

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

MASIMO CORPORATION,)	
)	
Petitioner,)	IPR2023-00745
)	
vs.)	U.S. Patent
)	10,076,257
APPLE INC.,)	
)	
Patent Owner.)	

Deposition of ALAN L. OSLAN, taken in the
above-captioned cause, remotely via Zoom, before
Rachel F. Gard, CSR, CCR, RPR, CRR, Notary Public,
commencing at the hour of 10:00 a.m. Eastern on
Friday, July 12, 2024.

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1 I N D E X

2 WITNESS PAGE

3 ALAN L. OSLAN

4 Cross-Examination by Mr. Bisenius 4

5

6

7 E X H I B I T S

8 EXHIBIT REFERRED TO PAGE

9 Number 1069 Fourth Declaration of Alan 5

10 L. Oslan

11 Number 1068 Lyons reference 6

12 Number 1075 Larson reference 17

13 Number 1076 Taheri reference 26

14 Number 1074 Rytky reference 29

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1 (Witness sworn.)

2 WHEREUPON:

3 ALAN L. OSLAN,

4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

6 CROSS-EXAMINATION

7 BY MR. BISENIUS:

8 Q All right. We are here today regarding
9 IPR proceeding IPR 2023-00745 regarding U.S.
10 Patent No. 10,076,257.

11 Is there any reason that you cannot give
12 truthful and accurate testimony today?

13 A No, there is not.

14 Q To ensure clarity, I will define a few
15 terms that will be used throughout this
16 deposition.

17 When I use the terms "petitioner" or
18 "Masimo," I'm referring to Masimo Corporation, the
19 petitioner in this proceeding.

20 Do you understand?

21 A Yes, I do.

22 Q When I use the term "Apple" or patent

1 owner, I'm referring to Apple Inc.

2 Do you understand?

3 A Yes, I do.

4 Q When I use the term "'257 patent," I'm
5 referring to U.S. Patent No. 10,076,257 titled
6 Seamlessly embedded heart rate monitor.

7 Do you understand?

8 A I understand that.

9 Q When I use the phrases "this IPR" or "this
10 proceeding," I'm referring to proceeding number
11 IPR2023-00745 filed against the '257 patent.

12 Do you understand?

13 A I understand that.

14 Q When I use the acronym "POSITA," I'm
15 referring to a person of ordinary skill in the art
16 at the time of the alleged invention.

17 Do you understand?

18 A Yes, I do.

19 Q How does a capacitive touch sensor work?

20 A So I'd like to look at my fourth
21 declaration.

22 (Exhibit Number 1069.)

1 Q That would be Exhibit 1069, correct?

2 A I'm not sure of the exhibit numbers. I
3 think it's titled Fourth Declaration.

4 Q That should be at the download link. I
5 provided the download link to your counsel.

6 A Okay. All right. Okay. Can you repeat
7 the question, please?

8 Q How does a capacitive touch sensor work?

9 A So in Exhibit 1069, paragraph 342 on
10 page 16, and so sensor pad 122 is a portion of
11 capacitive sensor 116 and detects changes in
12 capacitants on the pads 122 specifically when a
13 user touches bezel with a fingertip, it can sense
14 various electrical properties of the human body.

15 (Exhibit Number 1068.)

16 Q And in this paragraph, you're discussing
17 the Lyons reference, which is Exhibit 1068; is
18 that correct?

19 A Yes, that's correct. Lyons, Exhibit 1068.

20 Q Let's turn to that exhibit, and I'd like
21 to start at Figures 1 and 2 of Lyons.

22 A Okay. Okay. So you mentioned Figures 1

1 and 2 of Lyons?

2 Q Correct.

3 A Okay. I'm there.

4 Q Can we agree that what's being shown here
5 in Figures 1 and 2 is a watch?

6 A So I see in the abstract of Lyons, it does
7 say a watch device.

8 Q What portion of this watch is the bezel?

9 A So the bezel is referred to as item 114 in
10 Figures 1 and 2.

11 Q What characteristics of item 114 make this
12 the bezel to the watch?

13 MR. EVERTON: Objection to form.

14 A So I'm relying on Lyons calling it a
15 bezel. I didn't do any further analysis on that.

16 Q So you have no opinion on what
17 characteristics of the bezel 114 make it a bezel;
18 is that correct?

19 MR. EVERTON: Objection. Form.

20 A So in -- well, it's in Lyons. But in my
21 declaration, Exhibit 1069, page 17, in footnote 2,
22 now, Lyons describes that the bezel 114 and/or the

1 sensor 116 may be comprised of two C-shaped
2 regions positioned on either side of display 110
3 and comprised of two or more curvilinear segments
4 based around the display 110 or the like.

5 Q So is it your opinion that the fact that
6 the bezel is comprised of two C-shaped regions
7 positioned on either side of the display 110 is
8 what makes it a bezel?

9 MR. EVERTON: Objection to form.

10 A So I didn't do an analysis. But one thing
11 that Lyons mentions is that it's -- the bezel is
12 spaced -- surrounding display 110 or the like.

13 Q I'd like to move forward to paragraph 120
14 of Lyons.

15 A Okay.

16 Q This paragraph is describing a, quote,
17 touch sensitive sensor 116, end quote, of the
18 device; is that correct?

19 A It says as shown in Figures 3 through 6, a
20 ring-shaped touch-sensitive sensor 116 is disposed
21 beneath the bezel 110.

22 Q What types of user inputs is the sensor

1 116 capable of detecting?

2 A So in Exhibit 1069, paragraph 342, sensor
3 pad 122 is a portion of capacitive sensor 116 and
4 detects changes in capacitives on the pad,
5 specifically when a user touches the bezel with a
6 fingertip and can sense various electrical
7 properties of the human body for determining
8 contact with the user.

9 I'm sorry. You're on mute.

10 Q Sorry. Can the sensor 116 detect a user's
11 cardiac signal?

12 A Can you repeat the question again, please?

13 Q Can the sensor 116 detect a user's cardiac
14 signal?

15 A So the purpose of using Lyons is not so
16 much for its actual function, it's the structural
17 placement of the sensor pad -- actually, sorry, a
18 reading from Exhibit 1069, paragraph 343, it says:
19 A POSITA would have combined Markel and the
20 structural placement of the sensor pad in Lyons.

21 Q So is it --

22 A Because Lyons -- I'm sorry. Because Lyons

1 explicitly states that a sensor placement may be
2 applied to other types of sensors.

3 Q So is it true that in Lyons' disclosure,
4 sensor 116 cannot detect a user's cardiac signal?

5 MR. EVERTON: Objection to form.

6 A So again, the use of Lyons is not to rely
7 on the function of the sensor pad. It's to rely
8 on the structure of placing the sensor pad under a
9 bezel.

10 Q That's not quite the question I was
11 asking.

12 In Lyons' disclosure, can the sensor 116
13 detect a user's cardiac signal?

14 MR. EVERTON: Objection to form.

15 A So further down in paragraph 343, it's
16 actually on page 18: Therefore, Lyons' sensor pad
17 placement on the inner surface of the bezel is not
18 limited to capacitive sensors. Its teachings
19 regarding electrical placement may also apply to
20 other sensors, such as Markel's conductive
21 electrodes.

22 Q But is there any disclosure in Lyons

1 itself that the sensor 116 can detect a user's
2 cardiac signal?

3 MR. EVERTON: Objection to form.

4 A There might be, but I did not do that
5 analysis. I just relied on the structure in
6 Lyons.

7 Q I'd like to move to paragraph 26 of Lyons.
8 Can you please read that paragraph to yourself and
9 let me know when you're done.

10 A Okay. Okay. I'm done reading it.

11 Q This paragraph is disclosing details about
12 the sensor 116; is that correct?

13 A So it talks about sensor 116 might
14 comprise a capacitive sensor, et cetera.

15 Q This paragraph describes the sensor 116
16 as, quote: A capacitive sensor capable of
17 detecting single presses, including tap and/or
18 press-and-hold presses, end quote. Is that
19 correct?

20 A That's what it says in paragraph 26.

21 Q When the user touches the sensor 116, is
22 the user's finger electrically connected to the

1 sensor pad 122?

2 A Could you repeat the question, please?

3 Q When the user touches the sensor 116, is
4 the user's finger electrically connected to the
5 sensor pad 122?

6 A So reading from my fourth declaration,
7 Exhibit 1069, paragraph 342, and taking parts from
8 Lyons, so the capacitive sensor 116 detects
9 changes in capacitants on the pad specifically
10 when the user touches the bezel with a fingertip
11 and can sense various electrical properties of the
12 human body for determining contact with the user.

13 Q That's not quite my question.

14 My question is: When the user touches the
15 sensor 116, is there a direct electrical
16 connection between the user's finger and the
17 sensor pad 122?

18 MR. EVERTON: Objection to form.

19 A So for my declaration, I did not do that
20 particular detailed analysis because I was just
21 relying on the structure that's shown in Lyons and
22 not the function.

1 Q Is it true that the sensor pad 122 is
2 electrically isolated from the user's finger when
3 the user touches the sensor 116?

4 A So in Exhibit 1069, paragraph 342 on
5 page 18, so different Lyons sensor pad placement
6 on the inner surface of the bezel is not limited
7 to capacitive sensors. Its teachings regarding
8 electrode placement may apply to other sensors,
9 such as Markel's conductive electrodes.

10 Q That wasn't exactly my question.

11 What I was asking is in Lyons' disclosure,
12 is it true that the sensor pad 122 is electrically
13 isolated from the user's finger when the user
14 touches the sensor 116?

15 MR. EVERTON: Objection to form.

16 A I'm sorry. Could you just repeat the
17 question one more time?

18 Q Is it true that the sensor pad 122 is
19 electrically isolated from the user's finger when
20 the user touches the sensor 116?

21 A So again, based on what's in paragraph 343
22 of Exhibit 1069, you know, it could be capacitive

1 or it could be conductive.

2 Q Can you show me a disclosure in Lyons that
3 describes it as being a conductive sensor rather
4 than a capacitive sensor?

5 A So in paragraph 343 of Exhibit 1069, so
6 quoting from Lyons, paragraph 27: While the
7 capacitive flex sensor is shown specifically in
8 the drawing and discussed herein, it is
9 contemplated other touch-based sensor
10 technologies, for example, resistive may be
11 utilized.

12 Q Would a resistive sensor include direct
13 electrical connection between the user's finger
14 and the sensor?

15 A It might, but I did not do that analysis.

16 Q Going back to the capacitive sensor of
17 Lyons, how does the capacitive sensor 116
18 described by Lyons detect a user's touch?

19 A So in paragraph 342 of Exhibit 1069,
20 capacitive sensor 116 -- well, sensor pad 122 is a
21 portion of capacitive sensor 116 that detects
22 changes in capacitants on the pads 122

1 specifically when a user touches the bezel with a
2 fingertip.

3 Q How does the capacitive sensor described
4 by Lyons detect a change in capacitants?

5 A So I did not do that analysis in my
6 report. I was only relying on the structures
7 shown in Lyons, not functions.

8 Q How does contact of the user's finger with
9 the sensor 116 change the capacitants on the pads
10 122?

11 A So in Exhibit 1069, paragraph 342 again,
12 when the user touches the bezel with a fingertip,
13 it can sense various electrical properties of the
14 human body for determining contact with the user.

15 Q But that's not exactly my question.

16 What I was asking is: How does contact of
17 the user's finger with the sensor 116 change the
18 capacitants on the pads 122?

19 MR. EVERTON: Objection to form.

20 A So I did not do that analysis in my
21 report. I was only relying on the structure shown
22 in Lyons, not the functions.

1 Q I'd like to move ahead to paragraph 27 of
2 Lyons. Can you please read that paragraph to
3 yourself and let me know when you're done.

4 A Okay.

5 Okay. I'm done reading paragraph 27 in
6 Lyons.

7 Q At one point this paragraph states, quote:
8 The capacitants around the successive sensor pads
9 122 is changed by the user's fingertip as his or
10 her fingertip slides around the circumference of
11 the bezel 114.

12 Do you see that?

13 A Yes.

14 Q How does motion of the user's fingertip
15 cause the capacitants around successive sensor
16 pads 122 to change?

17 A So I did not do that analysis in my
18 declaration. I only relied on the structure of
19 the bezel and the sensor pad in Lyons, not the
20 function.

21 Q So sitting here today, you can't actually
22 describe how the capacitive sensor in Lyons

1 functions; is that correct?

2 MR. EVERTON: Objection to form.

3 A Well, I did not do the analysis in my
4 report, but I could do that given time. And
5 again, I merely used Lyons for the structure shown
6 between the bezel and the sensor pad and not the
7 function.

8 Q Can you describe some differences between
9 a capacitive sensor and a direct contact sensor?

10 A So I did not do that analysis in my
11 report, so I cannot answer that at this time. I
12 merely relied on the structural elements or
13 structural construction in Lyons.

14 (Exhibit Number 1075.)

15 Q I'd like to now turn to the Larson
16 reference, which is Exhibit 1075 in this
17 proceeding. It should be in the download link.

18 A Okay. Okay. I have -- yeah, I have
19 Larson, Exhibit 1075, open there.

20 Q Can you please read the abstract on the
21 front page to yourself and let me know when you're
22 finished.

1 A Okay. I'm done reading the abstract of
2 Larson.

3 Q This paragraph describes that in a
4 capacitive sensor, a dielectric material is
5 positioned over a metal layer to electrically
6 isolate the user's finger from the metal layer
7 when the user touches the device; is that correct?

8 A So I see that the sentence in the
9 abstract, the second electrode consists of a metal
10 layer on which is placed a dielectric material and
11 when the finger is placed on top of the dielectric
12 material, a capacitor is formed in the electric
13 signal, the finger is transferred to the metal
14 layer.

15 Q Would you agree that a POSITA would know
16 that a dielectric material is nonconductive? I
17 think this is a fairly straightforward question.
18 Would a POSITA understand that a dielectric
19 material is conductive or nonconductive?

20 A I just wanted to see if I had anything in
21 my report on this, but ... so a POSITA would
22 understand that a dielectric could be considered a

1 resistive-type material.

2 Q Would a dielectric be a resistive
3 material, or would it be a nonconductive material?

4 MR. EVERTON: Objection to form.

5 A So a POSITA would understand that the
6 terms "resistive" and "nonconductive," they're on
7 a spectrum and, depending on the particular
8 application at hand, you know, what the resistive
9 value is, it would be considered conductive or
10 resistive.

11 Q If you were to design a capacitor that had
12 a resistive but not completely nonconductive
13 material between the two plates of the capacitor,
14 would the capacitor function correctly?

15 MR. EVERTON: Objection to form.

16 A So it's an analysis that I did not do in
17 my declaration and that I could do given the time,
18 so I can't answer that question on the spot here.

19 Q Can you describe the typical construction
20 of a generic capacitor?

21 MR. EVERTON: Objection to form.

22 A So it's not something I did in my

1 declaration, so I can't opine on that on the spot
2 right now.

3 Q You can't opine as to what the structures
4 of a typical capacitor are --

5 MR. EVERTON: Objection.

6 Q -- off the top of your head?

7 A I could but not on the spot here. It's
8 not something that I included specifically in my
9 declaration.

10 Q For the second electrode described in the
11 abstract here, is there a direct electrical path
12 from the user's finger to the metal layer in this
13 sensor?

14 A Can you repeat the question again, please?

15 Q For the second electrode described in the
16 abstract of Larson, is there a direct electrical
17 path from the user's finger to the metal layer in
18 the sensor?

19 A So it says the electric signal on the
20 finger is transferred to the metal layer.

21 Q But is there a direct electrical -- sorry.
22 But is there a direct electrical path from the

1 user's finger to the metal layer?

2 MR. EVERTON: Objection to form.

3 A So other than what's explicitly stated in
4 Larson that the signal on the finger is
5 transferred to the metal layer, I did not do that
6 analysis in my declaration so I can't opine on
7 that on the spot.

8 Q Can you please turn to column 1, line 60
9 of Larson? I'd like you to read that paragraph to
10 yourself and let me know when you're done.

11 A Okay. Okay. I'm done.

12 Q This paragraph describes that in a
13 capacitive sensor, a dielectric material is placed
14 over a metal material and that it functions such
15 that, quote, the body acts as one plate and the
16 metal material as the second plate of a capacitor,
17 end quote. Is that correct?

18 A Yes. It says at line 65: The body acts
19 as one plate and the metal material as the second
20 plate of the capacitor.

21 Q So this is describing that the user's
22 finger or another portion of their body is

1 separated from the metal material by the
2 dielectric material; is that correct?

3 A Can you repeat the question, please?

4 Q So in this paragraph, Larson is describing
5 that the user's finger or another portion of their
6 body is separated from the metal material by the
7 dielectric material; is that correct?

8 A Again, it says: The body acts as one
9 plate and the metal material is the second plate
10 of a capacitor, and it includes a metal material
11 to which is attached a dielectric material.

12 Q But due to the positioning of the
13 dielectric material over the metal material, that
14 would cause the dielectric material to separate
15 the user's body from the metal layer; is that
16 correct?

17 A So if there was a dielectric material over
18 the metal material, then a finger placed on the
19 dielectric material would be physically separated
20 from the dielectric.

21 Q Would you agree that due to the placement
22 of the dielectric material over the metal

1 material, the user's body is electrically isolated
2 from the metal material?

3 A So in this particular configuration of a
4 capacitive electrode, it might be.

5 Q Can you please move forward to column 3 of
6 Larson, at line 27. I'd like you to read this
7 paragraph to yourself and let me know when you're
8 done.

9 A Okay. It's a long paragraph, so ... okay.
10 I'm done.

11 Q This paragraph describes a capacitive
12 sensor 16; is that correct?

13 A Actually, I kind of lost where that
14 paragraph is. Can you repeat it again, please?

15 Q Yeah. Column 3, line 27.

16 A Okay. All right. Repeat your question,
17 please.

18 Q Yeah. This paragraph describes a
19 capacitive sensor 16; is that correct?

20 A It says electrode 16 is a capacitive-type
21 electrode.

22 Q And this paragraph describes that the

1 capacitive sensor 16 includes an external
2 dielectric material that the user contacts and
3 that the dielectric material positioned over a
4 conductive material; is that correct?

5 A It says starting at paragraph -- or
6 line 44: The dielectric material is facing the
7 outside of monitor 10 and covers the conductive
8 material.

9 Q So would you agree that the dielectric
10 material separates the user's body from the
11 conductive material?

12 A Can you repeat the question, please?

13 Q Would you agree that the dielectric
14 material separates the user's body from the
15 conductive material?

16 A So the dielectric material is on the
17 outside and it covers the conductive material and
18 if the person's finger was touching the
19 dielectric, there would be a dielectric between
20 the finger and the conductive material.

21 Q Where is the electrode 16 positioned in
22 Larson's device?

1 A So Exhibit 1069, paragraph 344, Larson
2 teaches electrode 16, a capacitive-type electrode,
3 embedded adjacent to a display screen in a device.

4 Q Can you please turn to Figure 1 of Larson?

5 A Okay.

6 Q Reference numeral 18 is identifying a
7 display screen in Figure 1; is that correct?

8 A Let me just double-check. So Larson
9 refers to item 18 as a display.

10 Q And both the display screen 18 and
11 electrode 16 are positioned on a front face of the
12 watch; is that correct?

13 A So looking at Figure 1, it appears that
14 display 18 and electrode 16 are on the front face
15 of a watch device.

16 Q So would you agree that the electrode 16
17 is not positioned in a bezel of Larson's device?

18 A Can you repeat the question again, please?

19 Q Would you agree that the electrode 16 is
20 not positioned in a bezel of Larson's device?

21 A So my declaration does not rely on Larson
22 to show an electrode in the bezel of the device.

1 In paragraph 344 of Exhibit 1069, so starting --
2 although Lyons' sensor is a capacitive touch
3 sensor, capacitive ECG sensors were known for
4 several decades prior to the '257 patent as
5 evidenced by Larson.

6 And Larson teaches electrode 16, a
7 capacitive-type electrode embedded adjacent to a
8 display screen in a device. Therefore, it is my
9 opinion that a POSITA would have seen the
10 teachings related to capacitive sensors,
11 capacitive ECG sensors, and conductive sensors as
12 familiar items, and a POSITA would have been able
13 to fit the teachings of these patents together
14 like pieces of a puzzle.

15 MR. BIENIUS: Off the record.

16 (A short break was taken.)

17 (Exhibit Number 1076.)

18 Q All right. Next I'd like to talk about
19 the Taheri reference, which is Exhibit 1076.

20 A Okay. I have it open.

21 Q Can you please turn to Figure 12 of
22 Taheri?

1 A Okay.

2 Q Looking at Figure 12 of Taheri, what
3 portion of the display sensory component 1200 does
4 the user contact?

5 A So my fourth declaration, Exhibit 1069,
6 paragraph 344, top of page 19, so -- which
7 illustrates an ECG electrode with a metallic
8 contact 1202 that is exposed to the skin 1208.

9 Q Would you agree that the sensory component
10 1200 of Figure 12 in Taheri is a capacitive
11 sensor?

12 A So again, from Exhibit 1069, starting
13 right at the end of 18, for example, a POSITA
14 would have known that capacitive ECG electrodes
15 may have a metallic layer such as a metal bezel
16 provided on their outermost surface. This is
17 taught by Taheri.

18 Q So you agree that the sensory component
19 1200 in Figure 12 is a capacitive sensor; is that
20 correct?

21 A So it's a capacitive ECG electrode, and
22 this particular one is shown with a metallic

1 layer.

2 Q Figure 12 of Taheri shows a dielectric
3 layer positioned between the metallic contact 1202
4 and the metallic contact 1206; is that correct?

5 A Yes, I see in Figure 12, dielectric 1204
6 is between metallic contact 1 1202 and metallic
7 contact 2 1206.

8 Q Is it fair to say that capacitive sensors
9 require some sort of dielectric material
10 positioned between the underlying metal layer and
11 the user's skin?

12 MR. EVERTON: Objection to form.

13 A Could you repeat the question, please?

14 Q Is it fair to say that capacitive sensors
15 require some sort of dielectric material
16 positioned between the underlying metal layer and
17 the user's skin?

18 A So what you described might be a type of
19 capacitive electrode.

20 Q Can you identify any examples in Taheri
21 that disclose a metallic layer positioned under
22 the surface of the device that do not also include

1 a dielectric layer positioned over the underlying
2 metallic layer?

3 A So I have not done that analysis for
4 Taheri to form an opinion at this time.

5 Q But in the example that you did identify
6 in Figure 12, there is a dielectric layer over the
7 lower metal layer; is that correct?

8 A So Figure 12 shows the dielectric 1204
9 between metallic contact 1 1202 and metallic
10 contact 1206.

11 (Exhibit Number 1074.)

12 Q I'd like to turn to the Rytky reference,
13 which is Exhibit 1074.

14 A Okay. Okay. I have Rytky open.

15 Q Can you please turn to Figures 10 and 11?

16 A Okay.

17 Q Would you agree that these figures show
18 electrode pads attached to the skin of a user?

19 A Can you repeat the question, please?

20 Q Would you agree that Figures 10 and 11
21 show electrode pads attached to the skin of a
22 user?

1 A So paragraph 75 of Rytky shows Figure 10
2 and describes sensors 922A and 922B whereby the
3 flexible film structure is lightly set against the
4 skin.

5 Q In Figure 10, sensors 922A and 922B are
6 shown as connected by wires to a belt-worn device;
7 is that correct?

8 A So in paragraph 77 of Rytky, it says:
9 Then the electric signal induced in the sensors
10 922A, 922B is applied from the sensors 922A, 922B
11 to the transmitter unit 928, for instance, by
12 means of transfer conductor films 924A, 924B.

13 Q Can you please turn to paragraph 46 of
14 Rytky and read that paragraph to yourself and let
15 me know when you're done.

16 A Okay. I'm sorry. Can you repeat -- I was
17 just finding the figure that it refers to.

18 Q Oh, yeah. Paragraph 46.

19 A Okay. I'm done reading paragraph 46.

20 Q Do you recall discussing this paragraph of
21 Rytky in your most recent declaration?

22 A Let me see. So I see in paragraph 347 of

1 Exhibit 1069, I do refer to paragraph 46.

2 Q Paragraph 46 of Rytky is describing an
3 electrode area 208 of Rytky's electrode; is that
4 correct?

5 A So Rytky refers to 208 as the electrode
6 area.

7 Q This paragraph states in the last
8 sentence, quote: Conducting material may be
9 provided between the surface of the skin and the
10 electrode area, end quote.

11 Do you see that?

12 A I see that as the last sentence of
13 paragraph 46, yes.

14 Q Does Rytky provide any description of what
15 material or materials would be used for this
16 conducting material?

17 A Rytky may have provided information about
18 the conducting material, but I don't have that in
19 my report.

20 Q Does Rytky provide any description of a
21 physical shape for this conducting material?

22 A Rytky may have provided information on the

1 shape, but I don't have that in my analysis.

2 Q Does Rytky include any description of this
3 conductive material forming a portion of an
4 enclosure of a device?

5 A Rytky may have something about it forming
6 an enclosure of a device, but I did not include
7 that in my analysis.

8 Q Would electrode gel be an example of a
9 type of conductive material for use with ECG
10 electrode pads that a POSITA would have been aware
11 of?

12 A Can you repeat the question again, please?

13 Q Would electrode gel be an example of a
14 type of conductive material for use with ECG
15 electrode pads a POSITA would have been aware of?

16 A So a POSITA would have been aware that
17 electrode gel material may be one type of
18 conductive material that could be used.

19 Q Would an electrically conductive adhesive
20 have been an example of the type of conductive
21 material for use with ECG electrode pads that a
22 POSITA would have been aware of?

1 A So a POSITA might have been aware of an
2 actual -- I'm sorry. How did you describe it
3 again?

4 Q Conductive adhesive.

5 A A POSITA might have been aware of a
6 conductive adhesive.

7 Q Can you please turn to paragraph 6 of
8 Rytky and read that to yourself and let me know
9 when you're done.

10 A Okay. I'm done reading it.

11 Q This paragraph discloses that the
12 electrode area is part of a flexible film
13 structure of a sensor system; is that correct?

14 A So I see it says sensor system comprises
15 at least one flexible film structure.

16 Q And the electrode area is part of that
17 flexible film structure; is that correct?

18 A Can you repeat the question, please?

19 Q The electrode area is part of the flexible
20 film structure; is that correct?

21 A So the structure in Figure 2B of Rytky and
22 looking at paragraph 42, so the whole structure

1 200B is a film structure. It might be flexible.

2 Q But in paragraph 6, it's describing that
3 the electrode area is part of a flexible film
4 structure; is that correct?

5 A Yeah, so it might be a flexible film
6 structure.

7 Q And Rytky as a whole describes this as
8 being a film structure that adheres to a patient;
9 is that correct?

10 MR. EVERTON: Objection to form.

11 A Can you repeat the question, please?

12 Q In paragraph -- sorry.

13 Rytky as a whole is describing that the
14 electrode area is part of a film structure that
15 adheres to the patient; is that correct?

16 MR. EVERTON: Object to the form.

17 A So I don't see anything in Rytky that says
18 the structure adheres.

19 Q So looking back at Figures 10 and 11 that
20 we discussed earlier, do you believe there's a
21 relationship between the sensors 922A and 922B
22 shown in those figures and the flexible film

1 structure having the electrode area shown in the
2 earlier figures?

3 A Can you repeat the question, please?

4 Q Looking at these sensors in -- sorry.

5 Looking at Figures 5 -- sorry. I'll start
6 over.

7 Looking at Figures 10 and 11, and
8 specifically the sensors 922A and 922B in those
9 figures, do you believe that there's a
10 relationship between those sensors and the
11 flexible film structure having the electrode area
12 shown in the earlier figures?

13 MR. EVERTON: Objection to form.

14 A There might be a relationship, but I
15 didn't do that analysis in my report, so I can't
16 opine on that at this time.

17 Q I'd like to return to your most recent
18 declaration, Exhibit 1069.

19 A Okay.

20 Q Specifically paragraph 347.

21 A Okay.

22 Q You're discussing Rytky in this paragraph;

1 is that correct?

2 A Correct, yeah. 347 discusses Rytky.

3 Q At the end of this paragraph, you've
4 included an altered version of Figure 2A of Rytky
5 in which you've drawn a layer you've identified
6 as, quote, additional conducting material, end
7 quote; is that correct?

8 A That's correct. Paragraph 347 shows an
9 additional conducting material in Figure 2A of
10 Rytky.

11 Q Is it correct that this layer of
12 additional conducting material is not shown in the
13 original Figure 2A of Rytky?

14 A The sentence above that diagram says:
15 Conductive material added between the surface of
16 the skin and Rytky's electric conductive layer
17 206, a pad could have been configured as shown
18 below with the dashed lines indicating the added
19 layer. So that's an added layer to Figure 2A.

20 Q So the layer labeled as additional
21 conducting material does not appear in the
22 original Figure 2A of Rytky; is that correct?

1 A Yeah, that has been added to Figure 2A to
2 show that it could have been configured with that
3 added layer.

4 Q Is it possible that this additional
5 conducting material positioned on the external pad
6 206 could be electrode gel or a conductive
7 adhesive?

8 MR. EVERTON: Objection to form.

9 A It could be, but I have not done that
10 analysis.

11 Q Do you believe that the pad 206 is
12 embedded in the additional conducting material in
13 your altered version of Figure 2A?

14 MR. EVERTON: Objection to form.

15 A I have not done that analysis in my
16 report, so I can't opine on that at this time.

17 MR. BISENIUS: All right. We have no
18 further questions.

19 MR. EVERTON: Okay. Yeah, Masimo does not
20 have any questions for this witness.

21 (Witness excused, 11:31 a.m. Eastern.)

22

C E R T I F I C A T E

I, RACHEL F. GARD, RPR, CCR, CRR, CSR No. 084-3324, No. 9315, No. 1010, a Certified Shorthand Reporter in and for the States of Illinois, Michigan, Nevada at large, do hereby certify that ALAN L. OSLAN, the deponent herein, was previously duly sworn to tell the truth, the whole truth, and nothing but the truth in the aforementioned matter;

That the foregoing deposition was taken on behalf of Patent Owner on the 12th day of July, 2024, at 10:00 a.m. Eastern, pursuant to the applicable rules;

That said deposition was taken down in stenograph notes and afterwards reduced to typewriting under my direction, and that the typewritten transcript is a true record of the testimony given by the said deponent; and that signature was requested by the deponent and all parties present;

That the parties were represented by their counsel as aforementioned.

I do further certify that I am a disinterested person in this cause of action, that I am not a relative or attorney of either party or otherwise interested in the event of this action, and that I am not in the employ of the attorneys for any party.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal on this 12th day of July, 2024.



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