

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

OMNI MEDSCI, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 25-140 (WCB)
	)	
WHOO, INC.,	)	
	)	
Defendant.	)	

DEFENDANT WHOOP INC.'S INVALIDITY CONTENTIONS

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Pursuant to Paragraph 3 of the Scheduling Order entered by the Court (D.I. 60) (“Scheduling Order”), Defendant WHOOP, Inc. (“WHOOP” or “Defendant”) hereby provides its Invalidity Contentions to Omni MedSci, Inc. (“Omni” or “Plaintiff”). Defendant reserves the right to supplement these invalidity contentions based upon further prior art searches, information obtained during discovery, and in response to any claim construction ruling issued by this Court or other courts or tribunals, or amended infringement contentions provided by Plaintiff in this matter or in any related proceedings. Defendant expressly reserves the right to rely on any prior art identified in or accompanying these disclosures, identified by any expert witness in the proceeding, and to amend or supplement identification of any grounds for invalidity of one or more asserted patent claims based on further investigation and discovery.

I. INTRODUCTION

On December 5, 2025, Plaintiff served its Infringement Contentions, asserting infringement of:

- U.S. Patent No. 9,055,868 (“the ’868 Patent”): Claims 7 and 9
- U.S. Patent No. 9,651,533 (“the ’533 Patent”): Claims 11 and 12
- U.S. Patent No. 10,874,304 (“the ’304 Patent”): Claims 12, 13, 25, and 26
- U.S. Patent No. 11,160,455 (“the ’455 Patent”): Claim 1
- U.S. Patent No. 12,193,790 (“the ’790 Patent”): Claim 7
- U.S. Patent No. 12,268,475 (“the ’475 Patent”): Claims 1, 5, 8, 11, 12, 13

(collectively the “Asserted Patents” and the “Asserted Claims”). WHOOP contends that the Asserted Claims cover subject matter not eligible for patenting under 35 U.S.C. § 101, and that

incorporated into wearable measurement devices. A POSITA would understand that systems and methods provide improvements such as specific methods and systems for obtaining physiological measurements using light. A POSITA would further understand that in order to implement a wearable measurement device, the systems and methods for a wireless system for collecting and processing physiological data would commonly be combined with obtaining physiological measurements (for example, blood glucose levels and blood oxygenation) using light, and thus a POSITA would have been motivated to combine the teachings of these references. The combinations would apply known techniques for obtaining physiological measurements using light, to wearable measurement devices that were ready for improvement, in order to yield predictable results. The combinations would further be “obvious to try,” because they would involve simple design choices from a finite number of identified, predictable solutions, with a reasonable expectation of success.

III. INVALIDITY UNDER 35 U.S.C. § 112

WHOOP alleges that the Asserted Claims are invalid under 35 U.S.C. § 112 as indefinite (Section 112, ¶ 2) and for failing to satisfy the written description and enablement requirements (Section 112, ¶ 1). WHOOP reserves all rights to amend its Invalidity Contentions under 35 U.S.C. § 112, including after the Asserted Claims are ultimately construed by the Court, in response to any interpretation of the Asserted Claims embodied in Omni’s infringement positions, and/or to account for any changes in the law concerning invalidity under 35 U.S.C. § 112. WHOOP also reserves the right to provide additional explanation and/or argument for its Invalidity Contentions under Section 112, including, for example, based on expert testimony. WHOOP’s contentions that the Asserted Claims are invalid under Section 112 are not admissions regarding the construction or scope of the claims of the Asserted Patents, or that any of the claims of the Asserted Patents are

not anticipated or rendered obvious by any prior art. All of the below statements are by way of example only. Any item disclosed below with respect to any patent or claim may, as appropriate, be asserted as a defense against any other patent or claim that has a similar claim limitation and patent disclosure.

A. Invalidity under 35 U.S.C. § 112, ¶ 1

35 U.S.C. § 112, ¶ 1 requires that the specification contain a written description of the invention. “[T]he hallmark of written description is disclosure.” *Boston Scientific Corp. v. Johnson & Johnson*, 647 F.3d 1353, 1361–62 (Fed. Cir. 2011) (citation omitted). The test for whether a specification adequately describes an invention is “whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date. . . . [T]he test requires an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art [It] is a question of fact.” *Ariad Pharms., Inc. v. Eli Lilly and Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc); *Boston Scientific*, 647 F.3d at 1362.

The enablement requirement of Section 112 demands that the patent specification enable “those skilled in the art to make and use the full scope of the claimed invention without ‘undue experimentation.’” *Genentech, Inc. v. Novo Nordisk A/S*, 108 F.3d 1361, 1365 (Fed. Cir. 1997) (quoting *In re Wright*, 999 F.2d 1557, 1561 (Fed. Cir. 1993)). “[T]he scope of the claims must be less than or equal to the scope of the enablement.” *Nat’l Recovery Tech., Inc. v. Magnetic Separation Sys., Inc.*, 166 F.3d 1190, 1196 (Fed. Cir. 1999). In other words, the claims must be enabled over their entire claimed range. *See id.* (finding lack of enablement because the “claim [] [was] broader than the enablement as taught in the specification”).

WHOOOP contends that the following Asserted Claims are invalid under 35 U.S.C. § 112,

¶ 1. Each Asserted Claim identified below (and each Asserted Claim that depends therefrom) is invalid under Section 112, ¶ 1 because the specification of the Asserted Patent fails to provide a sufficient written description, enabling disclosure. For each listed term or phrase, WHOOP believes the term or phrase is invalid under Section 112, ¶ 1, as is any limitation including such terms or phrases, for the same reason(s).

1. U.S. Patent No. 9,055,868

- “a software application capable of generating data based at least in part on the measurement on the user, wherein the data represents at least in part physiological information associated with the user” (cl. 7)
- “the software application capable of operating on a control system adapted to receive, store and process at least a portion of the physiological information” (cl. 7)
- “adapted for use in a diagnostics to measure a property of the blood, wherein the diagnostics comprise a spectroscopic procedure, wherein the spectroscopic procedure is based at least in part on a comparison of amplitudes at a plurality of associated wavelengths transmitted or reflected from the blood” (cl. 9)

2. U.S. Patent No. 9,651,533

- “the light emitting diodes configured to generate an output optical beam with one or more optical wavelengths” (cl. 5)
- “the light source configured to increase signal-to-noise ratio by increasing a light intensity from at least one of the plurality of semiconductor sources and by increasing a pulse rate of at least one of the plurality of semiconductor sources” (cl. 5)

- “the processed output signal” (cl. 5)
- “a personal device comprising a wireless receiver, a wireless transmitter, a display, a microphone, a speaker, one or more buttons or knobs, a microprocessor and a touch screen, the personal device configured to receive and process at least a portion of the output signal, wherein the personal device is configured to store and display the processed output signal, and wherein at least a portion of the processed output signal is configured to be transmitted over a wireless transmission link; and” (cl. 5)
- “a remote device configured to receive over the wireless transmission link an output status comprising the at least a portion of the processed output signal, to process the received output status to generate processed data and to store the processed data.” (cl. 5)
- “one or more detectors” (cl. 11)
- “to select a fraction of the one or more optical wavelengths” (cl. 11)

3. U.S. Patent No. 10,874,304

- “a cloud configured to receive over the wireless transmission link an output status comprising the at least a portion of the processed output signal, to process the received output status to generate processed data and to store the processed data, and wherein the cloud is capable of storing a history of at least a portion of the received output status over a specified period of time” (cl. 11)
- “the light source configured to increase signal-to-noise ratio by increasing a light intensity relative to an initial light intensity from at least one of the plurality of semiconductor sources” (cl. 11)

- “wherein the measurement system is further configured to improve the signal-to-noise ratio by differencing the first signal and the second signal” (cl. 11)
- “wherein the measurement system is configured to use artificial intelligence in making decisions” (cl. 12)
- “wherein the measurement system is configured to perform pattern identification or classification, and wherein the measurement system is configured to apply a threshold function to a comparison with a stored data set; and” (cl. 12)
- “wherein the measurement system is at least in part configured for selection or identification of an object, and wherein the measurement system is configured to improve a signal-to-noise ratio of the selection or identification by applying regression signal processing methodologies or multivariate techniques.” (cl. 12)
- “wherein the light source is configured to further increase the signal-to-noise ratio by increasing a pulse rate of at least one of the plurality of semiconductor sources from an initial non-zero pulse rate” (cl. 13)
- “the measurement device further configured to improve a signal-to-noise ratio of the input optical beam reflected from the tissue by: differencing the first signal and the second signal, and increasing the light intensity relative to the initial light intensity from at least one of the semiconductor sources” (cl. 19)
- “a measurement device including a light source comprising a plurality of semiconductor sources for measuring one or more physiological parameters” (cl. 19)
- “cloud configured to: receive, over the wireless transmission link, an output status comprising the at least a portion of the processed output signal, process the output

status to generate processed data, and store the processed data, and wherein the cloud is capable of storing a history of at least a portion of the output status over a specified period of time.” (cl. 25)

- “wherein the wearable device is configured to use artificial intelligence in making decisions” (cl. 26)
- “wherein the wearable device is configured to perform pattern identification or classification, and wherein the wearable device is configured to apply a threshold function to a comparison with a stored data set;” (cl. 26)
- “wherein the wearable device is at least in part configured for selection or identification of an object, and wherein the wearable device is configured to improve a signal-to-noise ratio of the selection or identification by applying regression signal processing methodologies or multivariate techniques.” (cl. 26)

4. U.S. Patent No. 11,160,455

- “A system for measuring one or more physiological parameters” (cl. 1)
- “the processed output signal” (cl. 1)
- “wherein the output signal is indicative of one or more of the physiological parameters” (cl. 1)
- “the wearable device configured to increase the signal-to-noise ratio by increasing light intensity of at least one of the [plurality of] semiconductor sources from an initial light intensity” (cl. 1)
- “increase the signal-to-noise ratio by comparing the first signal and the second signal” (cl. 1)
- “at least a portion of the one or more of the physiological parameters” (cl. 1)

- “the plurality of semiconductor sources configured to generate an output optical light having a plurality of optical wavelengths” (cl. 1)
- “wherein the plurality of optical wavelengths comprises three optical wavelengths for measuring at least a portion of the one or more of the physiological parameters, wherein the optical wavelengths comprise near infrared or visible wavelengths” (cl. 1)

5. U.S. Patent No. 12,193,790

- “a wearable device for measuring one or more physiological parameters” (cl. 7)
- “signal is indicative of one or more of the physiological parameters” (cl. 7)
- “wherein the wearable device is at least in part configured to identify an object” (cl. 7)

6. U.S. Patent No. 12,268,475

- “an apparatus adapted to be worn by a user” (cl. 1)
- “one or more biosensors adapted to be placed on the user” (cl. 1)
- “wherein measuring of the one or more physiological parameters comprises a differential measurement” (cl. 1)
- “wherein the one or more physiological parameters comprises a pulse rate monitoring and a blood flow measurement” (cl. 1)
- “the detection system further configured to: generate a first signal responsive to light received while the light emitting diodes are off,” (cl. 1, 8)
- “generate a second signal responsive to light received while at least one of the light emitting diodes is on, and” (cl. 1, 8)
- “increase the signal-to-noise ratio by comparing the first signal and the second

signal; and” (cl. 1, 8)

- “signal is indicative of one or more of the physiological parameters” (cl. 1, 12)
- “wherein the apparatus is at least in part configured to determine, based at least in part on the output signal, that the apparatus is being worn by the user” (cl. 1, 8)
- “configured to use artificial intelligence in making decisions associated with at least a portion of the output signal” (cl. 5)
- “lens positioned to direct at least a portion of the output light towards a bodily tissue of the user” (cl. 8)
- “generate a third output signal using at least a portion of the first output signal and at least a portion of the second output signal, the third output signal having a third signal-to-noise ratio that is greater than the first signal-to-noise ratio and greater than the second signal-to-noise ratio, the third output signal being associated with a physiological parameter of the use” (cl. 8)
- “wherein the physiological parameter of the user is associated with a blood constituent or a blood flow of the user” (cl. 12)
- “the processor is further configured to modulate the light source with a modulation frequency”

B. Invalidity under 35 U.S.C. § 112, ¶ 2

“[T]he second paragraph of § 112 contains two requirements: first, the claim must set forth what the applicant regards as his invention, and second, it must do so with sufficient particularity and distinctness, *i.e.*, the claim must be sufficiently definite.” *Allen Eng’g Corp. v. Bartell Indus., Inc.*, 299 F.3d 1336, 1348 (Fed. Cir. 2002) (internal quotation marks and alteration omitted). “Where it would be apparent to one of skill in the art, based on the specification, that the invention

set forth in a claim is not what the patentee regarded as his invention,” the claim is “invalid under § 112, paragraph 2.” *Id.* at 1349. Several of the Asserted Claims are invalid because it would be apparent to one of skill in the art, based on the specification, that the invention set forth in these claims are not what the patentee regarded as his invention, at least as the claims are being asserted by the Plaintiff. *Id.* These claims are invalid under the “applicant regards” prong of § 112 at least because they contain elements that differ from and/or conflict with the Asserted Patents’ written description of the invention, at least as the claim elements are being asserted by Plaintiff, or because they omit elements that one of skill in the art would understand as part of the Asserted Patents’ invention based on the specifications.

Claims are indefinite under 35 U.S.C. § 112, ¶ 2 when they “fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” *Nautilus, Inc. v. Biosig Instruments, Inc.*, 134 S. Ct. 2120, 2124 (2014). For example, to the extent an asserted apparatus claim includes both apparatus and method limitations, that claim is invalid for indefiniteness under Section 112, ¶ 2 because it fails to identify or notify the public of what constitutes direct infringement. *See IPXL Holdings, L.L.C. v. Amazon.com, Inc.*, 430 F.3d 1377 (Fed. Cir. 2005). Similarly, a claim that uses means-plus function claiming is indefinite “[i]f the patentee fails to disclose adequate corresponding structure.” *Williamson v. Citrix Online, LLC*, 792 F. 3d 1339, 1352 (Fed. Cir. 2015). A claim can also be found indefinite if it uses terms of degree. *See Interval Licensing LLC v. AOL, Inc.*, 766 F.3d 1364, 1371 (Fed. Cir. 2014). As the Federal Circuit has “explained, a term of degree fails to provide sufficient notice of its scope if it depends ‘on the unpredictable vagaries of any one person’s opinion.’” *Id.* (citation omitted). In addition, “a claim term that lacks an antecedent basis may . . . render a claim indefinite.” *In re Downing*, 754 F. App’x 988, 996 (Fed. Cir. 2018).

WHOOP contends that the following Asserted Claims are invalid under Section 112, ¶ 2 under both the “applicant regards” requirement and for indefiniteness. As to the “applicant regards,” limitation, WHOOP incorporates by reference sections (Priority) and (112 Para 1) as evidencing limitations inconsistent with the written description. As to indefiniteness, each Asserted Claim identified below (and each Asserted Claim that depends therefrom) is invalid under Section 112, ¶ 2 because they fail to inform, with reasonable certainty, those skilled in the art about the scope of the claimed invention. For each listed term or phrase, WHOOP believes the term or phrase is invalid under Section 112, ¶ 2, and any limitation including such term or phrase is also indefinite.

1. U.S. Patent No. 9,055,868

- “generate a status of the user” (cl. 7)
- “at least a portion of the status or associated information” (cl. 7)

2. U.S. Patent No. 9,651,533

- “the light source configured to increase signal-to-noise ratio by increasing a light intensity from at least one of the plurality of semiconductor sources and by increasing a pulse rate of at least one of the plurality of semiconductor sources;” (cl. 5)
- “wherein the output optical beam comprises a plurality of optical wavelengths, and the output signal is generated in part by comparing signals at different optical wavelengths” (cl. 12)

3. U.S. Patent No. 10,874,304

- “a receiver configured to: ... synchronize to the light source”
- “the light source configured to increase signal-to-noise ratio by increasing a light

intensity relative to an initial light intensity from at least one of the plurality of semiconductor sources” (cl. 11)

- “wherein the measurement system is configured to use artificial intelligence in making decisions” (cl. 12, 25)
- “wherein the light source is configured to further increase the signal-to-noise ratio by increasing a pulse rate of at least one of the plurality of semiconductor sources from an initial non-zero pulse rate” (cl. 13)
- “wherein the measurement system is configured to perform pattern identification or classification, and wherein the measurement system is configured to apply a threshold function to a comparison with a stored data set; and” (cl. 12, 26)
- “wherein the measurement system is at least in part configured for selection or identification of an object, and wherein the measurement system is configured to improve a signal-to-noise ratio of the selection or identification by applying regression signal processing methodologies or multivariate techniques.” (cl. 12, 26)

4. U.S. Patent No. 11,160,455

- “spatially separated detectors” (cl. 1)
- “A system for measuring one or more physiological parameters” (cl. 1)
- “wherein the plurality of optical wavelengths comprises three optical wavelengths for measuring at least a portion of the one or more of the physiological parameters, wherein the optical wavelengths comprise near infrared or visible wavelengths” (cl. 1)

5. U.S. Patent No. 12,193,790

- “a plurality of detectors that are spatially separated from each other” (cl. 7)

- “increase the signal-to-noise ratio by comparing the first signal and the second signal” (cl. 7)
- “wherein the wearable device is at least in part configured to identify an object” (cl. 7)

6. U.S. Patent No. 12,268,475

- “one or more biosensors adapted to be placed on the user” (cl. 1)
- “wherein measuring of the one or more physiological parameters comprises a differential measurement” (cl. 1)
- “blood flow measurement” (cl. 1)
- “configured to use artificial intelligence in making decisions associated with at least a portion of the output signal” (cl. 5)
- “blood flow of the user” (cl. 12)
- “the processor is further configured to modulate the light source with a modulation frequency” (cl. 13)

IV. INVALIDITY UNDER 35 U.S.C. § 101

The Asserted Claims of the patents identified below are not patent-eligible under 35 U.S.C. § 101. WHOOP reserves all rights to amend its Invalidity Contentions under 35 U.S.C. § 101, including after the Asserted Claims are ultimately construed by the Court, in response to any interpretation of the Asserted Claims embodied in Omni’s infringement positions, and/or to account for any changes in the law concerning ineligibility under 35 U.S.C. § 101. WHOOP also reserves the right to provide additional explanation and/or argument for its Invalidity Contentions under 35 U.S.C. § 101, including, for example, based on expert testimony. In particular, the

available for inspection the prior art referenced in these Invalidity Contentions at WHOOP_Omni_00000155 to WHOOP_Omni_00011468. WHOOP will promptly produce any documents uncovered through discovery, including through third-party subpoenas.

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CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2026, copies of the foregoing were caused to be served upon the following in the manner indicated:

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