

LAMKIN IP DEFENSE  
RDL@LamkinIPDefense.com  
Rachael D. Lamkin (246066)  
One Harbor Drive, Suite 304  
Sausalito, CA 94965  
(916) 747-6091 Telephone

Michelle L. Marriott (*pro hac vice*)  
michelle.marriott@eriseip.com  
Erise IP, P.A.  
7015 College Blvd.  
Suite 700  
Overland Park, KS 66211  
(913) 777-5600 Telephone  
(913) 777-5601 Facsimile

*Attorneys for Defendants Garmin  
International, Inc. and Garmin Ltd.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

PHILIPS NORTH AMERICA LLC,  
Plaintiff,

v.

GARMIN INTERNATIONAL, INC.  
AND GARMIN LTD.,  
Defendants.

Case No. 2:19-cv-06301-AB-KS

**DECLARATION OF  
MICHELLE MARRIOTT IN  
SUPPORT OF DEFENDANTS'  
OPENING CLAIM  
CONSTRUCTION BRIEF**

I, Michelle L. Marriott, declare as follows:

1. I am a shareholder with Erise IP, P.A., counsel of record for Defendants Garmin International, Inc. and Garmin Ltd. in the above-captioned matter. I submit this declaration based on personal knowledge following a

reasonable investigation. If called upon as a witness, I could competently testify to the truth of each statement herein.

2. Attached hereto are true and correct copies of portions of the prosecution history of U.S. Patent No. 8,277,377:

- **Exhibit A** is a true and correct copy of the Office Action dated May 4, 2009.
- **Exhibit B** is a true and correct copy of the Response to Office Action dated August 4, 2009
- **Exhibit C** is a true and correct copy of the Applicant Remarks dated March 16, 2010.
- **Exhibit D** is a true and correct copy of the Office Action dated August 10, 2010.
- **Exhibit E** is a true and correct copy of the Amendment and Response after Final Office Action dated September 20, 2010.
- **Exhibit F** is a true and correct copy of the Reasons for Requesting Pre-Appellate Review dated December 17, 2010.
- **Exhibit G** is a true and correct copy of the Response to Non-Final Office Action dated June 14, 2011.
- **Exhibit H** is a true and correct copy of the Reasons for Requesting Pre-Appellate Relief dated October 28, 2011.
- **Exhibit I** is a true and correct copy of the Applicant Pre-Appeal Brief dated January 10, 2012.
- **Exhibit J** is a true and correct copy of the Appeal Brief dated March 12, 2012.

3. Attached hereto are true and correct copies of portions of the prosecution history of US. Patent No. 8,712,510 (Application No. 12/692080):

- **Exhibit K** is a true and correct copy of the Office Action Response dated October 22, 2012.
- **Exhibit L** is a true and correct copy of the Office Action Response dated June 10, 2013.

4. Attached hereto are true and correct copies of portions of the prosecution history of U.S. Patent 9,314,192:

- **Exhibit M** is a true and correct copy of the Office Action Response dated August 25, 2010.

- **Exhibit N** is a true and correct copy of the Office Action Response dated February 15, 2011.
- **Exhibit O** is a true and correct copy of the Office Action Response dated July 21, 2011.
- **Exhibit P** is a true and correct copy of the Office Action Response dated October 20, 2014.
- **Exhibit Q** is a true and correct copy of the Office Action Response dated April 10, 2015.

5. Attached hereto are true and correct copies of portions of the prosecution history of U.S. Application No. 10/938783:

- **Exhibit R** is a true and correct copy of the Applicant Arguments dated August 22, 2008.
- **Exhibit S** is a true and correct copy of the Amended Claims dated December 30, 2008.

6. Attached hereto are true and correct copies of portions of the prosecution history of U.S. Application No. 11/649355:

- **Exhibit T** is a true and correct copy of the Preliminary Amendment dated June 6, 2007.
- **Exhibit U** is a true and correct copy of the Second Preliminary Amendment dated June 24, 2008.
- **Exhibit V** is a true and correct copy of the Office Action dated January 30, 2009.
- **Exhibit W** is a true and correct copy of the Response to Office Action dated April 30, 2009.
- **Exhibit X** is a true and correct copy of the Office Action dated July 23, 2009.

7. Attached hereto as **Exhibit Y** is the Office Action Response dated February 27, 2018 from the prosecution history of U.S. Application No. 15127189.

8. Attached hereto are true and correct copies of portions of the prosecution history of Australian Patent Application No 2011207170:

- **Exhibit Z** is a true and correct copy of the Examiner's Report dated September 3, 2014.

- **Exhibit AA** is a true and correct copy of the Response to Examiner's Report dated September 1, 2015.
- **Exhibit BB** is a true and correct copy of the Response to Examiner's Report dated January 4, 2016.
- **Exhibit CC** is a true and correct copy of the Response to Examiner's Report dated March 21, 2016.

9. Attached hereto are true and correct portions of the prosecution history of European Patent Application 00989280:

- **Exhibit DD** is a true and correct copy of the Response to Communication dated October 20, 2003.
- **Exhibit EE** is a true and correct copy of the Response to Communication dated February 23, 2005.
- **Exhibit FF** is a true and correct copy of the Written Submission Prior to Oral Hearing dated November 11, 2005.

10. Attached hereto are true and correct portions of the prosecution history of European Patent Application 06832085:

- **Exhibit GG** is a true and correct copy of the Observations on the PCT Search Report dated July 15, 2008.
- **Exhibit HH** is a true and correct copy of the Reply to Communication dated January 27, 2010.
- **Exhibit II** is a true and correct copy of the Application Remarks dated December 22, 2010.

11. **Exhibit JJ** is a true and correct copy of excerpts from "GPS Land Navigation," copyright 1999.

12. **Exhibit KK** is a true and correct copy of a portion of Webster's II New College Dictionary, copyright 2001, 1999, 1995.

13. **Exhibit LL** is a true and correct copy of portions of the Plaintiff's Opening Claim Construction Brief, Dkt. 73, filed in *Philips North America LLC v, Fitbit, Inc.*, 1:19-cv-11586-IT.

14. **Exhibit MM** is a true and correct copy of a document on which Philips disclosed as extrinsic evidence on May 29, 2020, which purports to be a

Merriam Webster dictionary definition of the word “govern.”

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 26<sup>th</sup> day of June 2020 in Overland Park, Kansas.

DATED: June 26, 2020

*/s/ Michelle L. Marriott*  
\_\_\_\_\_  
Michelle L. Marriott  
*Counsel for Defendants Garmin International,  
Inc. and Garmin Ltd.*