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14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**  
16

17 Philips North America, LLC, ) Case No. 2:19-cv-06301-AB (KSx)  
18 )  
19 Plaintiff, Counterclaim-Defendant )

20 v. ) **DEFENDANTS' MOTION FOR**  
21 ) **SUMMARY JUDGMENT OF**  
22 ) **NON-INFRINGEMENT, PATENT**  
23 ) **INELIGIBILITY, AND**  
24 ) **INVALIDITY**

25 Garmin International, Inc. and Garmin )  
26 LTD )  
27 ) Hearing: April 15, 2022, 10:00 am  
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Defendants, Counterclaimants

Hon. André Birotte Jr.

## I. INTRODUCTION

1  
2 Initially, Philips asserted six patents. Dkt No. 45, ¶48. Of those six, two have  
3 been invalidated, and two have been voluntarily withdrawn by Philips. Two patents  
4 currently survive, US Patent Nos. 9,801,542 and 8,277,377. Regarding non-  
5 infringement, a mere two claims remain before this Court, Claim 13 of the '542 and  
6 Claim 1 of the '377.

7 Claim 13 of the '542 Patent requires the “statistical analyzer” to be trained with  
8 the **particular** end-user’s **own data**. Claim Construction Order, Dkt. No. 102, at 41.  
9 Philips’ expert admitted in deposition that the alleged statistical analyzer in the  
10 accused Garmin watches is not trained by end-user’s own data but was in fact trained  
11 in Finland by 158 men and women as part of developing the “statistical analyzer”.  
12 (UF¶¶1-2, 4-6.<sup>1</sup>) Based on this Court’s Claim Construction Order and Philips’ own  
13 admissions, Garmin does not infringe the claims of the '542 Patent.

14 As to the '377 Patent, the claim requires the phone application to receive  
15 “physiologic status” data from Garmin’s watches while the user is exercising. '377,  
16 13:39-41, Claim Construction Order, Dkt. No. 102, at 34. If a Garmin athlete wants  
17 to monitor her physiologic status while exercising, she can just look at her watch  
18 instead of the application on her phone, an act which is non-infringing without dispute.  
19 (UF¶¶8-9, 16.) The accused Garmin watches are **designed to block** the syncing of all  
20 data being sent between the watch and the phone application/servers during exercise,  
21 a requirement of every claim. (UF¶¶10-12.) Instead of dropping the '377, Philips  
22 rests its entire case on the hope that some Garmin athlete might use Garmin’s watches  
23 in a manner exactly *contra* their design and *contra* Garmin’s instructions for use. But  
24 the asserted claims are method claims. As such, Garmin can only be liable if: (1)  
25 someone actually performs the claimed method; and (2) Garmin intended its users to  
26

27  
28 <sup>1</sup> Separate Statement of Undisputed Facts, ¶¶1-2, 4-6.

1 perform the claimed method. Philips has failed to make either showing.

2 Materially, the only “intent to induce infringement” evidence cited by Philips  
3 demonstrates the opposite; Garmin has no intent for its customers to use its highly  
4 sophisticated training watches in a manner other than designed and instructed.

5 Regarding Section 101 patent eligibility, the claims of the ’377 have already  
6 been found to be abstract by one court and, “[t]he fact that many of these technologies  
7 were well-known can be discerned from [the] patent[] [itself]”. *Secured Mail Sols.,*  
8 *LLC v. Universal Wilde, Inc.*, 873 F.3d 905, 912 (Fed. Cir. 2017).

9 Finally, the claims of the ’542 Patent are invalid because the disclosure of the  
10 ’542 was actually copied from another patent that predates the ’542.

## 11 II. LEGAL AUTHORITY

12 Summary judgment is appropriate when “there is no genuine dispute as to any  
13 material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ.  
14 P. 56(a). A fact is “material” if it “might affect the outcome of the suit under the  
15 governing law,” and a dispute as to a material fact is “genuine” if there is sufficient  
16 evidence for a reasonable trier of fact to decide in favor of the nonmoving party.  
17 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202  
18 (1986). The moving party bears the initial burden of demonstrating the absence of a  
19 genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S. Ct.  
20 2548, 91 L. Ed. 2d 265 (1986). For issues where the opposing party has the burden of  
21 proof, the moving party need only point out “that there is an absence of evidence to  
22 support the nonmoving party’s case.” *Id.* at 325. The burden then shifts to the  
23 nonmoving party to set forth, by affidavit or as otherwise provided in Rule 56,  
24 “specific facts showing that there is a genuine issue for trial.” *Liberty Lobby*, 477 U.S.  
25 at 250 (internal quotation marks omitted). Summary judgment is mandated “against a  
26 party who fails to make a showing sufficient to establish the existence of an element  
27 essential to that party’s case, and on which that party will bear the burden of proof at  
28

1 trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S. Ct. 2548, 91 L. Ed. 2d 265  
2 (1986).

### 3 III. NONE OF THE ACCUSED PRODUCTS INFRINGE PHILIPS’ 4 REMAINING TWO INDEPENDENT CLAIMS

5 Two independent claims remain asserted in this case: Claim 13 of the ’542 and  
6 Claim 1 of the ’377. Because Garmin does not infringe those two independent claims,  
7 Garmin cannot infringe any of the remaining dependent claims. *Wahpeton Canvas*  
8 *Co. v. Frontier, Inc.*, 870 F.2d 1546, 1553 (Fed. Cir. 1989).

#### 9 A. Garmin Does Not Infringe the ’542 Patent

10 There is only one independent claim at-issue, and that claim is a method claim:

11 13. A method for maintaining wellness in **a user** comprising the following  
12 steps:

13 a. using one or more sensors physically coupled to **the user** and connected to a  
14 network, to monitor one or more vital parameters, providing data representative  
15 of **the user’s** physical condition;

16 b. analyzing the one or more vital parameters using a **statistical analyzer,**  
17 **trained with training data representing physiological conditions**  
18 **determined to be undesirable for the user** to analyze the vital parameters to  
19 determine if the physiological conditions are undesirable; and

20 c. generating a warning indication when **the user’s** physical condition is  
21 **undesirable**.

22 The claim requires “using a statistical analyzer, *trained with* training data  
23 representing physiological conditions determined to be undesirable *for the user.*”  
24 ’542, 76:17-19 (emphasis added). At claim construction, Garmin argued that the  
25 requirement that the physiological conditions be “undesirable for the user” rendered  
26 the claim indefinite. *See, e.g.,* Dkt. No. 75, at 23-25; *id.* at 24 (arguing  
27 “[u]ndesirability’ will differ from person to person, based on the user-specific data  
28 used to train the claimed ‘statistical analyzer.’”). The Court disagreed, finding the

1 claim to be sufficiently definite because “the user” in the claim referred to the specific  
2 user and a “particular patient”:

3 Of note, Defendants have not cited any evidence to show that persons of skill  
4 in the art would disagree as to what is “desirable” for a particular patient, when  
5 that term is considered in the context of health monitoring and a person of skill’s  
6 respective knowledge of correlations between a particular type of data and a  
7 particular medical condition. . . . Moreover, Defendants’ example that two  
8 patients could have identical blood pressure readings, but that those readings  
9 could be identified as desirable and undesirable: (1) is inapposite to the claim  
10 language specifying a parameter is “undesirable **for the user**” (*i.e.*, a singular  
11 user) and (2) is unsupported by any evidence or expert testimony.

12 Claim Construction Order, at 41 (bold in the original; underline added).

13 The Court also found: “In light of these disclosures, Defendants have not shown  
14 by clear and convincing evidence that one of skill in the art in health monitoring could  
15 not determine what would be undesirable for a patient, ***given the patient’s individual***  
16 ***characteristics.***” Claim Construction Order, at 41

17 Garmin’s accused watches are not medical devices, or health monitoring  
18 devices, and Garmin’s users are not “patients”. *See id.* Nor do Garmin watches train  
19 any statistical analyzer with a particular patient’s data.

20 Under Philips’ infringement theory, “the user” in the claim is the “particular  
21 patient” using the accused watch. (UF¶3.) Under well-established law, “the user”  
22 throughout the claim must be the same user. *X One, Inc. v. Uber Techs., Inc.*, 440 F.  
23 Supp. 3d 1019, 1034 (N.D. Cal. 2020) (“The Court agrees with Uber that all three  
24 instances of ‘map’ [in the claim] refer to the same map.”); *see also id.*, at 1034  
25 (collecting cases); *Howlink Glob. LLC v. Network Communs. Int’l Corp.*, 561 F. App’x  
26 898, 903 (Fed. Cir. 2014) (terms with an “antecedent basis” [“a user” followed by “the  
27 user”] “carry the same meaning throughout the claims.”)

28 As such, the “statistical analyzer” in the claim was trained by the “particular  
29 patient” wearing an accused device. Claim Construction Order, at 41 (“the claim  
30 language specif[ies] a parameter is “undesirable ***for the user***” (*i.e.*, a singular user)”)

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