaching was present in Mitchell cited and applied in the original prosecution.

Although Sullivan was not cited or applied during the original prosecution, the teaching of first and second light sources that are operated by one control panel does not amount to a new, non-cumulative technological teaching that was not previously considered and discussed on the record during the prosecution of the '635 patent.

Further, there is a substantial likelihood that a reasonable examiner would not consider this teaching important in deciding whether or not these claims are patentable.

Accordingly, Sullivan fails to raise a substantial new question of patentability as to Claim 1 of the '635 Patent.

Shterzer:

It is agreed that the consideration of Shterzer and Dijkstra raises a SNQP as to Claim 1.

As pointed out in the request on page 33-48, Shterzer teaches first and second light sources 104A-104N that are each operated by its own control unit 134. Dijkstra

teaches first and second light therapy devices, each with its own control panel wherein the devices are operated in synchrony.

Neither Shterzer nor Dijkstra was cited or applied during the original prosecution. Thus the teaching of first and second light sources that are operated by two control units/panels amounts to a new, non-cumulative technological teaching that was not previously considered and discussed on the record during the prosecution of the '635 patent.

Further, there is a substantial likelihood that a reasonable examiner would consider this teaching important in deciding whether or not these claims are patentable.

Accordingly, consideration of Shterzer and Dijkstra raises a substantial new question of patentability as to Claim 1 which question has not been decided in a previous examination of the '635 Patent.

Service of Papers

After the filing of a request for reexamination by a third party requester, any document filed by either the patent owner or the third party requester must be served on the other party (or parties where two or more third party requester proceedings are merged) in the reexamination proceeding in the manner provided in 37 CFR 1.248. See 37 CFR 1.550(f).

Extensions of Time

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and

not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

Amendment in Reexamination Proceedings

Patent owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j), must be formally presented pursuant to 37 CFR 1.52(a) and (b), and must contain any fees required by 37 CFR 1.20(c). See MPEP § 2250(IV) for examples to assist in the preparation of proper proposed amendments in reexamination proceedings.

Submissions

In order to insure full consideration of any amendments, affidavits or declarations or other documents as evidence of patentability, such documents must be submitted in response to the first Office action on the merits (which does not result in a close of prosecution). Submissions after the second Office action on the merits, which is intended to be a final action, will be governed by the requirements of 37 CFR 1.116, after final rejection and by 37 CFR 41.33 after appeal, which will be strictly enforced.

Notification of Concurrent Proceedings

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to apprise the Office of any litigation activity, or other prior or concurrent

proceeding, involving Patent No. 10,478,635 throughout the course of this reexamination proceeding. Likewise, if present, the third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

All correspondence relating to this *ex parte* reexamination proceeding should be directed as follows:

By U.S. Postal Service Mail to:

Mail Stop *Ex Parte* Reexam
ATTN: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By EFS: Registered users may submit via the electronic filing system EFS-Web, at <https://efs.uspto.gov/efile/myportal/efs-registered>.

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand to: Customer Service Window
Randolph Building
401 Dulany St.
Alexandria, VA 22314

For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a

certificate of transmission for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7070.

/Jeffrey R. Jastrzab/
Jeffrey R. Jastrzab
CRU Examiner
AU 3993
(571) 272-4947

Conferees : /BMF/ and /EDL/



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/014,851	09/01/2021	10478635	JOVV.004A.RE	9824
124179	7590	11/10/2021	EXAMINER	
Gallium Law			JASTRZAB, JEFFREY R	
445 Minnesota St				
Suite 1500				
St. Paul, MN 55101				
			ART UNIT	PAPER NUMBER
			3993	
			MAIL DATE	DELIVERY MODE
			11/10/2021	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/014,851 .

PATENT UNDER REEXAMINATION 10,478,635 .

ART UNIT 3993 .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

/JEFFREY R JASTRZAB/

Office Action in Ex Parte Reexamination	Control No. 90/014,851	Patent Under Reexamination 10478635	
	Examiner JEFFREY R JASTRZAB	Art Unit 3993	AIA (FITF) Status Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

- a. ☐ Responsive to the communication(s) filed on _____.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

b. ☐ This action is made FINAL.

c. ☐ A statement under 37 CFR 1.530 has not been received from the patent owner.

A shortened statutory period for response to this action is set to expire 2 month(s) from the mailing date of this letter.
Failure to respond within the period for response will result in termination of the proceeding and issuance of an *ex parte* reexamination certificate in accordance with this action. 37 CFR 1.550(d). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**
If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|---|
| 1. ☐ Notice of References Cited by Examiner, PTO-892. | 3. ☐ Interview Summary, PTO-474. |
| 2. ☐ Information Disclosure Statement, PTO/SB/08. | 4. ☐ _____. |

Part II SUMMARY OF ACTION

- 1a. ☒ Claims 1-20 are subject to reexamination.
 - 1b. ☐ Claims _____ are not subject to reexamination.
 2. ☐ Claims _____ have been canceled in the present reexamination proceeding.
 3. ☒ Claims 5 are patentable and/or confirmed.
 4. ☒ Claims 1-4 and 6-20 are rejected.
 5. ☐ Claims _____ are objected to.
 6. ☐ The drawings, filed on _____ are acceptable.
 7. ☐ The proposed drawing correction, filed on _____ has been (7a) ☐ approved (7b) ☐ disapproved.
 8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
 - 1 ☐ been received.
 - 2 ☐ not been received.
 - 3 ☐ been filed in Application No. _____.
 - 4 ☐ been filed in reexamination Control No. _____.
 - 5 ☐ been received by the International Bureau in PCT application No. _____.
- * See the attached detailed Office action for a list of the certified copies not received.
9. ☐ Since the proceeding appears to be in condition for issuance of an *ex parte* reexamination certificate except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.
 10. ☐ Other: _____

cc: Requester (if third party requester)

Ex Parte Nonfinal Office Action

A substantial new question of patentability affecting claims 1-20 of United States Patent Number 10,478,635 was raised by the request for *ex parte* reexamination in the Order mailed 10/7/2021.

Notice of Pre-AIA or AIA Status

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Proposed Rejections by the Requester Applied - 35 USC §§ 102 and 103

In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a)(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

Although Dijkstra is not applied to Claims 2-20 in the Request, it is clear that a substantial new question for Claim 1 would also lend itself to a substantial new question for its dependents.

Dijkstra:

Claims 1-4 and 9-20 are rejected under 35 U.S.C. 102(a)(2) as being anticipated by Dijkstra, in the alternative,

Claims 11, 13, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dijkstra.

As to Claim 1, Dijkstra teaches a light therapy system (e.g. 200 in Fig. 8),, comprising: a first light therapy device 200 comprising a first housing 210, a first plurality of lights (array per [0034]), arranged and configured to emit at least one of red light and near infrared light (at [0059-0063]), and a first communication module communicatively coupled to the first plurality of lights and located within the first housing (note the wireless communication of two light sources at [0096] and the wireless communication means at [0021]); a second light therapy device (other 200 in Figure 8) comprising a second housing (see Figure 8), a second plurality of lights arranged and configured to

emit at least one of red light and near infrared light (see the above-mentioned array), and a second communication module (note the wireless communication of two light sources at [0096] and the wireless communication means at [0021]) communicatively coupled to the second plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module; a first control panel coupled to the first housing and communicatively coupled to the first communication module (see [0090] and the discussion of a touchscreen display that allows for user input), the first control panel comprising a first plurality of input buttons (inherent to a touchscreen); and a first pair of indication lights communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light - Dijkstra describes a touchscreen display for selecting type of treatment, time and intensity. It is considered inherent that such a display would indicate the types of light used in the treatment as the user can select the parameters for treatment, and hence would constitute indication lights. To the extent one might disagree, merely adding such indicator or "on" lights would have been an obvious design choice to those of ordinary skill in the art before the invention as such "on" lights are typical on electronics in general to establish when a device or portion thereof is in operation; and a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the

second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light (Dijkstra teaches that the first and second light sources are identical, thus each has the above inputs and indication lights. Also, note [0067] which states that the light can be in the range of 100-1600nm.

As to Claim 2, Dijkstra teaches that the first communication module and the second communication module are communicatively coupled via a wireless connection. See, for example, [0021].

As to Claim 3, Dijkstra teaches a third light therapy device comprising a third housing, a third plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a third communication module communicatively coupled to the third plurality of lights and located within the third housing, wherein the third communication module is configured to communicate directly with at least one of the first communication module and the second communication module. See Figure 9.

As to Claim 4, Dijkstra teaches a fourth light therapy device comprising a fourth housing, a fourth plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a fourth communication module communicatively coupled to the fourth plurality of lights and located within the fourth housing, wherein the fourth communication module is configured to communicate directly with at least one of the first communication module, second communication module, and the third communication module. See Figure 9.

As to Claim 9, Dijkstra teaches that the first communication module, the second communication module, the third communication module, and the fourth communication module are communicatively coupled via a wireless connection at [0021] and [0098] with Figure 9.

As to Claim 10, Dijkstra teaches a third control panel coupled to the third housing and communicatively coupled to the third communication module, the third control panel comprising a third plurality of input buttons and a third pair of indication lights communicatively coupled to the third plurality of input buttons, the third pair of indication lights arranged and configured to indicate whether a portion of red lights of the third plurality of lights is emitting red light and whether a portion of near infrared lights of the third plurality of lights is emitting near infrared light; and a fourth control panel coupled to the fourth housing and communicatively coupled to the fourth communication module, the fourth control panel comprising a fourth plurality of input buttons and a fourth pair of indication lights communicatively coupled to the fourth plurality of input buttons, the fourth pair of indication lights arranged and configured to indicate whether a portion of red lights of the fourth plurality of lights is emitting red light and whether a portion of near infrared lights of the fourth plurality of lights is emitting near infrared light. As the light therapy devices are stated by Dijkstra to be “identical”, the third and fourth devices have the same inputs and indication lights as the first two.

As to Claim 11, Dijkstra teaches that the third control panel is coupled to a side surface of the third housing, and the fourth control panel is coupled to a side surface of the fourth housing. This feature is inherent to the Dijkstra device, but to the extent one might disagree, merely changing the housing shape of the light treatment devices would

have amounted to a routine design choice to those of ordinary skill in the art before the invention, thus placing the touchscreen on a “side surface”.

As to Claim 12, Dijkstra teaches that the third plurality of input buttons comprises a third time button configured to control a treatment time of the third light therapy device, a third play/pause button, and a third mode button configured to cause light to be emitted from at least a portion of the third plurality of lights, and cause light to not be emitted from at least a portion of the third plurality of lights, and wherein the fourth plurality of input buttons comprises a fourth time button configured to control a treatment time of the fourth light therapy device, a fourth play/pause button, and a fourth mode button configured to cause light to be emitted from at least a portion of the fourth plurality of lights, and cause light to not be emitted from at least a portion of the fourth plurality of lights. See [0090] and the discussion of a touchscreen display that allows for time input as well as treatment type (hence mode). The on/off button would provide the claimed play/pause function at [0096]. As an aside, it would appear that a first and second time button would logically be claimed before reciting a third.

As to Claim 13, Dijkstra fails to specifically state that a first press of the third mode button causes at least a portion of red lights of the third plurality of lights to emit red light and at least a portion of near infrared lights of the third plurality of lights to not emit near infrared light, and a second press of the third mode button causes at least a portion of red lights of the third plurality of lights to not emit red light and at least a portion of near infrared lights of the third plurality of lights to emit near infrared light; and wherein a first press of the fourth mode button causes at least a portion of red lights of the fourth plurality of lights to emit red light and at least a portion of near infrared lights

of the fourth plurality of lights to not emit near infrared light, and a second press of the fourth mode button causes at least a portion of red lights of the fourth plurality of lights to not emit red light and at least a portion of near infrared lights of the fourth plurality of lights to emit near infrared light. However, given the teaching that the light sources have operate in either near infrared and non-near infrared modes, it would have amounted to an obvious choice in engineering design to those of ordinary skill in the art before the invention to have configured Dijkstra to allow for only certain subsets of the lights on a given device be activated at one time as different treatment protocols would require based on the individual conditions of a given patient.

As to Claim 14, Dijkstra teaches a remote computing device communicatively coupled to at least one of the first communication module, second communication module, third communication module, and fourth communication module, whereby the at least one of the first communication module, second communication module, third communication module, and fourth communication module is configured to receive operation instructions from the remote computing device. See the discussion at [0021] describing an optional remote device that has inputs for remote control of the light therapy devices. See also the remote control by a professional (physician) at [0091-0092].

As to Claim 15, Dijkstra teaches that the remote computing device comprises at least one of a smartphone, a tablet, and a computer. See the discussion of a mobile phone, laptop, desktop, computer or remote control at [0030].

As to Claim 16, Dijkstra teaches the first light therapy device comprises a first plurality of communication ports coupled to the first housing and communicatively

coupled to the first communication module, the second light therapy device comprises a second plurality of communication ports coupled to the second housing and communicatively coupled to the second communication module, the third light therapy device further comprises a third plurality of communication ports coupled to the third housing and communicatively coupled to the third communication module, the fourth light therapy device further comprises a fourth plurality of communication ports coupled to the fourth housing and communicatively coupled to the fourth communication module, and wherein the first light therapy device, the second light therapy device, the third light therapy device, and the fourth light therapy device are communicatively coupled via a wired connection from the first plurality of communication ports to the second plurality of communication ports, from the second plurality of communication ports to the third plurality of communication ports, and from the third plurality of communication ports to the fourth plurality of communication ports. See the discussion of wired communication at [0096]. Those having ordinary skill in the art before the invention would have understood that multiple (at least two) communication ports would have been inherent to the embodiment of Dijkstra that uses four light therapy devices, i.e. in order to be connected in series, an input and an output communication port must be present.

As to Claim 17, Dijkstra teaches that the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device are communicatively coupled in at least one of series and parallel wired connections. It is inherent that Dijkstra would be wired in one of series or parallel.

As to Claim 18, Dijkstra teaches that the first control panel is coupled to a side surface of the first housing, and the second control panel is coupled to a side surface of the second housing. The comments for Claim 11 above apply equally here.

As to Claim 19, Dijkstra teaches that the first plurality of input buttons comprises a first time button configured to control a treatment time of the first light therapy device, a first play/pause button, and a first mode button configured to cause light to be emitted from at least a portion of the first plurality of lights, and cause light to not be emitted from at least a portion of the first plurality of lights, and wherein the second plurality of input buttons comprises a second time button configured to control a treatment time of the second light therapy device, a second play/pause button, and a second mode button configured to cause light to be emitted from at least a portion of the second plurality of lights, and cause light to not be emitted from at least a portion of the second plurality of lights. The comments for Claim 12 above apply equally here.

As to Claim 20, Dijkstra teaches that a first press of the first mode button causes at least a portion of red lights of the first plurality of lights to emit red light and at least a portion of near infrared lights of the first plurality of lights to not emit near infrared light, and a second press of the first mode button causes at least a portion of red lights of the first plurality of lights to not emit red light and at least a portion of near infrared lights of the first plurality of lights to emit near infrared light; and wherein a first press of the second mode button causes at least a portion of red lights of the second plurality of lights to emit red light and at least a portion of near infrared lights of the second plurality of lights to not emit near infrared light, and a second press of the second mode button causes at least a portion of red lights of the second plurality of

lights to not emit red light and at least a portion of near infrared lights of the second plurality of lights to emit near infrared light. The comments for Claim 13 above apply equally here.

Shterzer:

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable obvious over Shterzer in view of Dijkstra.

As to Claim 1, Shterzer teaches a light therapy system (e.g. 9a), comprising: a first light therapy device 104A comprising a first housing (Fig. 9), a first plurality of lights arranged and configured to emit at least one of red light and near infrared light (400nm-1200nm at [0004]) and a first communication module (132) communicatively coupled to the first plurality of lights and located within the first housing (each of the treatment units can include a wireless communication interface at [0196]; a second light therapy device 104B comprising a second housing (Fig. 9), a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second communication module communicatively coupled to the second plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module, as the first and second treatment units are the same, they both include the lights and communication module in Shterzer (see Figure 12); a first control panel (user interface 136 at [0186-0187]) coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons (e.g. on/off and initiation trigger) and a first

pair of indication lights (908) communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and

a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light.

Shterzer does not specifically state that the first communication module is configured to communicate directly with the second communication module, However, Dijkstra teaches, in the same field of endeavor, operating more than one light therapy device in a master/slave arrangement at [0099] such that the communication module of one therapy device can control or be controlled by another. Given the combined teachings, it would have been obvious to those having ordinary skill in the art before the invention to have utilized such a controller arrangement in Shterzer in order to allow for each individual device to have selective control over the others.

Further, while Shterzer teaches broadly that the indication lights can include operational status, Shterzer fails to specify that the first pair of indication lights is arranged and configured to indicate whether a portion of red lights of the first plurality of

lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light. However, Dijkstra describes a touchscreen display for selecting type of treatment, time and intensity. It is considered inherent that such a display would indicate the types of light used in the treatment as the user can select the specific parameters for treatment. It would have been obvious, given the combined teachings to have incorporated such indication lights or a touchscreen as in Dijkstra into the Shterzer devices for indicating the type of light being used in the treatment as a mere matter of design to display the current treatment parameters.

Proposed Rejections by the Requester Not Applied

Dijkstra:

The Request calls for Claim 5 to be rejected under 35 U.S.C. 102(a)(2) as being anticipated by Dijkstra, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable by Dijkstra.

As to Claim 5, Dijkstra teaches that the first light therapy device and the second light therapy device are each configured to operate in one of a lead mode, a follow mode (master and slave at [0099]), wherein when the first light therapy device operates in the lead mode and the second light therapy device operates in the follow mode the second light therapy device performs operations as instructed by the first light therapy device. However, the Request does not identify where Dijkstra teaches a neutral mode. The subject patent teaches a 3-way toggle to enable the lead, follow and neutral modes and states that the neutral mode allows for light therapy devices to operate on their own and ignore instructions sent from devices in a lead mode. Dijkstra does not appear to

teach such a mode and hence cannot fairly be considered as anticipating, or rendering obvious, this feature.

It follows from the above discussion that Dijkstra does not anticipate dependent claims 6-8 which depend from Claim 5.

Vargus:

The Request calls for Claim 1 to be rejected under 35 USC §102 as being anticipated by Vargus, or under 35 USC 103 as being obvious over Vargus.

As to the sole independent claim, Claim 1, the Request cites claim 1 as teaching a first communication module along with column 5, lines 14-25. The Request cites the same portion as teaching a second communication module. However, it is not readily apparent that the first and second sources have their own communication modules such that the first and second communication modules communicate directly. While both sources are shown to be connected to a control unit 350, e.g. Figure 3, there is no indication that the controller speaks to individual control modules in each source. IT would appear that the single controller turns on both units without any intermediary communication modules. As such, it would not be fair to say that two communication modules are anticipated by Vargas. The Request also infers that Vargas renders the claim obvious but does not clearly apply any teachings to the claim. Accordingly, it would not be fair to state that Vargas alternatively renders the claim obvious.

Tedford:

The Request calls for Claim 1 to be rejected under 35 U.S.C. 102(a)(2) as being anticipated by Tedford, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable by Tedford.

As to Claim 1, Tedford teaches a light therapy system 1000, comprising: a first light therapy device comprising a first housing (first casing 1012), a first plurality of lights (left array 1010 a, b, c) arranged and configured to emit at least one of red light and near infrared light (e.g. Claim 6), and a first communication module communicatively coupled to the first plurality of lights and located within the first housing - Tedford teaches that the device can be controlled wirelessly and that there may be more than one frame casing 1012 each with electronics such as a controller. While this may imply that a communication module may exist within each housing, Tedford does not specifically state this. In addition, there is no indication in Tedford that the control panel has a first plurality of input buttons or a first pair of indication lights. While there must be some inputs to control the devices, there is no clear indication that first and second control panels exist coupled to the first and second housings. The Request appears to imply that the external control unit would have these limitations, but that would not lend itself to each of the housings having its own control panel as only one control panel associated with the (remote) external control unit would be necessary. As such, it would not be fair to state that Tedford anticipates this claim. The Request also infers that Tedford renders the claim obvious but does not clearly apply any teachings to the claim. Accordingly, it would not be fair to state that Tedford alternatively renders the claim obvious.

Broeng:

To clarify, the Reexamination Order inadvertently stated that it disagreed that Broeng raises an SNQP. This was in error. However, the remainder of the Order indicated that there was in fact an SNQP, and that stands.

The Request calls for Claim 1 to be rejected under 35 U.S.C. 102(a)(2) as being anticipated by Broeng, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable by Broeng.

As to the sole independent claim, Claim 1, the Request states that Broeng teaches a second control panel citing [0013]. While this section refers to two light therapy devices, it does not appear to teach that each therapy device has its own control panel; rather Broeng states that the controller (one) 110 may be “*wirelessly interconnected with the one or (more) phototherapy device(s)*”. There is plainly no indication that each of the phototherapy devices includes such a controller. Paragraphs [0111-0112] indicate that the controller controls one or more of the first and second light source. Those having ordinary skill in the art before the invention would have understood this to mean a single controller controls both light sources. As such, it would not be fair to state that Broeng explicitly or inherently meets this limitation. The Request also infers that Broeng renders the claim obvious: “*Alternatively, Broeng teaches that the functionality of each of the limitations of claim 1 were known in the art.*” This does not amount to a clear application of the art to the claim, but rather is a blanket statement of obviousness. Accordingly, it would not be fair to state that Broeng alternatively renders the claim obvious.

Sullivan:

The Request calls for Claim 1 to be rejected under 35 U.S.C. 102(a)(2) as being anticipated by Sullivan, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable by Sullivan. As it was determined in the Reexamination Order that an SNQP did not exist with respect to Sullivan, it follows that this proposed rejection has not been applied.

Allowable Subject Matter

Claim 5 is confirmed for the reasons cited above.

Service of Papers

After the filing of a request for reexamination by a third party requester, any document filed by either the patent owner or the third party requester must be served on the other party (or parties where two or more third party requester proceedings are merged) in the reexamination proceeding in the manner provided in 37 CFR 1.248. See 37 CFR 1.550(f).

Extensions of Time

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37

CFR 1.550(a)). Extensions of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

Amendment in Reexamination Proceedings

Patent owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j), must be formally presented pursuant to 37 CFR 1.52(a) and (b), and must contain any fees required by 37 CFR 1.20(c). See MPEP § 2250(IV) for examples to assist in the preparation of proper proposed amendments in reexamination proceedings.

Submissions

In order to insure full consideration of any amendments, affidavits or declarations or other documents as evidence of patentability, such documents must be submitted in response to the first Office action on the merits (which does not result in a close of prosecution). Submissions after the second Office action on the merits, which is intended to be a final action, will be governed by the requirements of 37 CFR 1.116, after final rejection and by 37 CFR 41.33 after appeal, which will be strictly enforced.

Notification of Concurrent Proceedings

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 10,478,635 throughout the course of this reexamination proceeding. Likewise, if present, the third party requester is also

Art Unit: 3993

reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

All correspondence relating to this *ex parte* reexamination proceeding should be directed as follows:

By U.S. Postal Service Mail to:

Mail Stop *Ex Parte* Reexam
ATTN: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By EFS: Registered users may submit via the electronic filing system EFS-Web, at <https://efs.uspto.gov/efile/myportal/efs-registered>.

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand to: Customer Service Window
Randolph Building
401 Dulany St.
Alexandria, VA 22314

For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7070.

/Jeffrey R. Jastrzab/
Jeffrey R. Jastrzab
CRU Examiner
AU 3993
(571) 272-4947

Conferees : /BMF/ and /E.D.L/ SPRS, Art Unit 3993



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/014,851	09/01/2021	10478635	JOOVV.004A.RE	9824
124179	7590	12/06/2021	EXAMINER	
Gallium Law			JASTRZAB, JEFFREY R	
445 Minnesota St				
Suite 1500				
St. Paul, MN 55101				
			ART UNIT	PAPER NUMBER
			3993	
			MAIL DATE	DELIVERY MODE
			12/06/2021	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

DANIEL LAW OFFICES, PA
605 EAST ROBINSON STREET
SUITE 105
ORLANDO, FL 32801

***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/014,851 .

PATENT UNDER REEXAMINATION 10478635 .

ART UNIT 3993 .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

/JEFFREY R JASTRZAB/

Reexam Interview Summary

Patent Owner's representatives discussed the attached Interview Agenda in depth. In particular, proposed claim 1 was presented with the addition of the subject matter of confirmed Claim 5 with substantive deletions to the rest of Claim 1.

The PTO Panel advised that it was acceptable to add the allowable subject matter to Claim 1; however, it is not acceptable to broaden its scope per MPEP 2258/35 USC 305.

All correspondence relating to this *ex parte* reexamination proceeding should be directed as follows:

By **U.S. Postal Service Mail** to:

Mail Stop *Ex Parte* Reexam
ATTN: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By EFS: Registered users may submit via the electronic filing system EFS-Web, at
<https://efs.uspto.gov/efile/myportal/efs-registered>

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand to: Customer Service Window
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401 Dulany St.
Alexandria, VA 22314

For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7070.

/Jeffrey R. Jastrzab/
Jeffrey R. Jastrzab
Reexamination Specialist
AU 3993
(571) 272-4947

Conferees: /BMF/ and /E.D.L/
SPRS, Art Unit 3993

<i>Ex Parte Reexamination Interview Summary</i>	Control No. 90/014,851	Patent Under Reexamination 10478635	
	Examiner JEFFREY R JASTRZAB	Art Unit 3993	AIA (FITF) Status Yes

All participants (USPTO personnel, patent owner, patent owner's representative):

(1) <u>JEFFREY JASTRZAB, BEVERLY M FLANAGAN</u>	(3) <u>ISABEL FOX</u>
(2) <u>EILEEN LILLIS</u>	(4) <u>WES SCHWIE</u>

Date of Interview: 02 December 2021

Type: a) ☐ Telephonic b) ☒ Video Conference
c) ☐ Personal (copy given to: 1) ☐ patent owner 2) ☐ patent owners representative)

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.
Any other agreement(s) are set forth below under "Description of the general nature of what was agreed to..."

Claim(s) discussed: 1 and 5 .

Identification of prior art discussed: n/a .

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:
see attached sheet .

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims patentable, if available, must be attached. Also, where no copy of the amendments that would render the claims patentable is available, a summary thereof must be attached.)

A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION MUST INCLUDE PATENT OWNER'S STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. (See MPEP § 2281). IF A RESPONSE TO THE LAST OFFICE ACTION HAS ALREADY BEEN FILED, THEN PATENT OWNER IS GIVEN **ONE MONTH** FROM THIS INTERVIEW DATE TO PROVIDE THE MANDATORY STATEMENT OF THE SUBSTANCE OF THE INTERVIEW (37 CFR 1.560(b)). THE REQUIREMENT FOR PATENT OWNERS STATEMENT CAN NOT BE WAIVED. **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

/JEFFREY R JASTRZAB/ Reexamination Specialist, Art Unit 399	/BMF/	/EDL/
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cc: Requester (if third party requester)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Inventor: Scott Nelson

Examiner: Jeffrey R. Jastrzab

Group Art Unit: 3993

Application No.: 90/014,851

Mailing Date: November 10, 2021

Docket No.: JOOVV.004A.RE

Title: PHOTOBIOMODULATION THERAPY SYSTEMS AND METHODS

AGENDA FOR EXAMINER INTERVIEW ON DECEMBER 2, 2021

Dear Examiner Jastrzab:

Thank you for agreeing to speak with me on Thursday December 2th, at 3:00PM EST. In order to have a productive and efficient meeting, we would like to discuss the proposed claim amendments and arguments as shown on the following pages.

PROPOSED CLAIM AMENDMENTS AND REMARKS

Applicant presents the following proposed claim amendments, which include proposed amendments for independent Claim 1 as well as one proposed dependent claim.

1. (Currently amended) A light therapy system, comprising:

a first light therapy device comprising a first housing, a first plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a first control panel coupled to the first housing ~~and a first communication module communicatively coupled to the first plurality of lights and located within the first housing; and~~

a second light therapy device comprising a second housing, a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second control panel coupled to the second housing ~~and a second communication module communicatively coupled to the second plurality of lights and located within the second housing; wherein the first communication module is configured to communicate directly with the second communication module;~~

~~a first control panel coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and~~

~~a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light~~

wherein the first light therapy device and the second light therapy device are each configured to operate in a lead mode, a follow mode, and a neutral mode, wherein when the first light therapy device operates in the lead mode and the second light therapy device operates in the

follow mode the second light therapy device performs operations as instructed by the first light therapy device.

Remarks

- This claim reflects Claim 1 with the subject matter of allowable Claim 5 (devices configured to operate in lead mode, follow mode, and neutral mode)
 - Neutral mode is the key novel aspect that was indicated as allowable over the art cited by the petition requestor
- Applicant proposes removing some subject matter from Claim 1 (e.g., communication modules, input buttons, indication lights)

21. (New) The light therapy system of Claim 1, wherein when the first light therapy device operates in the neutral mode the first light therapy device performs operations as instructed by the first light therapy device, and when the second light therapy device operates in the neutral mode the second light therapy device performs operations as instructed by the second light therapy device.

Remarks

- Applicant proposes new Claim 21 to further define neutral mode
- Claim 21 is supported by Applicant's specification on page 2, lines 26-29 and page 11, lines 5-7

Applicant again thanks Examiner Jastrzab for his time discussing this matter.

Respectfully submitted,

/Wesley E. Schwie/

Wesley E. Schwie

Reg. No. 64,950

651.428.9828

Date: December 1, 2021

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Inventor: Scott Nelson

Examiner: Jeffrey R. Jastrzab

Group Art Unit: 3993

Ex Parte Reexam No.: 90/014,851

U.S. Patent No.: 10,478,635

Mailing Date: November 10, 2021

Docket No.: JOOVV.004A.RE

Title: PHOTOBIOMODULATION THERAPY SYSTEMS AND METHODS

INTERVIEW SUMMARY

To:
Mail Stop – Ex Parte Reexam
ATTN: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner:

Please see the below summary regarding the Examiner Interview conducted on December 2, 2021.

Interview Participants:

- Jeff Jastrzab (Examiner)
- Eileen Lillis (Examiner)
- Beverly Flanagan (Examiner)
- Wesley Schwie (Reg. 64,950)
- Isabel Fox (Reg. 77,685)

Date:

- December 2, 2021

Type of Interview:

- Video conference (via WebEx)

Topic of Interview:

- “Letter Requesting Interview with Examiner” dated December 1, 2021, emailed to Examiners Jastrzab, Lillis, and Flanagan and filed in Private PAIR on December 1, 2021.

Detailed Description of Interview:

Patent Owner’s representatives presented proposed claim amendments for Claim 1, which, as shown in the attached Interview Agenda, included removing some subject matter and adding subject matter from Claim 5, which was confirmed as allowable over the art cited in the Petition for Ex Parte Reexamination. The PTO Panel (Examiners Jastrzab, Lillis, and Flanagan) informed Patent Owner’s representatives that claims may not be broadened in an Ex Parte Reexamination proceeding, therefore no subject matter may be removed from Claim 1 in its issued form. Examiner Jastrzab indicated that proposed Claim 1, if it were amended to keep all of the subject matter of issued Claim 1 and include the subject matter from confirmed Claim 5, would be allowable.

The PTO Panel and Patent Owner’s representatives discussed the possibility of pursuing a divisional application or a reissue application with Claim 1 as initially proposed in the interview agenda, including the possibility of merging the current reexamination proceeding with a reissue application. Given the likelihood of allowance of Claim 1, Examiner Jastrzab recommended that a reissue application be filed without merging with the current reexamination. However, it was found that the patent under reexamination (U.S. Patent No. 10,478,635) issued on November 19, 2019, and is therefore outside the two-year window for filing broadened reissue claims. The PTO Panel also generally cautioned Patent Owner’s representatives about the issue of recapture that can arise during prosecution of a reissue application.

Patent Owner sincerely thanks the PTO Panel for taking the time to meet with Wes Schwie and Isabel Fox to discuss the proposed claim amendments, and also for the explanations regarding reexamination proceedings and reissue applications. Patent Owner submits herewith a formal response to the Office Action, including Claim 1 amended to include the subject matter of confirmed Claim 5.

Respectfully submitted,

/Wesley E. Schwie/

Wesley E. Schwie

Reg. No. 64,950

651.428.9828

Date: December 15, 2021

Electronic Acknowledgement Receipt

EFS ID:	44534199
Application Number:	90014851
International Application Number:	
Confirmation Number:	9824
Title of Invention:	Photobiomodulation Therapy Systems and Methods
First Named Inventor/Applicant Name:	10478635
Customer Number:	124179
Filer:	Wesley Edward Schwie/Isabel Fox
Filer Authorized By:	Wesley Edward Schwie
Attorney Docket Number:	JOOVV.004A.RE
Receipt Date:	16-DEC-2021
Filing Date:	01-SEP-2021
Time Stamp:	12:56:33
Application Type:	Reexam (Third Party)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Response after non-final action-owner timely	2021-12-16-response- JOOVV-004A-RE.pdf	125129	no	10
			9c249171f1bd1a67bb4a8cdcf2138d9de248d		

Warnings:

Exhibit 1008 - 124

Information:					
2	Reexam Miscellaneous Incoming Letter	2021-12-16-examiner-interview-agenda-JOOVV-004A-RE.pdf	102370	no	3
			2ff82bce07f7d2be839aa237313a353a3492b063		
Warnings:					
Information:					
3	Reexam Miscellaneous Incoming Letter	2021-12-16-interview-summary-JOOVV-004A-RE.pdf	100443	no	3
			b7de9506d78c219c7a35a28ad7d98de602a37b18		
Warnings:					
Information:					
Total Files Size (in bytes):			327942		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Inventor: Scott Nelson

Examiner: Jeffrey R. Jastrzab

Group Art Unit: 3993

Ex Parte Reexam No.: 90/014,851

U.S. Patent No.: 10,478,635

Mailing Date: November 10, 2021

Docket No.: JOOVV.004A.RE

Title: PHOTOBIMODULATION THERAPY SYSTEMS AND METHODS

RESPONSE TO NON-FINAL OFFICE ACTION DATED NOVEMBER 10, 2021

To:

Mail Stop – Ex Parte Reexam

ATTN: Central Reexamination Unit

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Examiner:

REPLY PURSUANT TO 37 CFR § 1.550

In response to the Non-Final Office Action dated **November 10, 2021**, and issued in response to an Ex Parte Reexamination, reconsideration is respectfully requested in view of the amendments and/or remarks as indicated below:

A listing of the Claims begins on page 2 of this paper.

Status of Claims and support for claim changes begin on page 8 of this paper.

Remarks begin on page 9 of this paper.

Patent Owner believes the claims to be in condition for allowance. If Examiner disagrees, then Patent Owner openly invites and encourages Examiner to call Patent Owner's representative Wes Schwie (651.256.9480). Thank you.

CLAIMS

Please amend the claims as indicated below:

1. (Currently amended) A light therapy system, comprising:

a first light therapy device comprising a first housing, a first plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a first communication module communicatively coupled to the first plurality of lights and located within the first housing;

a second light therapy device comprising a second housing, a second plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a second communication module communicatively coupled to the second plurality of lights and located within the second housing, wherein the first communication module is configured to communicate directly with the second communication module;

a first control panel coupled to the first housing and communicatively coupled to the first communication module, the first control panel comprising a first plurality of input buttons and a first pair of indication lights communicatively coupled to the first plurality of input buttons, the first pair of indication lights arranged and configured to indicate whether a portion of red lights of the first plurality of lights is emitting red light and whether a portion of near infrared lights of the first plurality of lights is emitting near infrared light; and

a second control panel coupled to the second housing and communicatively coupled to the second communication module, the second control panel comprising a second plurality of input buttons and a second pair of indication lights communicatively coupled to the second plurality of input buttons, the second pair of indication lights arranged and configured to indicate whether a portion of red lights of the second plurality of lights is emitting red light and whether a portion of near infrared lights of the second plurality of lights is emitting near infrared light,

wherein the first light therapy device and the second light therapy device are each configured to operate in one of a lead mode, a follow mode, and a neutral mode, wherein when the first light therapy device operates in the lead mode and the second light therapy device operates in the follow mode the second light therapy device performs operations as instructed by the first light therapy device.

2. (Original) The light therapy system of Claim 1, wherein the first communication module

and the second communication module are communicatively coupled via a wireless connection.

3. (Original) The light therapy system of claim 1, further comprising a third light therapy device comprising a third housing, a third plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a third communication module communicatively coupled to the third plurality of lights and located within the third housing, wherein the third communication module is configured to communicate directly with at least one of the first communication module and the second communication module.

4. (Original) The light therapy system of claim 3, further comprising a fourth light therapy device comprising a fourth housing, a fourth plurality of lights arranged and configured to emit at least one of red light and near infrared light, and a fourth communication module communicatively coupled to the fourth plurality of lights and located within the fourth housing, wherein the fourth communication module is configured to communicate directly with at least one of the first communication module, second communication module, and the third communication module.

5. (Canceled).

6. (Currently amended) The light therapy system of claim [5]4, wherein the third light therapy device and the fourth light therapy device are each configured to operate in one of a lead mode, a follow mode, and a neutral mode, wherein when the first light therapy device operates in the lead mode and the second light therapy device, third light therapy device, and fourth light therapy device operate in the follow mode the second light therapy device, third light therapy device, and fourth light therapy device perform operations as instructed by the first light therapy device.

7. (Original) The light therapy system of claim 6, wherein when at least one of the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device operates in the neutral mode, the at least one of the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device is configured to ignore instructions from a respective light therapy device operating in the lead mode.

8. (Original) The light therapy system of claim 6, wherein at least two of the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device operate in the lead mode simultaneously.

9. (Original) The light therapy system of claim 4, wherein the first communication module, the second communication module, the third communication module, and the fourth communication module are communicatively coupled via a wireless connection.

10. (Original) The light therapy system of claim 4, further comprising a third control panel coupled to the third housing and communicatively coupled to the third communication module, the third control panel comprising a third plurality of input buttons and a third pair of indication lights communicatively coupled to the third plurality of input buttons, the third pair of indication lights arranged and configured to indicate whether a portion of red lights of the third plurality of lights is emitting red light and whether a portion of near infrared lights of the third plurality of lights is emitting near infrared light; and

a fourth control panel coupled to the fourth housing and communicatively coupled to the fourth communication module, the fourth control panel comprising a fourth plurality of input buttons and a fourth pair of indication lights communicatively coupled to the fourth plurality of input buttons, the fourth pair of indication lights arranged and configured to indicate whether a portion of red lights of the fourth plurality of lights is emitting red light and whether a portion of near infrared lights of the fourth plurality of lights is emitting near infrared light.

11. (Original) The light therapy system of claim 10, wherein the third control panel is coupled to a side surface of the third housing, and the fourth control panel is coupled to a side surface of the fourth housing.

12. (Original) The light therapy system of claim 10, wherein the third plurality of input buttons comprises a third time button configured to control a treatment time of the third light therapy device, a third play/pause button, and a third mode button configured to cause light to be emitted from at least a portion of the third plurality of lights, and cause light to not be emitted from at least a portion of the third plurality of lights, and wherein the fourth plurality of input buttons comprises

a fourth time button configured to control a treatment time of the fourth light therapy device, a fourth play/pause button, and a fourth mode button configured to cause light to be emitted from at least a portion of the fourth plurality of lights, and cause light to not be emitted from at least a portion of the fourth plurality of lights.

13. (Original) The light therapy system of claim 12, wherein a first press of the third mode button causes at least a portion of red lights of the third plurality of lights to emit red light and at least a portion of near infrared lights of the third plurality of lights to not emit near infrared light, and a second press of the third mode button causes at least a portion of red lights of the third plurality of lights to not emit red light and at least a portion of near infrared lights of the third plurality of lights to emit near infrared light; and

wherein a first press of the fourth mode button causes at least a portion of red lights of the fourth plurality of lights to emit red light and at least a portion of near infrared lights of the fourth plurality of lights to not emit near infrared light, and a second press of the fourth mode button causes at least a portion of red lights of the fourth plurality of lights to not emit red light and at least a portion of near infrared lights of the fourth plurality of lights to emit near infrared light.

14. (Original) The light therapy system of claim 4, further comprising a remote computing device communicatively coupled to at least one of the first communication module, second communication module, third communication module, and fourth communication module, whereby the at least one of the first communication module, second communication module, third communication module, and fourth communication module is configured to receive operation instructions from the remote computing device.

15. (Original) The light therapy system of claim 14, wherein the remote computing device comprises at least one of a smartphone, a tablet, and a computer.

16. (Original) The light therapy system of claim 4, wherein the first light therapy device comprises a first plurality of communication ports coupled to the first housing and communicatively coupled to the first communication module, the second light therapy device comprises a second plurality of communication ports coupled to the second housing and

communicatively coupled to the second communication module, the third light therapy device further comprises a third plurality of communication ports coupled to the third housing and communicatively coupled to the third communication module, the fourth light therapy device further comprises a fourth plurality of communication ports coupled to the fourth housing and communicatively coupled to the fourth communication module, and

wherein the first light therapy device, the second light therapy device, the third light therapy device, and the fourth light therapy device are communicatively coupled via a wired connection from the first plurality of communication ports to the second plurality of communication ports, from the second plurality of communication ports to the third plurality of communication ports, and from the third plurality of communication ports to the fourth plurality of communication ports.

17. (Original) The light therapy system of claim 16, wherein the first light therapy device, second light therapy device, third light therapy device, and fourth light therapy device are communicatively coupled in at least one of series and parallel wired connections.

18. (Original) The light therapy system of claim 1, wherein the first control panel is coupled to a side surface of the first housing, and the second control panel is coupled to a side surface of the second housing.

19. (Original) The light therapy system of claim 1, wherein the first plurality of input buttons comprises a first time button configured to control a treatment time of the first light therapy device, a first play/pause button, and a first mode button configured to cause light to be emitted from at least a portion of the first plurality of lights, and cause light to not be emitted from at least a portion of the first plurality of lights, and wherein the second plurality of input buttons comprises a second time button configured to control a treatment time of the second light therapy device, a second play/pause button, and a second mode button configured to cause light to be emitted from at least a portion of the second plurality of lights, and cause light to not be emitted from at least a portion of the second plurality of lights.

20. (Original) The light therapy system of claim 19, wherein a first press of the first mode

button causes at least a portion of red lights of the first plurality of lights to emit red light and at least a portion of near infrared lights of the first plurality of lights to not emit near infrared light, and a second press of the first mode button causes at least a portion of red lights of the first plurality of lights to not emit red light and at least a portion of near infrared lights of the first plurality of lights to emit near infrared light; and

wherein a first press of the second mode button causes at least a portion of red lights of the second plurality of lights to emit red light and at least a portion of near infrared lights of the second plurality of lights to not emit near infrared light, and a second press of the second mode button causes at least a portion of red lights of the second plurality of lights to not emit red light and at least a portion of near infrared lights of the second plurality of lights to emit near infrared light.

21. (New) The light therapy system of Claim 1, wherein when the first light therapy device operates in the neutral mode the first light therapy device operates independently of the second light therapy device, and when the second light therapy device operates in the neutral mode the second light therapy device operates independently of the first light therapy device.

STATUS OF CLAIMS AND SUPPORT FOR CLAIM CHANGES

Pursuant to 37 C.F.R. 1.530(e), please see the below listing of status of claims and support for claim changes.

1. Pending – First Amended. The amendments to claim 1 are supported by issued Claim 5 of U.S. Patent No. 10,478,635, which was confirmed in the Office Action.
2. Pending
3. Pending
4. Pending
5. Canceled
6. Pending – First amended for claim dependency.
7. Pending
8. Pending
9. Pending
10. Pending
11. Pending
12. Pending
13. Pending
14. Pending
15. Pending
16. Pending
17. Pending
18. Pending
19. Pending
20. Pending
21. Pending – New. New claim 21 is supported by column 2, lines 18-23 of U.S. Patent No. 10,478,635.

REMARKS

Claims 1-20 were previously issued. Claims 1-4 and 9-20 were rejected. Patent Owner has amended Claims 1 and 6; canceled Claim 5; and added new Claim 21. No new matter has been added. Favorable reconsideration and allowance of the reexamination application are respectfully requested.

Claim Rejections Under 35 U.S.C. § 102 and § 103

Claims 1-4 and 9-20 were rejected under 35 U.S.C. § 102(a)(2) as being anticipated by U.S. Publication No. 2019/0030359 (“Dijkstra”). In the alternative, Claims 11, 13, 18, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dijkstra. Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentably obvious over U.S. Publication No. 2020/0360714 (“Shterzer”) in view of Dijkstra.

Patent Owner has amended Claim 1 to include, “wherein the first light therapy device and the second light therapy device are each configured to operate in one of a lead mode, a follow mode, and a neutral mode, wherein when the first light therapy device operates in the lead mode and the second light therapy device operates in the follow mode the second light therapy device performs operations as instructed by the first light therapy device.”

The subject matter added to Claim 1 was previously presented in Claim 5, which was confirmed as allowable over the cited prior art (see page 17 of the Office Action). As discussed during the Examiner Interview, Patent Owner believes that combining previous Claim 5 with Claim 1 renders Claim 1 allowable.

Accordingly, Patent Owner respectfully requests withdrawal of the rejection to Claim 1 (and dependent Claims 2-4 and 9-20) under 35 U.S.C. § 102 and § 103.

New Claim

Patent Owner has added new Claim 21. No new matter has been added, and Claim 21 is supported by column 2, lines 18-23 of U.S. Patent No. 10,478,635. New Claim 21 is a dependent claim of Claim 1, which Patent Owner respectfully asserts has been shown to be allowable over the cited art. Accordingly, Patent Owner respectfully requests allowance of all of the claims, including Claim 21.

No Disclaimers or Disavowals

Although the Patent Owner has amended the claims to expedite allowance, the Patent Owner is not conceding that any previously pending claims are not allowable. The Patent Owner respectfully reserves the right to traverse characterizations of what any references may show or teach, alone or in combination. The Patent Owner reserves the right to prosecute previously pending claims, claims of broader scope, and claims based on any subject matter supported by the present disclosure or any future disclosure. The Patent Owner has not disclaimed or disavowed any subject matter supported by the present application.

Certification Under 37 CFR §1.248(b)(2)

Patent Owner hereby certifies that a copy of this Response, the Examiner Interview Agenda, and the Examiner Interview Summary have been served in their entirety via USPS First Class Mail to the Petition Requestor at the address listed in the Request for Ex Parte Reexamination.

Conclusion

The Patent Owner has endeavored to amend the application based on the Examiner's comments to expedite allowance. No new matter has been added. Based on the above remarks and the amendments, the Patent Owner believes the application is in condition for allowance. If any questions remain, the Examiner is invited to contact the undersigned.

Respectfully submitted,

/Wesley E. Schwie/

Wesley E. Schwie

Reg. No. 64,950

651.256.9480

Date: December 10, 2021

Attachments:

-Examiner Interview Agenda

-Examiner Interview Summary