

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIFESCAN, INC., SENSEONICS HOLDINGS, INC., and
ASCENSIA DIABETES CARE HOLDINGS AG,
Petitioner,

v.

CELLSPIN SOFT, INC.,
Patent Owner.

IPR2025-00104
Patent 8,904,030 B2

Before GREGG I. ANDERSON, CYNTHIA M. HARDMAN, and
MICHAEL A. VALEK, *Administrative Patent Judges*.

VALEK, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314
Granting Motion for Joinder
35 U.S.C. § 315(c); 37 C.F.R. § 42.122

I. INTRODUCTION

LifeScan, Inc., Senseonics Holdings, Inc., and Ascensia Diabetes Care Holdings AG (“Petitioner” or “Joining Petitioners”) request *inter partes* review of claims 1, 2, 4–7, and 9–18 of U.S. Patent No. 8,904,030 B2 (“the ’030 patent,” Ex. 1001). Paper 1 (“Pet.”).¹ Cellspin Soft, Inc. (“Patent Owner”) did not file a Preliminary Response.

Concurrently with the Petition, Petitioner filed a Motion for Joinder seeking joinder as a party to *TikTok Inc. v. Cellspin Soft, Inc.*, IPR2024-00770 (the “770 IPR”). Paper 5 (“Mot.”). Patent Owner did not respond to Petitioner’s Motion for Joinder.

We have authority under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” We also have authority to consider Petitioner’s Motion for Joinder. *See* 35 U.S.C. § 315(c); 37 C.F.R. § 42.122.

Based on the current record and for the reasons explained below, we (1) institute an *inter partes* review of claims 1, 2, 4–7, and 9–18 of the ’030 patent on all challenges in the Petition; and (2) grant Petitioner’s Motion for Joinder subject to the conditions detailed below.

¹ The first sentence in the Petition identifies “claims 1-18” as the challenged claims. Pet. 1. However, Petitioner’s table of asserted grounds and all of its substantive argument sections omit claims 3 and 8. *See id.* at 1, 10, 51, 68, 78. Thus, we understand the initial identification of claims 3 and 8 as being amongst the challenged claims to be a typographical error.

II. BACKGROUND

A. Real Parties in Interest

Petitioner identifies LifeScan, Inc., LifeScan Global Corporation, Senseonics Holdings, Inc., Senseonics, Incorporated, Ascensia Diabetes Care Holdings AG, and Ascensia Diabetes Care, Inc. as real parties in interest. Pet. 84. Patent Owner identifies itself (Cellspin Soft, Inc.) as the real party in interest. Paper 10 (Patent Owner Mandatory Notices) 2.

B. Related Matters

Petitioner and Patent Owner identify the following district court actions involving the '030 patent: *Cellspin Soft, Inc. v. ByteDance, Ltd. et al.*, 2:23-cv-496 (E.D. Tex.); *Cellspin Soft, Inc. v. LifeScan, Inc.*, 2:24-cv-286 (E.D. Tex.); *Cellspin Soft, Inc. v. Senseonics Holdings, Inc. et al.*, 2:24-cv-263 (E.D. Tex.). Pet. 84; Paper 10, 2.

Petitioner and Patent Owner both identify the 770 IPR. Pet. 84; Paper 10, 2.

Petitioner additionally identifies *inter partes* review proceedings concerning related patents, stating:

The '030 patent is in the same family as U.S. Patent Nos. 11,234,121 (“the '121 patent”), 9,900,766 (“the '766 patent”), 8,756,336 (“the '336 patent”), 8,862,757 (“the '757 patent”), 8,898,260 (“the '260 patent”), and 11,659,381 (“the '381 patent”). TikTok Inc. petitioned for *Inter Partes* Review of the '121, '766, '336, '757, '260, and '381 patents, and Petitioners are concurrently petitioning for *Inter Partes* Review of the '121 and '766 patents.

Pet. 84–85. Petitioner also states that the '030 patent is “in the same family as U.S. Pat. No. 9,258,698, which was the subject of IPR2019-00127, IPR2019-00131, IPR2019-01107, and IPR2019-01108.” *Id.* at 85.

C. The '030 Patent

The '030 patent issued on December 2, 2014 from an application filed June 4, 2014, and claims priority to a series of applications the earliest of which (Provisional Application No. 61/017,202) was filed on December 28, 2007. Ex. 1001, codes (22), (45), (60).

The '030 patent generally describes “a method and system for utilizing a digital data capture device in conjunction with a Bluetooth (BT) enabled mobile device for publishing data and multimedia content on one or more websites automatically or with minimal user intervention.” Ex. 1001, Abstr. In this method, a “client application” on the BT enabled mobile device “detects capture of data and multimedia content on the digital data capture device and initiates transfer of the captured data, multimedia content, and associated files” and “automatically publishes” it by transferring that data to a website. *See id.*

Figure 1 of the '030 patent, reproduced below, is a flowchart illustrating this method. *See* Ex. 1001, 3:6–9.

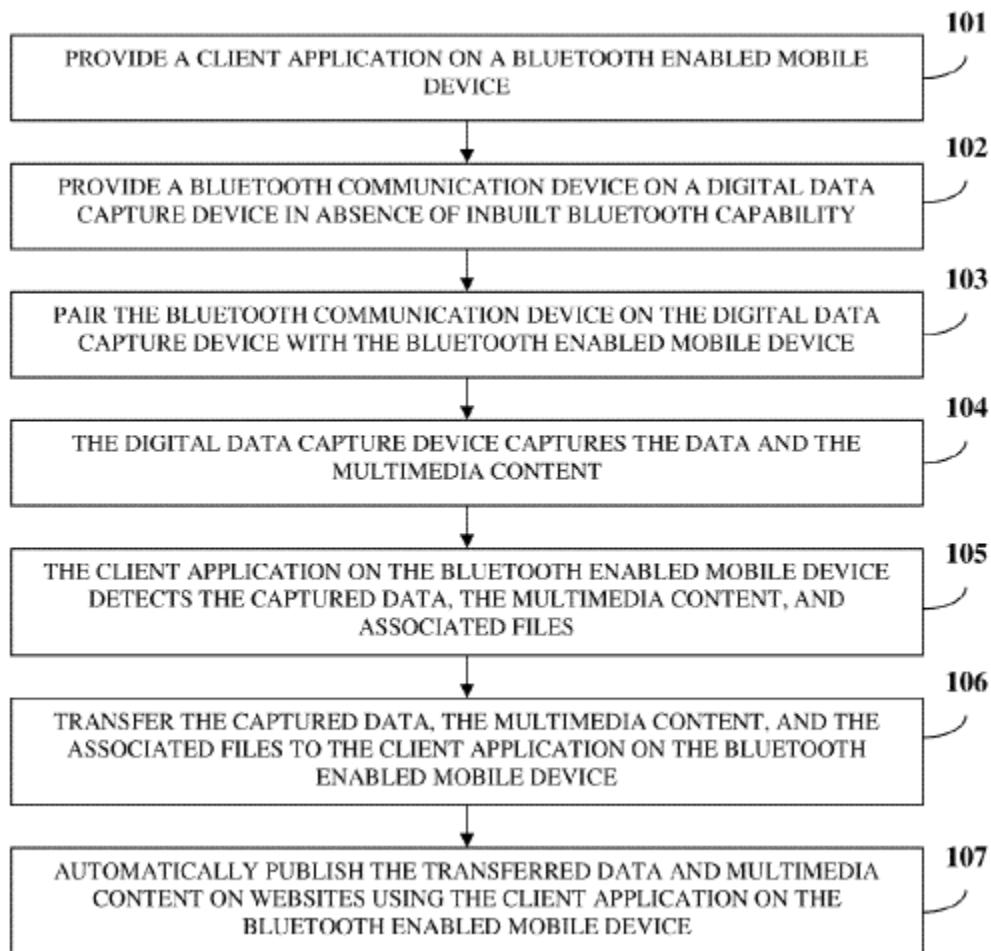


Figure 1 depicts steps 101–107. Steps 101 and 102 respectively provide a client application on the mobile device and a BT communication device on the capture device. At step 103, the BT communication device on the capture device is paired with the mobile device “to establish a connection between” the two. *Id.* at 3:56–58. Thereafter, data is captured (step 104), detected by the client application on the mobile device (step 105), and transferred to the client application on the mobile device (step 106) “using one or a combination of file transfer protocols.” *Id.* at 4:22–44. The client application then “automatically publishes” the transferred data on one or more websites (step 107). *Id.* at 5:34–36. According to the Specification, the “transport protocol that is used between the client application . . . and the

publishing service [on the website] may be hypertext transfer protocol (HTTP).” *Id.* at 10:4–7.

D. The Challenged Claims

The Petition challenges claims 1, 2, 4–7, and 9–18. Claim 12 is illustrative and reproduced below with the bracketed annotations Petitioner uses to identify different limitations.

12[P] A method for transferring data to a remote internet server by a Bluetooth enabled mobile device comprising:

[12.1] providing a software module on the Bluetooth enabled mobile device, wherein the software module on the Bluetooth enabled mobile device is configured to perform steps comprising:

[12.2] establishing a paired secured connection between the Bluetooth enabled mobile device and a Bluetooth enabled data capture device, wherein paired secure Bluetooth connections uses cryptographic encryption key;

[12.3] receiving a message from the Bluetooth enabled data capture device, corresponding to supported data capability of the Bluetooth enabled data capture device;

[12.4] detecting new data acquired by the Bluetooth enabled data capture device for transfer, wherein detecting the new data for transfer comprises:

[12.5.1] sending a message to the Bluetooth enabled data capture device, over the established paired secure Bluetooth connection, to enable event notifications on the Bluetooth enabled data capture device corresponding to new data,

[12.5.2] wherein the new data is data acquired by Bluetooth enabled data capture device after establishing the secure Bluetooth pairing connection between the Bluetooth enabled data capture device and the Bluetooth enabled mobile device;

[12.6] enabling event notification listening on Bluetooth enabled mobile device, to listen for event notifications sent from the Bluetooth enabled data capture device, over the established paired secure Bluetooth connection;

[12.7] receiving, from the Bluetooth enabled data capture device, an event notification corresponding to existence of new data

for transfer, over the established paired secure Bluetooth connection;
and

[12.8] sending a request to the Bluetooth enabled data capture device, to get new data for transfer;

[12.9] receiving, by the Bluetooth enabled mobile device, encrypted data corresponding to the new data over the established Bluetooth paired secure wireless connection and obtaining new data from the received encrypted data using cryptographic encryption key;
and

[12.10.1] transferring the obtained new data along with a user identifier to a remote internet server, comprising configuring the obtained new data to comprise an action setting and destination web address of a remote internet server, wherein action setting comprises one of a remote procedure call (RPC) method and hypertext transfer protocol (HTTP) method, and

[12.10.2] wherein the user identifier uniquely identifies a particular user of the internet service provided by a remote internet server.

Ex. 1001, 13:60–14:46.

Claims 1, 6, and 15 are also independent and recite limitations similar to those above with some differences. *See id.* at 11:50–12:43, 12:56–13:45, 14:53–16:14. For example, unlike claims 1 and 12, claims 6 and 15 do not recite sending or receiving a message corresponding to “supported data capacity” as in limitation 12.3. *Id.* Moreover, claims 6 and 15 refer to sending a “new data object,” as opposed to just “new data” as in claims 1 and 12, from the data capture device to the mobile device. *Id.* Claim 15 further recites that the “new data object comprises of new data, data associated with new data and time-stamp . . . wherein the time-stamp corresponds to a time when new data was acquired.” *Id.* at 15:19–20 (limitation 15.7).

E. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1, 2, 4–7, 9–18	103	Hiroishi, ² Takahashi, ³ Bluetooth ⁴
1, 2, 4–7, 9–18	103	Hiroishi, Kahn, ⁵ Bluetooth
1, 2, 4–7, 9–14	103	Singh129, ⁶ Bluetooth
15–18	103	Singh129, Bluetooth, Takahashi

Petitioner supports its contentions with the Declaration of David B. Lett (Ex. 1030), among other evidence.

² Japanese Unexamined Patent Application Publication 2003-60953, published Feb. 28, 2003 (“Hiroishi”). The record includes the original Japanese language publication (Exhibit 1013), a translation (Exhibit 1011), and a certificate of translation (Exhibit 1012). Herein, we cite and refer to the certified translation (Exhibit 1011).

³ Japanese Unexamined Patent Application Publication 2005-303511, published Oct. 27, 2005 (“Takahashi”). The record includes the original Japanese language publication (Exhibit 1016), a translation (Exhibit 1014), and a certificate of translation (Exhibit 1015). Herein, we cite and refer to the certified translation (Exhibit 1014).

⁴ Petitioner cites two separate documents as “Bluetooth.” The first document is Bluetooth Specification Version 2.1 + EDR, dated July 26, 2007 (Exhibit 1019) (“Bluetooth Core Specification”). The second document is C. Bisdikian, “An Overview of the Bluetooth Wireless Technology,” IEEE Communications Magazine, vol. 39, no. 12, pp. 86–94, December 2001 (Exhibit 1032) (“Bluetooth Overview”).

⁵ US 2004/0004737 A1, published January 8, 2004 (Ex. 1017) (“Kahn”).

⁶ US 2009/0172129 A1, published July 2, 2009 (Ex. 1009) (“Singh129”).

III. ANALYSIS

A. Statutory and Regulatory Provisions

Joinder in an *inter partes* review is permitted under § 315(c) as follows:

If the Director institutes an *inter partes* review, the Director, in his or her discretion, may join as a party to that *inter partes* review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an *inter partes* review under section 314.

35 U.S.C. § 315(c).

Regarding timeliness, a petition for an *inter partes* review must be filed no later than “1 year after the date on which the petitioner, real party in interest, or privy of the petitioner is served with a complaint alleging infringement of the patent.” 35 U.S.C. § 315(b); *see also* 37 C.F.R.

§ 42.101(b). This one-year time bar, however, does not apply to a request for joinder under § 315(c). *See* 35 U.S.C. § 315(b); 37 C.F.R. § 42.122(b).

Instead, “[a]ny request for joinder must be filed . . . no later than one month after the institution date of any *inter partes* review for which joinder is requested.” 37 C.F.R. § 42.122(b).

B. Whether the Petition Warrants Institution

1. The “Reasonable Likelihood” Standard for Instituting Trial

In the 770 IPR, we determined that Petitioner TikTok Inc. (“TikTok”) satisfied the “reasonable likelihood” standard for instituting trial. *See* IPR2024-00770, Paper 8 (“770 IPR Inst. Dec.”) at 13–48.

Here, Petitioner presents substantively identical challenges to claims 1, 2, 4–7, and 9–18 of the ’030 patent based on the same prior art, the same

evidence, and the same unpatentability theories as TikTok presents in the 770 IPR. *Compare* Pet. 10–81, with IPR2024-00770, Paper 2 (“770 Pet.”) 11–81; *see also* Mot. 5 (asserting that “[t]here are no substantive differences between the LifeScan Petition and the [770] IPR Petition”).

Because Petitioner presents substantively identical challenges to claims 1, 2, 4–7, and 9–18 of the ’030 patent based on the same prior art, evidence, and unpatentability theories in the 770 IPR, Petitioner satisfies the “reasonable likelihood” standard for instituting trial for the same reasons the “reasonable likelihood” standard for instituting trial was satisfied in the 770 IPR. *See* 770 IPR Inst. Dec. 13–48.

2. Timeliness

As discussed above, “[a]ny request for joinder must be filed . . . no later than one month after the institution date of any *inter partes* review for which joinder is requested.” 37 C.F.R. § 42.122(b). We instituted an *inter partes* review in the 770 IPR on September 30, 2024. *See* 770 IPR Inst. Dec. 1. Petitioner filed the Petition and Motion for Joinder on October 30, 2024. *See* Pet. 88; Mot. 4, 11. Under 37 C.F.R. § 42.122(b), Petitioner timely filed the Petition and Motion for Joinder.

3. Conclusion Whether the Petition Warrants Institution

Because Petitioner (1) satisfies the “reasonable likelihood” standard for instituting trial; and (2) timely filed the Petition and the Motion for Joinder, the Petition warrants the institution of an *inter partes* review.

C. Whether to Grant Petitioner’s Motion for Joinder

In considering a joinder motion, we consider factors including the reasons joinder is appropriate; whether there are any new grounds of unpatentability asserted in the petition; and whether joinder would impact

the trial schedule for the existing review. *See, e.g., Kyocera Corp. v. SoftView LLC*, IPR2013-00004, Paper 15 at 4 (PTAB Apr. 24, 2013).

Here, Petitioner asserts that joinder is appropriate because the Petition “challenges the validity of the same claims of the ’030 patent on identical grounds to those in the [770] IPR,” and “[t]here are no substantive differences between the LifeScan Petition and the [770] IPR Petition.”

Mot. 5. Petitioner’s “supporting materials—including its supporting expert declaration, exhibits, and exhibit numbering—are substantively identical to those presented in the [770] IPR.” *Id.* at 6. As such, Petitioner argues that a joined proceeding would “be more efficient and less wasteful, as only a single trial on these common grounds would be required.” *Id.*

If joined to the 770 IPR, Petitioner agrees “to adhere to all applicable deadlines set forth in the [770] IPR Scheduling Order.” *Id.* at 7. Petitioner also stipulates that it “will act as an ‘understudy’ and will not assume an active role unless Petitioner TikTok ceases to participate in the proceeding.” *Id.* a 2. Petitioner agrees that the following conditions will apply “[u]nless and until Petitioner TikTok ceases to participate in the [770] IPR”:

- a) The Joining Petitioners shall not make any substantive filing and shall be bound by the filings of Petitioner TikTok, unless a filing concerns termination and settlement, or issues solely involving the Joining Petitioners;
- b) The Joining Petitioners shall not present any argument or make any presentation at oral hearing unless an issue solely involves the Joining Petitioners, or when addressing Board-approved motions that do not affect Petitioner TikTok, or its respective position;

- c) The Joining Petitioners shall not seek to cross-examine or defend the cross-examination of any witness, unless the topic of cross-examination concerns issues solely involving the Joining Petitioners;
- d) The Joining Petitioners shall not seek discovery from Patent Owner on issues not solely involving the Joining Petitioners;
- e) The Joining Petitioners will not rely on expert testimony beyond that submitted by Petitioner TikTok unless Petitioner TikTok is terminated from the case.

Id. at 7–8.

For the reasons stated by Petitioner in the Motion, and in the absence of any opposition by Patent Owner, we agree that Petitioner’s joinder to the 770 IPR is appropriate and will not materially affect the trial schedule for the 770 IPR. *See* Mot. 4–9.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review is instituted based on all grounds asserted in the Petition;

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

FURTHER ORDERED that Petitioner’s Motion for Joinder (Paper 5) is *granted*, and Petitioner is hereby joined as a petitioner in IPR2024-00770;

FURTHER ORDERED that the Scheduling Order entered in IPR2024-00770 (Paper 9), including any schedule changes allowed by the Scheduling Order and agreed by the original parties in that proceeding, shall continue to govern the trial schedule in IPR2024-00770;

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FURTHER ORDERED that Petitioner's role in IPR2024-00770 shall be limited as stated in Petitioner's Motion for Joinder (Paper 5) unless and until TikTok is terminated from IPR2024-00770;

FURTHER ORDERED that the case caption in IPR2024-00770 shall be changed to reflect joinder of LifeScan, Inc., Senseonics Holdings, Inc., and Ascensia Diabetes Care Holdings AG as petitioners according to the attached example;

FURTHER ORDERED that a copy of this decision be entered into the record of IPR2024-00770; and

FURTHER ORDERED that all further filings shall be made in IPR2024-00770.

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[EXAMPLE CASE CAPTION]

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⁷ LifeScan, Inc., Senseonics Holdings, Inc., and Ascensia Diabetes Care Holdings AG filed a petition and a motion for joinder in IPR2025-00102 and have been joined as petitioners in this proceeding.