

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

LOGANTREE LP,

Plaintiff,

vs.

GARMIN INTERNATIONAL, INC. and
GARMIN USA, INC.,

Defendants.

Case No. 6:17-cv-01217

**GARMIN'S REPLY IN SUPPORT OF THEIR MOTION FOR PROTECTIVE ORDER
TO PREVENT UNCESSARY PRINTING COMPLETE BLOCKS OF GARMIN'S
SOURCE CODE**

Over thirty days ago, on June 8, the Court invited LoganTree to “identify more targeted lines of code.” Dkt. 130-3, at 19. To date, LoganTree and its expert have been unable, or unwilling, to do so, despite a 30(b)(6) deposition of Garmin’s code witness, a lengthy review of the code, and the ability to take notes during the review. Instead, nearly all of LoganTree’s brief revolves around its claim that it cannot move forward without more code because the code files are allegedly “removed from their context.” Opp’n, at 5. But this is precisely the problem. LoganTree fails to provide any detail other than vague generalities about why it needs 2600 pages of code.

LoganTree’s refusal to identify the allegedly missing code is not surprising. This case “don’t seem to implicate a lot of source code.” Dkt. 130-3, at 16. Nor could it. LoganTree’s request for source code only relates to the “first time stamp information” limitation. The time stamp is only a small component and, as LoganTree tacitly concedes, the vast majority of the asserted claims have nothing to do with source code. For example, the “movement sensor,” “power source,” “user input,” “real-time clock,” and “output indicator,” and many parts of the “microprocessor” limitation do not implicate source code. *See* Dkt. 1-3, ‘576 Patent Re-Exam Certificate, Claim 1. The minor aspect the code plays in this case does not justify LoganTree’s request.¹

This is particularly true where Garmin already printed the precise source code responsible for the step-counting and time stamp functionality. Critically, there is no dispute that LoganTree has in its possession the correct code describing this functionality. Nowhere does LoganTree identify with particularity (e.g., by name and line number) any missing modules or lines of code for the step-counting and time stamp functionality. Instead, LoganTree suggests the code is like a

¹ LoganTree has been provided voluminous discovery to prepare its (as of yet unserved) expert report—278,000+ pages of documents, 46 hours of review for all source code for the accused products, and depositions of technical witnesses. LoganTree has more than enough information upon which to prepare an expert report.

“building made out of Legos,” yet it cannot identify the specific blocks that it claims are missing, or provide specifics as to why those blocks are necessary to supplement the code it already has.

LoganTree argues the printed code “make[s] it close to impossible to match the exact source code to the specific accused product or module relating to that product.” Opp’n, at 5. This argument is belied by the printed code itself. For example, Exhibit D to Garmin’s original motion includes two sample pages of the source code provided to LoganTree. Dkt. 130-4, **Ex. D** (filed under seal). In these excerpts, both the module and the product can be identified in the header files. This, combined with the 46-hour code review and whatever notes LoganTree’s expert took during this process should be more than enough. Nonetheless, to avoid a dispute on this issue, Garmin has provided LoganTree a “cheat sheet” linking the source code to each Accused Product. **Ex. H**.

Perhaps the biggest problem with LoganTree’s “context” argument is LoganTree’s own failure to conduct discovery on the code. Glaringly absent from LoganTree’s brief is any explanation for its failure to ask Garmin’s 30(b)(6) source code witness a single question about the code, its “context,” or how it fits together “like a building made out of Legos.” In light of this failure, it is clear LoganTree is now seeking to continue its code review in an improper manner.

Finally, LoganTree suggests that Garmin’s concerns about the security of its printed source code are unfounded and illusory. Yet LoganTree’s own brief shows that Garmin’s concerns are well founded. Case in point, Garmin produced 207 pages of printed code to LoganTree’s expert. **Ex. I**, Declaration of Callie Pendergrass. LoganTree’s brief, however, notes in multiple instances that it only has 100 pages of printouts in its possession. Opp’n, at 1 and 7. Counsel is addressing this discrepancy with LoganTree (who has been unable to confirm whether code is missing), but Garmin should not be subject to the risk of an inadvertent disclosure, especially when LoganTree has more than enough technical information and printed code upon which to prepare its report.

Dated: July 14, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on July 14th, 2021, the foregoing document filed with the Clerk of the Court using CM/ECF and that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system accordingly.

By: /s/ Megan J. Redmond
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