UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

LOGANTREE LP,

Plaintiff,

v.

GARMIN INTERNATIONAL, INC.,

Defendant.

Case No. 17-1217-EFM-ADM

MEMORANDUM IN SUPPORT OF
GARMIN'S MOTION FOR SUMMARY JUDGMENT

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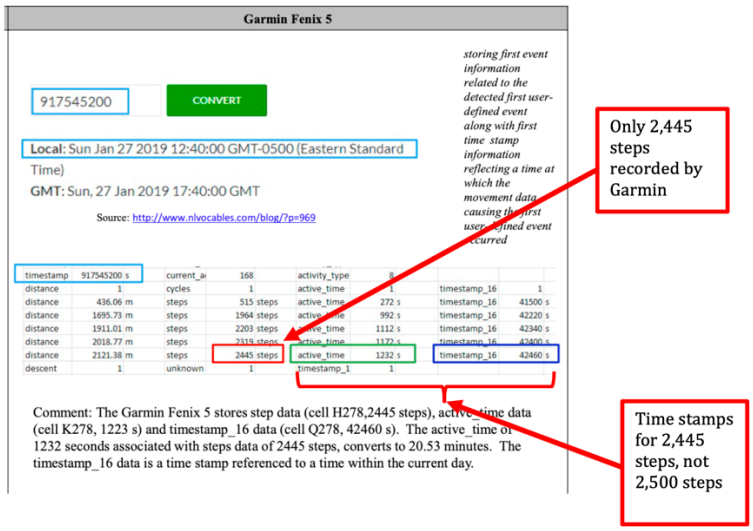
LoganTree's allegations of infringement revolve around the ability of certain Garmin fitness watches to accumulate and track a user's steps throughout the day. According to LoganTree, Garmin's products allegedly infringe because they store a time stamp in memory that records the time at which the user reached a user-defined step goal. This is demonstrably incorrect. As Garmin explained many times to LoganTree, the evidence relied upon by LoganTree for the time stamp showed an entry that was recorded ***before*** the step goal of 2,500 steps was reached:



(ECF 158-2, at 2).

LoganTree, however, contends that the time stamp does not need to reflect the time at which the user actually met their step goal, as long as it was merely "associated" with the steps. This was the key issue Garmin asked the Court to resolve during claim construction—what level of precision is required for the time stamp. As this Court recently noted, "[t]he Court largely agreed with Garmin's proposed construction" and found the time stamp must record information "***reflecting the time recorded or noted by the system at which***" the user-defined step goal is met. Shortly after this order, Garmin again pointed out the flaws in LoganTree's case and asked it to dismiss the case in light of the court's claim construction. ECF 186, at 7. LoganTree refused.

Despite Garmin's explanation for how LoganTree lacked a good faith basis to proceed in view of the Court's claim construction, "LoganTree doubled down on its existing infringement theories" and served final infringement contentions that were materially identical. *Id.*, at 8. LoganTree's final contentions continued to advance the same infringement theories, relying on the same time stamp that appears ***before*** the user met their step goal. *Id.*

LoganTree then had its expert conduct hundreds of tests on Garmin's Accused Products trying to find a single time stamp that recorded the time ***"at which"*** the user met the step goal and not before. After hundreds of tests and countless hours, LoganTree's expert's own testing revealed the Accused Products ***never*** record a time stamp when the user achieves their user-defined step goal—precisely what Garmin has been telling LoganTree for well over two years. After all this testing, the closest LoganTree could get to a time stamp "reflecting a time ***at which*** the movement data causing the first user-defined event (*i.e.* step goal) **occurred**" was always ***before*** the user defined step goal, and in some cases still hundreds of steps away from the purported test step goal of 750:

Tested Accused Product	Step Goal	Step number LoganTree Contends is Infringing	Total Steps away from the user-defined goal
Forerunner 235	750	208	542
Forerunner 25	750	238	512
Vivofit 3	750	290	460
Fenix 5	750	687	63
Vivosport	750	704	46

SOF ¶ 9. Despite these results, LoganTree has inexplicably maintained its position that a time stamp that appears, for example, 542 steps ***before*** the step goal is reached is a time stamp reflecting "the time at which" the step goal was met. This isn't surprising. This is how Garmin's products were designed to work.

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