

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

LOGANTREE LP,

*Plaintiff,*

vs.

GARMIN INTERNATIONAL, INC.,

*Defendant.*

Case No. 17-1217-EFM

**MEMORANDUM AND ORDER**

This patent infringement suit involves Defendant Garmin International, Inc.’s activity trackers—a popular fitness accessory more commonly known as a smartwatch. Plaintiff LoganTree LP is the owner of U.S. Patent No. 6,059,576 (the “ ’576 Patent”), which covers, in part, a device to monitor and train individuals during physical activity. LoganTree asserts that 41 models of Garmin’s activity trackers infringe claims 1, 4, and 36 of the ‘576 Patent. Garmin denies that its activity trackers infringe the ‘576 Patent and asserts that the ‘576 Patent is invalid for indefiniteness.

This matter comes before the Court on Garmin’s Motion for Summary Judgment (Doc. 190). Garmin seeks summary judgment on LoganTree’s patent infringement claim and Garmin’s affirmative defense that the ‘576 Patent is indefinite. Because the Court finds triable issues of fact preclude summary judgment, the Court denies Garmin’s motion.

## I. Factual and Procedural Background<sup>1</sup>

### A. The '576 Patent

The application for the '576 Patent was filed on November 21, 1997, and the patent issued May 9, 2000. In April 2014, LoganTree filed a request for reexamination of the '576 Patent with the U.S. Patent and Trademark Office (the "Patent Office"), and the Patent Office issued a reexamination certificate on March 17, 2015. The '576 Patent expired November 21, 2017.

LoganTree asserts that Garmin is liable for infringement of claims 1, 4, and 36 of the '576 Patent (the "Asserted Claims").

Claim 1 reads (key limitations noted in bold):

1. 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 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;**

at least one user input connected to said microprocessor for controlling the operation of said device;

a real-time clock connected to said microprocessor;

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<sup>1</sup> The facts are stipulated facts taken from the Pretrial Order (Doc. 187), uncontroverted, or where controverted, stated in the light most favorable to LoganTree, the party opposing summary judgment.

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.

Claim 4 depends from claim 1 and adds the following limitation: “wherein said movement sensor comprises at least one accelerometer.”

Claim 36 depends from 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.”

## **B. Infringement Allegations**

LoganTree accuses 41 Garmin activity trackers (the “Accused Products”) of literally and directly infringing the ’576 Patent from March 17, 2015, through November 21, 2017. These 41 products are split among 5 model families: the Vivofit Model family, the Fenix model family, the Forerunner model family, the Quatix model family, and the Approach model family. For each Accused Product, LoganTree accuses Garmin’s user-defined step-goal functionality of infringing the Asserted Claims.<sup>2</sup>

The system’s real-time clock within Garmin’s Accused Products measures and records information on a “per second” basis. The recorded time is tied to what Garmin calls a “minute boundary.” A “minute boundary” is described by Garmin as the transition from one minute to another. For example, if a change of activity occurs at 12:29:21 PM, the next minute boundary would be 12:30:00 PM, while the preceding minute boundary would be 12:29:00 PM. Thus, when

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<sup>2</sup> During oral argument, the parties agreed that the operation of the step goal and step counting features are the same throughout all of the Accused Products.

a change of activity occurs between minute boundaries, such as 12:29:21, the stored time stamp stored shows either 12:29:00 PM or 12:30:00. Garmin's choice to use the minute boundary is a choice of precision of the system, presumably because the user does not need to know the exact second of the day the user met his or her daily step goal.

LoganTree's infringement expert, Monty Myers, oversaw extensive testing on the Accused Products. The testing process began with entering 750 steps as the daily step goal ("user defined operational parameter") for the Accused Products. Myers, or another tester, then walked at a constant pace and noted the time when the Accused Products indicated the 750 step goal was reached ("user-defined event"). Myers observed that the Accused Products produce and store an ".FIT file," which contains accumulated data such as step data and time stamps. Myers' testing showed the following results:

- Forerunner 235 .FIT file- time stamp where the user achieved 208 steps;
- Forerunner 25 .FIT file- time stamp where the user achieved 238 steps;
- Vivofit 3 .FIT file- time stamp where the user achieved 290 steps;
- Fenix 5 .FIT file- time stamp where the user achieved 687 steps; and
- Vivosport .FIT file- time stamp where the user achieved 704 steps.

### **C. Procedural History**

This case has a long procedural history. After LoganTree filed its Complaint in 2017, Garmin moved to stay the case pending Inter Partes Review ("IPR") of the '576 Patent in the U.S. Patent Office. The Court granted Garmin's motion, and the case was stayed for over a year. After the Patent Office issued its decision on the IPR, the Court lifted the stay. The parties then conducted extensive discovery.

In January 2021, the Court issued its *Markman* Order construing certain terms of the ‘576 Patent. Specifically, the Court construed the portion of the “storing” limitation found in claim 1. That limitation requires a microprocessor to store “first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred.” The Court construed the term to mean “first time stamp information reflecting the time recorded or noted by the system at which the movement data causing the first user-defined event occurred.” The Court further explained that “the time stamp information is a recording of the time obtained from the system’s real time clock,” and “is going to be measured based on the unit of measurement that the real-time clock is programmed to obtain, whether that be nanoseconds, seconds, minutes, or some other unit of measurement.” The Court also declined Garmin’s request to determine whether the term “unrestrained movement in any direction,” also found in claim 1, was rendered indefinite based on LoganTree’s positions during prosecution, reexamination, IPR, and this litigation.

Garmin now moves for summary judgment on LoganTree’s infringement claim as well as its affirmative defense that the ‘576 Patent is invalid for indefiniteness. The Court heard oral argument on Garmin’s motion on September 1, 2022.

## II. Legal Standard

Summary judgment is appropriate if the moving party demonstrates that there is no genuine issue as to any material fact, and the movant is entitled to judgment as a matter of law.<sup>3</sup> In applying this standard, the Court views the evidence and reasonable inferences in the light most favorable to the nonmoving party.<sup>4</sup> A fact is “material” when it is essential to the claim, and issues of fact

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<sup>3</sup> Fed. R. Civ. P. 56(a).

<sup>4</sup> *City of Harrington v. Bell*, 590 F.3d 1176, 1181 (10th Cir. 2010) (citation omitted).

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