

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

LOGANTREE LP,

Plaintiff,

v.

GARMIN INTERNATIONAL, INC.,

Defendant.

Case No. 17-1217-EFM-ADM

**GARMIN'S REPLY IN SUPPORT OF  
ITS MOTION FOR SUMMARY JUDGMENT**

**TABLE OF CONTENTS**

I. Introduction..... 1

II. The Parties’ Responses to the Statements of Undisputed Facts ..... 3

    A. LoganTree’s Improper Responses to Garmin’s Undisputed Facts ..... 3

    B. Garmin’s Responses to LoganTree’s Counter Statement of Undisputed Facts..... 3

III. Argument ..... 3

    A. LoganTree’s Belated and Improper Attempt to Rewrite the Court’s Claim Construction Lacks Merit and Should be Rejected ..... 3

    B. There is no Genuine Dispute of Material Fact that Garmin’s Accused Products do not Infringe the Time Stamp Limitation ..... 7

        1. There is no Genuine Dispute Regarding the Operation of the Accused Products—They do not Store a Time Stamp to the .FIT file when the User Hits Their Daily Step Goal..... 8

        2. LoganTree’s Alleged Evidence it Contends Shows that Garmin’s Accused Products Store a Time Stamp when the User Hits Their Daily Step Goal is Insufficient to Create a Genuine Material Dispute..... 11

    C. LoganTree’s Circumstantial Evidence that Garmin Directly Infringed Method Claim 20 is Conclusory, Unsupported, and Insufficient to Survive Summary Judgment..... 13

    D. LoganTree Still has not Defined the Scope of the Claims with Reasonable Certainty, Rendering the Claims Indefinite ..... 14

**TABLE OF AUTHORITIES**

**CASES**

*Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343 (Fed. Cir. 2001) ..... 19

*Centricut, LLC v. Esab Grp., Inc.*, 390 F.3d 1361 (Fed. Cir. 2004) ..... 9

*CommScope Techs. LLC v. Dali Wireless Inc.*, 10 F.4th 1289 (Fed. Cir. 2021) ..... 7

*Dominion Energy, Inc. v. Alstom Grid LLC*, 725 F. App'x 980 (Fed. Cir. 2018) ..... 10, 11

*E-Pass Techs., Inc. v. 3Com Corp.*, 473 F.3d 1213 (Fed. Cir. 2007) ..... 14

*Implicit Networks Inc. v. F5 Networks Inc.*, 2013 WL 1007250 (N.D. Cal. Mar. 13, 2013)..... 9

*O.J. of Stillwater, Inc. v. Davidson*, 242 F.3d 389 (10th Cir. 2000)..... 8, 10, 11

*Oracle Am., Inc. v. Google Inc.*, 750 F.3d 1339 (Fed. Cir. 2014) ..... 8

*White v. Dunbar*, 119 U.S. 47 (1886) ..... 19

*Wi-LAN Inc. v. Sharp Elecs. Corp.*, 362 F. Supp. 3d 226 (D. Del. 2019) ..... 9

## I. Introduction

LoganTree admits four key facts that mandate summary judgment:

- Garmin’s real-time clock works on a second basis.
- Garmin does not write a timestamp to the second, only the minute.
- Garmin’s software (e.g., its “source code”) for the Accused Products does not instruct the devices to write a time stamp when the user defined step goal is met.
- Of the *hundreds* of tests performed by both experts in this case, not a single one shows a timestamp that matches the set step goal.

The Court construed the phrase “first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred” to mean “first *time stamp* reflecting *the time* recorded or noted by *the system at which* the movement data causing the first user-defined event *occurred*.” ECF 106, at 9 (emphasis added). As the Court explained, “the time stamp information is going to be measured based on the unite of measurement that the real-time clock is programmed to obtain, whether that be nanoseconds, seconds, minutes, or some other unit of measurement.” *Id.* at 8. In other words, the Court already explained that the asserted claims require a time stamp showing the precise second when the user defined event occurred (e.g., manual step goal is achieved) if the system time is in seconds. As noted by the Court, there is no “flexibility in the unit of time measurement” and given it is undisputed that the real time clock measures in seconds, there is no evidence of infringement. ECF 106, at 8. Because LoganTree does not dispute that Garmin’s Accused Products do not write a system time (in seconds) but only a time stamp on the minute boundary, LoganTree’s infringement claim fails under the Court’s claim construction.

Additionally, summary judgment is also required because Garmin’s Accused Products do not write any time stamp based on the step goal—whether it’s to the minute or the second. LoganTree does not dispute that it is relying on *minute boundary time stamps long before the step goal* even occurred: 208 steps before the 750 step goal, 238 steps before the 750 step goal,

290 steps before the 750 step goal, 687 steps before the 750 step goal, and 704 steps before the 750 step goal. These timestamps appear **hundreds** of steps before the goal and do not reflect the time “at which” the step goal was met. Of the hundreds of tests submitted by the parties, not one shows a timestamp that matches the set step goal.

Despite reviewing all of Garmin’s source code (the software that controls Garmin’s Accused Products), LoganTree does not even dispute that it has *no evidence* that the Accused Products record a time stamp when the user-defined step goal is achieved. ECF 194, at 6, SOF ¶ 10. The lack of source code evidence from LoganTree is telling because it previously informed this Court that the “source code is invaluable” to its infringement case. Now, despite multiple efforts to locate anything in the code to prove infringement, LoganTree found nothing because Garmin’s Accused Products do not include the time stamp functionality required by the claims. No reasonable juror could find that time stamps hundreds of steps before the step goal are indicative of the time “at which” the step goal was met.

Finally, the Court should find the asserted claims invalid as indefinite. Garmin first contended the claims were indefinite during claim construction, almost two years ago. At that time, Garmin directly questioned how LoganTree’s characterization of the “unrestrained movement in any direction” limitation in this litigation could be reconciled with its past, seemingly contradictory characterization of that limitation before the Patent Office and this Court. Since that time, LoganTree failed to explain how its myriad characterizations are consistent, prompting Garmin to move for summary judgment. Now, given one last opportunity to clearly resolve this issue for the Court, LoganTree cannot do so. Accordingly, the Court should find the asserted claims invalid.

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