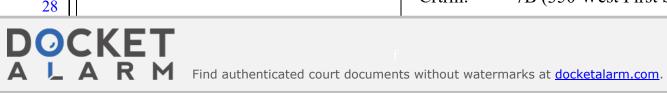
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18	CENTRAL DISTRICT OF CALIFORNIA					
19	WESTERN DIVISION					
20						
21	Philips North America LLC,	Case No. 2:19-cv-06301-AB-KS				
22	Plaintiff,	PHILIPS NORTH AMERICA LLC's REPLY IN SUPPORT OF ITS				
23	VS.	MOTION UNDER RULE 54(b) TO				
24		ENTER FINAL JUDGMENT AS TO				
25	Garmin International, Inc. Garmin USA, Inc. and Garmin Ltd.,	COUNT I FOR INFRINGEMENT OF U.S. PATENT NO. 6,013,007				
26	Defendants.	Datas Dagambar 10, 2020				
27		Date: December 18, 2020 Time: 10:00AM				
28		Crtrm: 7B (350 West First Street)				



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TABLE OF AUTHORITIES

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Cases
Cox Communs., Inc. v. Sprint Communs. Co. L.P., No. 12-487-SLR, 2015 U.S. Dist. LEXIS 113522 (D. Del. Aug. 27, 2015)9
Curtiss-Wright Corp. v. General Elec. Co., 446 U.S. 1 (1980)
Dane Technologies, Inc. v. Gatekeeper Systems, Inc., 2013 U.S. Dist. LEXIS 117718, 2013 WL 4483355 at *1-3 (D. Minn. 2013)
Davol, Inc. v. Atrium Medical Corp., 2013 U.S. Dist. LEXIS 84533, 2013 WL 3013343 at *2-6 (D. Del. 2013)
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Hewlett-Packard Co. v. ServiceNow, Inc., No. 14-cv-00570-BLF, 2015 U.S. Dist. LEXIS 139383 (N.D. Cal. Oct. 13, 2015)
ImageCube LLC v. Boeing Co., No. 04-cv-7587, 2010 U.S. Dist. LEXIS 5252 (N.D. Ill. Jan. 22, 2010)
Lindemann Maschinenfabrik GMBH v. Am. Hoist & Derrick Co., 730 F.2d 1452 (Fed. Cir. 1984)
<i>Medtronic, Inc. v. Daig Corp.</i> , 789 F.2d 903 (Fed. Cir. 1986)
Parity Networks, LLC v. Juniper Networks, Inc., No. 18-cv-06452-JSW, 2019 U.S. Dist. LEXIS 231122 (N.D. Cal. July 3, 2019)
Pentair Water Pool and Spa, Inc. v. Hayward Indus., Inc., 2012 U.S. Dist. LEXIS 178630, 2012 WL 6608619 at *3 (E.D.N.C. December 18, 2012)





Plaintiff Philips North America LLC ("Philips") hereby replies to Garmin International, Inc. and Garmin Ltd.'s (collectively "Garmin") Opposition (Dkt. 113) to Philips's Motion under Fed. R. Civ. P. 54(b) (Dkt. 110, "Motion") for the Court to enter final judgment on Count I of Philips's Amended Complaint concerning U.S. Patent No. 6,013,007 ("'007 Patent").

I. GARMIN INTERJECTS IRRELEVANT NEW ARGUMENTS

A. The '233 Patent IPR

The institution of the IPR on the '233 Patent plays a prominent role in Garmin's Opposition, though notably was not discussed by the parties with respect to the Rule 54(b) Motion for the simple reason that the IPR was not instituted until two weeks after the parties had met and conferred on the present Motion. Nevertheless, Philips has no procedural objection to Garmin's arguments concerning the '233 Patent IPR presented in the Opposition. Philips does believe, however, that it bears clarification that Garmin never sought an IPR on any of the other patents still in dispute, *i.e.*, the '007, '377, and '542 Patents. (*See* attached Ciardullo Declaration, ¶2.) Garmin joined with Fitbit on the IPR petition for the '233 Patent, but tellingly declined to join when Fitbit also pursued an IPR on the '377 Patent, which the Patent Office subsequently declined to institute. (*Id.*) If Garmin believed it had some other compelling basis to invalidate the '377 Patent beyond what Fitbit argued, Garmin could have pursued its own IPR, but chose not to. The validity of the patent now having been confirmed by the Patent Office, there is no basis to delay trial.

In any event, as discussed *infra*, Garmin has not demonstrated that the '233 Patent IPR has any bearing on how the Motion should be decided, nor has Garmin shown that it warrants a stay of any proceedings.

B. The European Proceedings

Garmin argues that "Garmin has invalidated the claims of the European counterpart of the '007 in the United Kingdom and the claims of the German '007 Patent in Germany." (Opp., p. 13.) As an initial matter, this is not entirely accurate: the claims of the European counterparts were in fact upheld as valid in amended form, and the UK and German courts disagreed in their reasoning. But more importantly, happenings in Europe should not be of any import to the



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