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

19 PHILIPS NORTH AMERICA LLC,
20 Plaintiff,
21 v.
22 GARMIN INTERNATIONAL, INC.
23 AND GARMIN LTD.,
24 Defendants.

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

**DEFENDANTS' RESPONSIVE
CLAIM CONSTRUCTION BRIEF**

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1 **I. U.S. Patent No. 6,013,007 (the '007 Patent)**

2 **a. Means for Computing Athletic Performance Feedback Data from the**
3 **Series of Time-Stamped Waypoint, Claims 1, 21, limitation (b)**

4 There is no dispute that the “means for computing” limitation is a means-plus-
5 function limitation that must be construed under 35 U.S.C. 112(6) (now 35 U.S.C.
6 112(f)). The Parties further agree that the function of limitation (b) is “computing
7 athletic performance feedback data from the series of time-stamped waypoints.” *See*
8 *Dkt. 77* at 5. When a patentee claims a computer-implemented invention and invokes
9 means-plus-function limitations, the Federal Circuit has “consistently required that
10 the structure disclosed in the specification be more than simply a general purpose
11 computer or microprocessor.” *Aristocrat Techs. Austral. Pty Ltd. v. Int’l Game Tech*,
12 521 F.3d 1328, 1333 (Fed. Cir. 2008). This requirement seeks to avoid “pure
13 functional claiming” and mandates that the patent must disclose sufficient
14 algorithmic structure. *Id.* Where no structure appears in the specification, the
15 question is “whether an algorithm was disclosed at all.” *Id.* at 1337. Here, there is
16 none. The testimony of Philips’ expert, Dr. Martin, confirms that an off-the-shelf
17 processor (Philips’ proposed structure¹) would not even be able to calculate
18 waypoints, and certainly could not perform the claimed “computing athletic
19 performance feedback data” based on the waypoints, but would require special
20 programming. Declaration of Rachael Lamkin (“Lamkin Dec.”) Ex. C (Martin Tr.)
21 48:6-50:14 (“Q: But the key is that someone would need to program those off-the-
22 shelf processors; correct? A. That is correct.”). And as Philips readily conceded in

23 _____
24 ¹ Philips’ proposed structure, while a moving target, is insufficient. Neither a
25 “processor and equivalents” (Lamkin Dec. Ex. B at 1; *Dkt. 73-2*) nor “a processor
26 (CPU) that also utilizes memory and is connected to a GPS receiver module that
27 provides geographical position information signals to the memory for storage” (*Dkt.*
28 *77* at 7) discloses the algorithmic structure required. *See Ergo Licensing, LLC v.*
CareFusion 303, Inc., 673 F.3d 1361, 1365 (Fed. Cir. 2012).

1 briefing filed yesterday in co-pending litigation, the specification discloses no such
2 special programming:

3 Here, the formulas for calculating distance, speed, and pace from a series of points—all
4 of which involves high school level math—are not expressly disclosed in the specification, but
5 are aspects of the algorithm that a POSITA would nevertheless be well aware of. *See Alfred E.*

6 Lamkin Dec. Ex. F at p. 6. The claims are indefinite.

7 Philips' arguments cannot save the claims. By way of background, the
8 claimed function references "time-stamped waypoints." Waypoints are exact points
9 of latitude and longitude. Dkt. 45-1 ('007 Patent), FIG 12, 2:33-35; Lamkin Dec. Ex.
10 A (GPS Land Navigation) at 28. Time-stamped waypoints are said latitude and
11 longitude points that have date and time information associated with those points by
12 the "built-in processing unit." Dkt. 45-1, 7:35-44. According to the claimed
13 function, "athletic performance feedback data" is computed "from the series of time-
14 stamped waypoints obtained by said GPS receiver."

15 Philips cherry picks the types of data the '007 patent declares to be
16 "performance data." But, the '007 is clearly sets forth the types of data that is
17 calculated from time-stamped way points:

18 During the exercise session, the GPS receiver module 604 continuously
19 determines the athlete's geographical position and stores it in the
20 memory 608 along with other information such as the date and time that
21 each position was acquired. From these positions and times,
22 performance data such as elapsed distance, current and average speeds
and paces, calories burned, miles remaining, and time remaining are
calculated.

23 Dkt. 45-1 at 7:40-48.²

24 "[T]he specification 'is always highly relevant to the claim construction
25 analysis. Usually, it is dispositive; it is the single best guide to the meaning of a
26 _____

27 ² All underlined text is "emphasis added" unless otherwise noted.
28

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