

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

LOGANTREE LP,

Plaintiff,

v.

Case No. 17-1217-EFM-ADM

GARMIN INTERNATIONAL, INC.,

Defendant.

PRETRIAL ORDER

On November 23, 2021, U.S. Magistrate Judge Angel D. Mitchell conducted a pretrial conference in this case, by videoconference. The court and the parties circulated revised drafts and reconvened the pretrial conference on December 3, 14, and 17. Plaintiff LoganTree LP (“LoganTree”) appeared through counsel Christopher Barkley and Clayton Kaiser. Defendants Garmin International, Inc. (“Garmin”) and Garmin USA, Inc.¹ appeared through counsel Adam Seitz, Megan Redmond, Carrie Bader, and Clifford Brazen. Garmin’s in-house counsel David Ayers and Sam Korte were also present.

This pretrial order supersedes all pleadings and controls the subsequent course of this case. It will not be modified except by consent of the parties and the court’s approval, or by order of the court to prevent manifest injustice. Fed. R. Civ. P. 16(d) & (e); D. Kan. Rule 16.2(b).

¹ During the pretrial conference, the parties stipulated to dismissing defendant Garmin USA, Inc. Garmin International, Inc. is the proper entity that would be responsible for any judgment in this case and Garmin International, Inc. stipulates that it will not raise any defenses based on Garmin USA, Inc. Accordingly, the court directs the clerk’s office to update the docket to reflect that Garmin USA, Inc. has been terminated as a party to this action.

1. PRELIMINARY MATTERS.

a. Subject-Matter Jurisdiction. Subject-matter jurisdiction is invoked under 28 §§ U.S.C. 1331 and 1338(a) and is not disputed.

b. Personal Jurisdiction. The Court’s personal jurisdiction over the parties is not disputed.

c. Venue. Venue in this court is not disputed.

d. Governing Law. Subject to the court’s determination of the law that applies to the case, the parties believe and agree that the substantive issues in this case are governed by federal law, including 35 U.S.C. §§ 1 *et seq.*

2. STIPULATIONS.

a. The following facts are stipulated:

- i. LoganTree LP is a limited partnership organized under the laws of the state of Nevada.
- ii. LoganTree’s sole general partner is Gulfstream Ventures, LLC.
- iii. (“Gulfstream”) is a limited liability company organized under the laws of the state of Nevada.
- iv. Defendant Garmin International, Inc. is a corporation organized and existing under the laws of the state of Kansas with its principal place of business at 1200 East 151st Street, Olathe, Kansas 66062.
- v. On November 21, 1997, Theodore Brann filed Patent Application No. 08/976,228. It ultimately issued on May 9, 2000, as United States Patent No. 6,059,576 (“the ‘576 Patent”), with Theodore Brann listed as inventor.
- vi. On April 4, 2014, LoganTree filed a request for reexamination of the ‘576 Patent with the Patent Office. On March 17, 2015, the Patent Office issued a reexamination certificate for the ‘576 Patent, bearing U.S. Patent No. 6,059,576 C1 (“the ‘576 Reexamination Certificate”).
- vii. LoganTree is the owner by assignment of all right, title, and interest to the ‘576 Patent, as reexamined, including the exclusive right to sue for infringement and recover past damages.

- viii. The '576 Patent expired on November 21, 2017.
- ix. Should the Court or jury determine that damages are appropriate, the period for which damages can be awarded is March 17, 2015, through November 21, 2017.
- x. LoganTree asserts that Garmin literally and directly infringes claims 1, 4, 20, 25, 36, and 134 of the '576 Patent (the "Asserted Claims").
 - a. Claim 1 is an independent claim and recites (key limitations noted in red):

A portable, self-contained device for monitoring movement of body parts during physical activity, said device comprising:
a movement sensor capable of measuring data associated with unrestrained movement in any direction and generating signals indicative of said movement;
a power source;
a microprocessor connected to said movement sensor and to said power source, said microprocessor capable of receiving, interpreting, storing and responding to said movement data based on user-defined operational parameters, detecting a first user-defined event based on the movement data and at least one of the user-defined operational parameters regarding the movement data, and storing first event information related to the selected first user-defined event along with the first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred;
at least one user input connected to said microprocessor for controlling the operation of said device;
a real-time clock connected to said microprocessor;
memory for storing said movement data; and
an output indicator connected to said microprocessor for signaling the occurrence of user-defined events;
wherein said movement sensor measures the angle and velocity of said movement.

- b. Claim 20 is independent and recites (key limitations noted in red):

A method to monitor physical movement of a body part comprising the steps of:
attaching a portable, self-contained movement measuring device to said body part for measuring unrestrained movement in any direction;
measuring data associated with said physical movement; interpreting, using a microprocessor included in the portable, self-contained measuring device, said physical movement data

based on **user-defined operational parameters** and a real-time clock;

storing said data in memory;

detecting, using the microprocessor, a first user-defined event based on the movement data and at least one of the user-defined operational parameters regarding the movement data;
and

storing, in said memory, first event information related to the detected first user-defined event along with first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred.

- c. Claim 4 depends from Independent Claim 1 and adds the following limitation:

wherein said movement sensor comprises at least one accelerometer.

- d. Claim 36 depends from Independent Claim 1 and adds the following limitation:

wherein said output indicator is configured to display information signaling the occurrence of the first user-defined event based on the detection of the first user-defined event.

- e. Claim 25 depends from Independent Claim 20 and adds the following limitation:

wherein said movement measuring device is an accelerometer.

- f. Claim 134 depends from Independent Claim 20 and adds the following limitation:

signaling, using an output indicator included in the portable, self-contained movement measuring device, the occurrence of user-defined events.

- xi. LoganTree accuses the following Garmin products of literally and directly infringing the ‘576 Patent (hereinafter, the “Accused Products”):

Vivofit Model Family

Vivofit 2
Vivofit 3
Vivosmart HR
Vivosmart HR+
Vivosmart 3
Vivosmart 3 S/M
Vivoactive

Fenix Model Family

Fenix 3
Fenix 3 HR
Fenix 3 Sapphire
Fenix 3 HR
Sapphire Fenix Chronos
Fenix 5
Fenix 5 PLUS

Vivoactive HR
 Vivoactive 3
 Vivomove
 Vivomove HR
 Vivosport

Fenix 5S
 Fenix 5S PLUS
 Fenix 5X
 Fenix 5X PLUS
 Fenix 5X Sapphire

Forerunner Model Family

Forerunner 225
 Forerunner 25
 Forerunner 230
 Forerunner 235
 Forerunner 630
 Forerunner 735XT
 Forerunner 35
 Forerunner 935

Quatix Model Family

Quatix 3
 Quatix 5
 Quatix 5 Sapphire

Quatix Model Family

D2 Bravo
 D2 Bravo Sapphire
 D2 Charlie

Approach Model Family

Approach S20
 Approach S60
 Approach X40

- xii. For each Accused Product, LoganTree accuses Garmin's user-defined step-goal functionality of infringing the Asserted Claims.
- xiii. LoganTree does not assert any doctrine of equivalents or indirect infringement theories.
- xiv. LoganTree has no claim for willful infringement.
- xv. LoganTree filed the present lawsuit on August 23, 2017.

b. The parties stipulate to the admissibility of the following exhibits for purposes of summary judgment and trial:

| | | |
|------|---|--|
| i. | U.S. Patent No. 6,059,576 | ECF 1-1 |
| ii. | U.S. Patent No. 6,059,576 Reexamination Certificate | ECF 1-2 |
| iii. | File History for U.S. Patent No. 6,059,576 | GARMIN_0280002-280181 |
| iv. | Reexamination File History for U.S. Patent No. 6,059,576 (4-4-2014 Filing Date) | LT 0000001-561 GARMIN_280182-280743 |
| v. | Fenix5.xlsx – Raw .FIT file excel output (Produced by LoganTree) | Exhibit to Myers' Report |

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