

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CELLSPIN SOFT, INC.,  
Patent Owner.

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IPR2025-00102  
Patent 11,234,121 B2

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

HARDMAN, *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 1–10 of U.S. Patent No. 11,234,121 B2 (“the ’121 patent,” Ex. 1005). Paper 1 (“Pet.”). Patent Owner Cellspin Soft, Inc. 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.*, IPR2024-00768 (the “TikTok 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 1–10 of the ’121 patent on all challenges in the Petition; and (2) grant Petitioner’s Motion for Joinder subject to the conditions detailed below.

## 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. 86. Patent Owner identifies itself (Cellspin Soft, Inc.) as the real party in interest. Paper 8 (Patent Owner Mandatory Notices) 2.

*B. Related Matters*

Petitioner and Patent Owner identify the following district court actions involving the '121 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. 86; Paper 8, 2. Petitioner additionally identifies *Cellspin Soft, Inc. v. Panasonic Corporation et al.*, 2:23-cv-227 (E.D. Tex.), which is now dismissed. Pet. 86.

Petitioner and Patent Owner both identify *TikTok Inc. v. Cellspin Soft, Inc.*, IPR2024-00768, which involves the '121 patent. Pet. 86; Paper 8, 2.

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

The '121 patent is in the same family as U.S. Patent Nos. 11,659,381 (“the '381 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 8,904,030 (“the '030 patent”). TikTok Inc. petitioned for *Inter Partes* Review of the '381, '121, '766, '336, '757, '260, and '030 patents, and Petitioners are concurrently petitioning for *Inter Partes* Review of the '030 and '766 patents.

Pet. 86. Petitioner also states that the '121 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.*

*C. The '121 Patent (Ex. 1005)*

The '121 patent, titled “Automatic Multimedia Upload for Publishing Data and Multimedia Content,” issued on January 25, 2022, from U.S. Application 16/532,507, filed on August 6, 2019, and claims priority through a series of continuation applications, the earliest of which

(U.S. Application 12/333,303) was filed on December 11, 2008. Ex. 1005, codes (21), (22), (45), (54), (63). The '121 patent also claims priority to a provisional application filed on December 28, 2007. *Id.* at code (60).

The '121 patent “relates to pairing a digital data capture device in conjunction with a mobile device for automatically publishing data and multimedia content on one or more websites simultaneously.” *Id.* at 1:56–60. Figure 2 of the '121 patent, reproduced below, illustrates a system for using a digital data capture device (such as a camera) with a Bluetooth enabled mobile device (such as a mobile phone) for publishing data and multimedia content on one or more websites automatically or with minimal user intervention. *Id.* at 3:36–40.

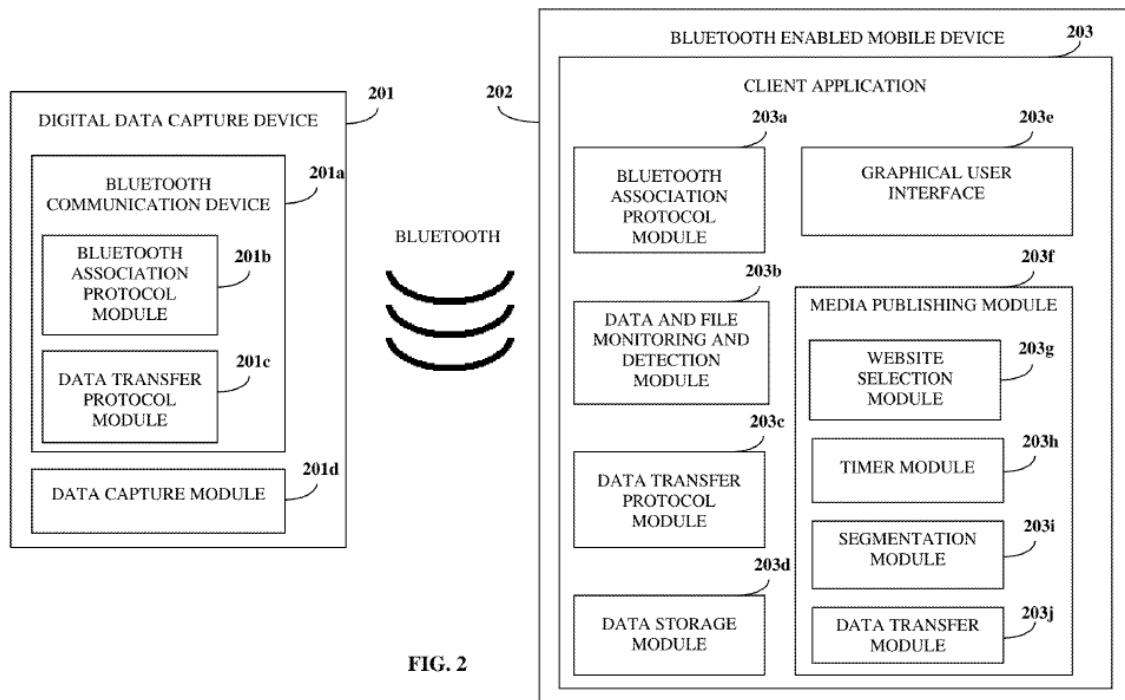


FIG. 2

Figure 2 above illustrates a system including digital data capture device 201, Bluetooth enabled mobile device 202, and client application 203 provided on Bluetooth-enabled mobile device 202. *Id.* at 3:65–67, 6:30–48, 10:15–16.

A Bluetooth connection is established between digital data capture device 201 and mobile device 202. *Id.*

Figure 1, reproduced below, illustrates a method of using digital data capture device 201 in conjunction with mobile device 202 for publishing data and multimedia content on one or more websites automatically or with minimal user intervention. *Id.* at 3:31–35.

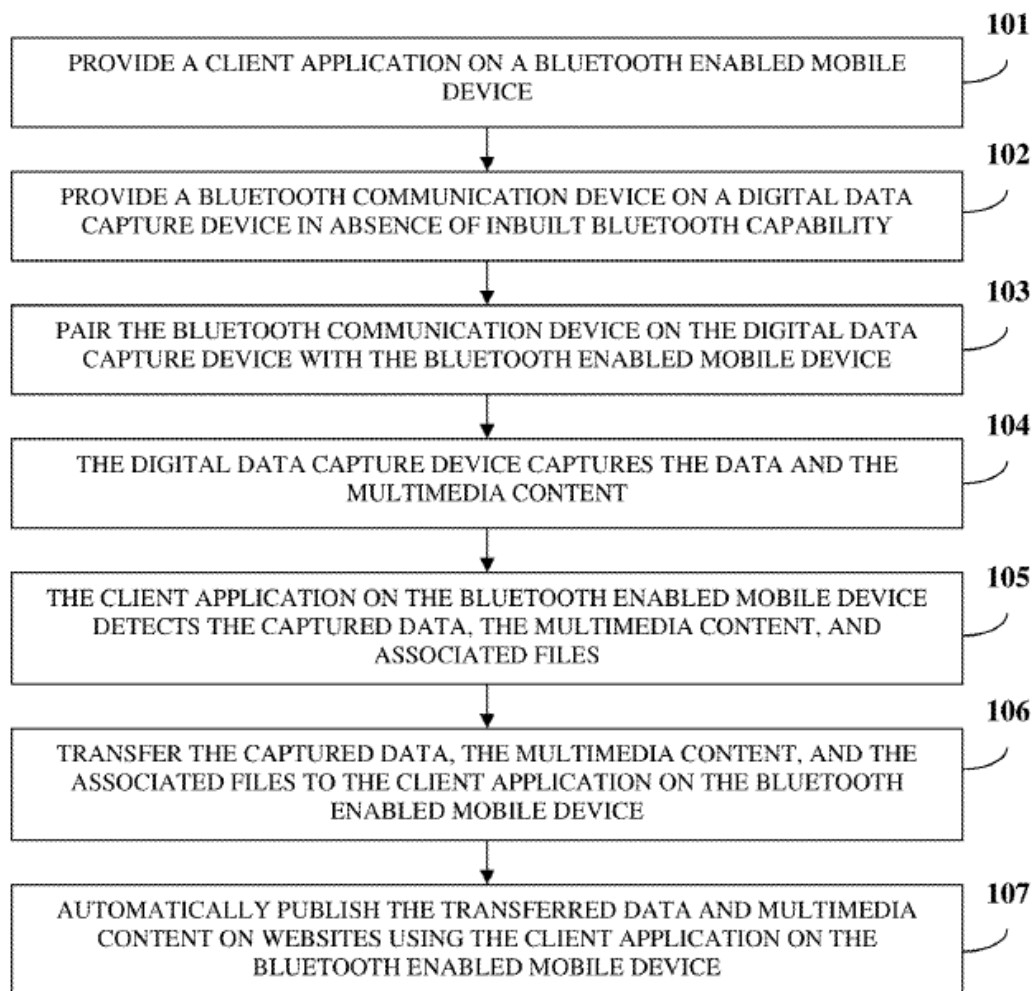


Figure 1 above illustrates a method wherein data capture device 201 is paired with mobile device 202 in step 103. *Id.* at 3:57–6:29. In step 104, data capture device 201 captures data and multimedia content. *Id.* Client

application 203 on mobile device 202 detects the captured data and multimedia content in step 105 and the data and multimedia content are transferred to the client application on the Bluetooth enabled mobile device in step 106. *Id.* In step 107, client application 203 on mobile device 202 automatically publishes the transferred data and multimedia content on one or more websites. *Id.*

Figure 4, reproduced below, illustrates a system for publishing data and the multimedia content using client application 203 on a mobile device on one or more websites simultaneously. *Id.* at 3:45–47.

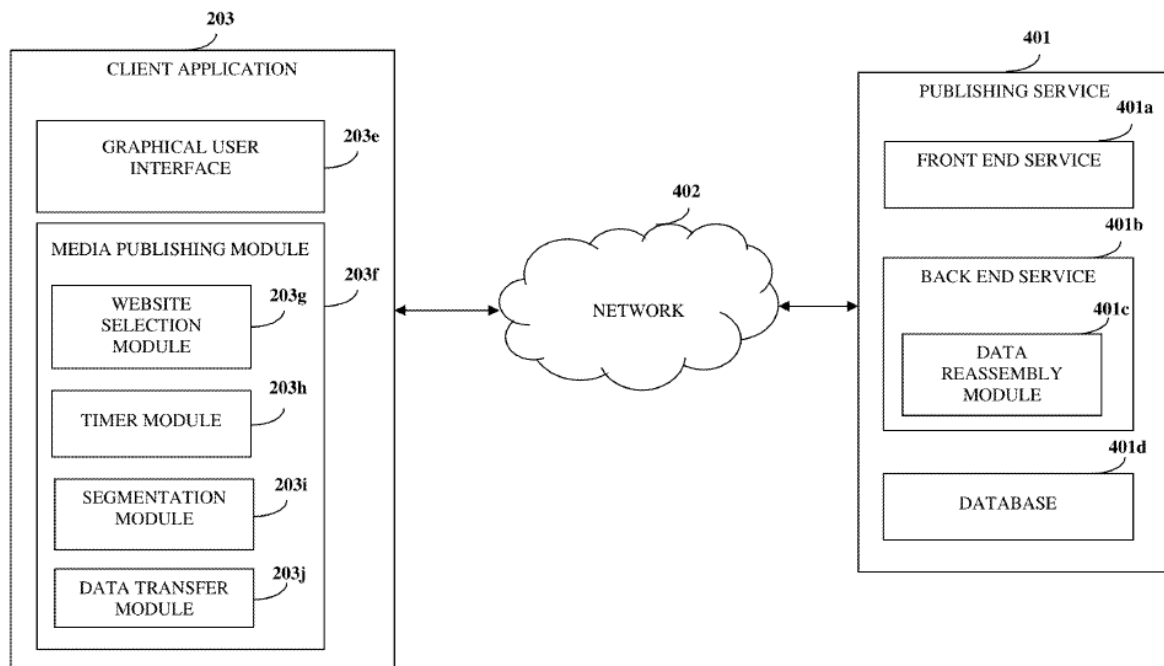


Figure 4 above illustrates the system, including client application 203, publishing service 401, and network 402. *Id.* at 7:66–8:56. Network 402 may be, for example, a wireless network, a cellular network, or the internet. *Id.*

*D. The Challenged Claims*

Petitioner challenges all claims (1–10) of the '121 patent. Claims 1, 4, 7, and 9 are independent. Claim 1 is reproduced below, with bracketed numbering added:<sup>1</sup>

1. [1P] A short-range wireless enabled data capture device, comprising:
  - [1.1] a memory device;
  - [1.2] a processor coupled to the memory device;
  - [1.3.1] a short-range wireless communication device configured to establish a short-range paired wireless connection between the short-range wireless enabled data capture device and a short-range wireless enabled cellular phone,
  - [1.3.2] wherein establishing the short-range paired wireless connection comprises the short-range wireless enabled data capture device cryptographically authenticating identity of the short-range wireless enabled cellular phone;
  - [1.4] a data capture circuitry;
  - [1.5.1] said processor configured to acquire new-data in the short-range wireless enabled data capture device using the data capture circuitry, [1.5.2] wherein the new-data is data acquired after establishing the short-range paired wireless connection between the short-range wireless enabled data capture device and the short-range wireless enabled cellular phone;
  - [1.6] said processor further configured to store the new-data in the memory device;
  - [1.7.1] said processor further configured to send an event notification and the acquired new-data to the cryptographically authenticated short-range wireless enabled cellular phone over the established short-range paired wireless connection automatically, [1.7.2] wherein the

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<sup>1</sup> For ease of reference, we use the same numbering Petitioner uses in the Petition. *See, e.g.*, Pet. vi–vii.

event notification corresponds to the acquired new-data and comprises sending a signal to the cryptographically authenticated short-range wireless enabled cellular phone, [1.8] wherein the cryptographically authenticated short-range wireless enabled cellular phone is configured to listen to the event notification and receive the new-data over the established short-range paired wireless connection, [1.9.1] wherein a single mobile client application for the cryptographically authenticated short-range wireless enabled cellular phone is configured to process the event notification and [1.9.2] store the received new-data in a memory device of the cryptographically authenticated short-range wireless enabled cellular phone, [1.10] wherein the single mobile client application for the cryptographically authenticated short-range wireless enabled cellular phone stores a user authentication credential in the memory device of the cryptographically authenticated short-range wireless enabled cellular phone, [1.11] wherein the single mobile client application for the cryptographically authenticated short-range wireless enabled cellular phone is configured to use HTTP to upload the received new-data and the user authentication credential to a user data publishing website over a cellular data network, [1.12] wherein the upload is based on a timer setting on the single mobile client application, wherein the timer setting is no wait automatic or wait X minutes automatic, [1.13] wherein the single mobile client application for the short-range wireless enabled cellular phone is further configured to use the HTTP to send a user preference to the user data publishing website over the cellular data network, wherein the user preference comprises global positioning system information, and [1.14] wherein the single mobile client application for the cryptographically authenticated short-range wireless enabled cellular phone provides a touch based GUI for the received new-data.

Ex. 1005, 12:22–13:15.

*E. Asserted Grounds of Unpatentability*

Petitioner asserts that claims 1–10 are unpatentable on the following two grounds:

| Ground | Claim(s)<br>Challenged | 35 U.S.C. § | Reference(s)/Basis                                                                     |
|--------|------------------------|-------------|----------------------------------------------------------------------------------------|
| 1      | 1–10                   | 103         | Hiroishi, <sup>2</sup> Kahn, <sup>3</sup> Endsley, <sup>4</sup> Bluetooth <sup>5</sup> |
| 2      | 1–10                   | 103         | Singh129, <sup>6</sup> Singh906 <sup>7</sup>                                           |

Pet. 1. Petitioner supports its contentions with the Declaration of David B. Lett (Ex. 1030), among other evidence.

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<sup>2</sup> Hiroishi, Japanese Unexamined Patent Application Publication 2003-60953, published February 28, 2003 (“Hiroishi”). The record includes the original Japanese language publication (Exhibit 1013), a translation (Exhibit 1011), and a certificate of translation (Exhibit 1012). For purposes of this Decision we use the certified translation (Exhibit 1011).

<sup>3</sup> Kahn et al., U.S. Patent App. Pub. US 2004/0004737 A1, published January 8, 2004 (“Kahn,” Ex. 1017).

<sup>4</sup> Endsley et al., U.S. Patent App. Pub. US 2006/0139474 A1, published June 29, 2006 (“Endsley,” Ex. 1024).

<sup>5</sup> Petitioner cites two separate documents for “Bluetooth.” Pet. 18–20. The first document is Bluetooth Specification Version 2.1 + EDR, dated July 26, 2007 (“Bluetooth Core Specification,” Exhibit 1019). 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 (“Bluetooth Overview,” Exhibit 1032).

<sup>6</sup> Singh et al., U.S. Patent App. Pub. US 2009/0172129 A1, published July 2, 2009 (“Singh129,” Ex. 1009).

<sup>7</sup> Singh, U.S. Patent App. Pub. US 2008/0103906 A1, published May 1, 2008 (“Singh906,” Ex. 1010).

### 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 TikTok IPR, we determined that TikTok Inc. (“TikTok”) satisfied the “reasonable likelihood” standard for instituting trial. *See* IPR2024-00768, Paper 9 (“TikTok Inst. Dec.”) at 16–55.

Here, Petitioner presents substantively identical challenges to claims 1–10 of the ’121 patent based on the same prior art, the same evidence, and

the same unpatentability theories as TikTok presents in the TikTok IPR. *Compare* Pet. 16–83, with IPR2024-00768, Paper 2 (“TikTok Pet.”) at 17–83; *see also* Mot. 5 (asserting that “[t]here are no substantive differences between the LifeScan Petition and the TikTok IPR Petition”).

Because Petitioner presents substantively identical challenges to claims 1–10 of the ’121 patent based on the same prior art, evidence, and unpatentability theories as TikTok presents in the TikTok IPR, Petitioner satisfies the “reasonable likelihood” standard for instituting trial for the same reasons TikTok satisfied the “reasonable likelihood” standard for instituting trial. *See* TikTok Inst. Dec. 16–55.

## *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 TikTok IPR on October 1, 2024. *See* TikTok Inst. Dec. 1. Petitioner filed the Petition and Motion for Joinder on October 30, 2024. *See* Pet. 89; Mot. 4, 11; Paper 6 (Notice of Filing Date Accorded). 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 ’121 patent on identical grounds to those in the TikTok IPR,” and “[t]here are no substantive differences between the LifeScan Petition and the TikTok 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 TikTok 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.* at 5.

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

- (1) 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;
- (2) 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;

- (3) 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;
- (4) The Joining Petitioners shall not seek discovery from Patent Owner on issues not solely involving the Joining Petitioners;
- (5) 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 TikTok IPR is appropriate and will not materially affect the trial schedule for the TikTok 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 IPR2024-00768;

FURTHER ORDERED that the Scheduling Order entered in IPR2024-00768 (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 IPR2024-00768;

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FURTHER ORDERED that Petitioner's role in IPR2024-00768 shall be limited as stated in Petitioner's Motion for Joinder (Paper 5) unless and until TikTok is terminated from IPR2024-00768;

FURTHER ORDERED that the case caption in IPR2024-00768 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 IPR2024-00768; and

FURTHER ORDERED that all further filings shall be made in IPR2024-00768.

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[EXAMPLE CASE CAPTION]

UNITED STATES PATENT AND TRADEMARK OFFICE

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<sup>8</sup> 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.