

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

Civil Action No. 1:19-cv-11586-IT

**FITBIT, INC.'S STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF
FITBIT'S MOTION FOR PARTIAL SUMMARY JUDGMENT OF INVALIDITY
UNDER 35 U.S.C. § 112 (U.S. PATENT 6,013,007)**

STATEMENT OF UNDISPUTED**MATERIAL FACTS**

Pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56-2, Defendant Fitbit, Inc. (“Fitbit” or “Defendant”) submits the following Statement of Undisputed Material Facts in support of Fitbit’s Motion for Partial Summary Judgment of Invalidity Under 35 U.S.C. § 112 of the asserted claims of U.S. Patent No. 6,013,007 (the ‘007 patent).

No.	DEFENDANT’S STATEMENT OF FACT	SUPPORTING EVIDENCE
1	Independent Claims 1 and 21 of U.S. Patent No. 6,013,007 (the ‘007 patent) contain a claim element expressed in means-plus-function claiming format: “means for computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver”.	’007 patent at Col. 11:12-14; 12:28-30
2	The function performed by the means for computing claim element in claims 1 and 21 is “computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver”	’007 patent at Col. 11:12-14; 12:28-30
3	The specification of the ‘007 patent does not disclose a corresponding structure clearly linked or associated with performing the claimed function of “computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver”.	<i>See</i> ‘007 specification
4	The specification of the ‘007 patent states that GPS units available at the time of filing of the ‘007 application “do not include real-time athletic performance algorithms.”	’007 patent at Col. 1:47-48.
5	The specification of the ‘007 patent claims that a “smart algorithm can be used to filter out the erroneous position points resulting	’007 patent at Col. 7:52-56.

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	from signal interference or from induced errors through the U.S. government's Selective Availability (SA) program, which intentionally limits the absolute accuracy of civilian GPS receivers."	
6	The specification of the '007 patent does not disclose any of the step-by-step details of any algorithm performed by a processor that is clearly linked or associated with performing the claimed function of "computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver."	<i>See</i> '007 specification, Col. 7:52-56.
7	Philips' disclosures provided pursuant to patent local rule 16.6(d)(1)(A)(iv), requiring identification of the corresponding structures for means-plus-function limitations, contains no identification of a particular algorithm performed by a processor that corresponds to the function of "computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver."	Chaikovsky Declaration at 3-6.
8	Philips' infringement claim charts directed to the "means for computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver" recited by claim 1 and 7 of the '007 patent point to the functional results of using a GPS device in the accused products, and fail to identify a particular algorithm performed by a processor in the accused products as allegedly performing the claimed functions of "computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver."	Chaikovsky Declaration at 3-6.

Dated: March 19, 2020

FITBIT, INC.

By Its Attorneys,

/s/ Yar R. Chaikovsky

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CERTIFICATE OF SERVICE

I certify that a true copy of the above document was served on the attorney of record for each party via the Court's CM/ECF system, which will send notification of this filing (NEF) to all registered participants, and paper copies will be sent to those indicated as nonregistered participants.

Dated: March 19, 2020

By: /s/ Yar R. Chaikovsky
Yar R. Chaikovsky (*Pro Hac Vice*)