

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'S OPENING CLAIM CONSTRUCTION BRIEF**

## TABLE OF CONTENTS

	<b>Page</b>
I. INTRODUCTION .....	1
II. U.S. PATENT NO. 6,013,007 .....	1
A. “means for computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver” (Claims 1, 21).....	2
B. “means for suspending and resuming operation of said means for computing when a speed of the athlete falls below a predetermined threshold” (Claim 7) .....	7
III. U.S. PATENT NO. 6,976,958 .....	8
A. “in the event of an interruption of the wireless connection . . . configured to store the health parameter or visual data in a memory or on the removable memory device” (Claims 15, 16) .....	8
B. “memory” (Claims 15, 16).....	10
C. “internet-enabled wireless web device” (Claims 15, 16).....	11
D. “health parameter indicative of a disease state or condition of a patient” (Claim 15) and “health parameter or visual data corresponding to a patient’s disease state or condition” (Claim 16) .....	12
IV. U.S. PATENT NO. 7,088,233 .....	15
A. “governing information transmitted between the first personal device and the second device” (Claim 1).....	15
B. “first personal device” (Claim 1) .....	16
C. “wireless communication” (Claim 1).....	18
V. U.S. PATENT NO. 8,277,377 .....	19
A. “indicating a physiologic status of a subject” (Claim 1).....	19

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Am. Calcar, Inc. v. Am. Honda Motor Co.</i> , 651 F.3d 1318 (Fed. Cir. 2011).....	9
<i>Aristocrat Techs. Australia Pty. Ltd. v. Int’l Game Tech.</i> , 521 F.3d 1328 (Fed. Cir. 2008).....	3, 4
<i>Aspex Eyewear, Inc. v. Marchon Eyewear, Inc.</i> , 672 F.3d 1335 .....	9
<i>B. Braun Med., Inc. v. Abbott Labs.</i> , 124 F.3d 1419 (Fed. Cir. 1997).....	2, 8
<i>BlackBoard, Inc. v. Desire2Learn, Inc.</i> , 574 F.3d 1371 (Fed. Cir. 2009).....	4, 5, 7
<i>Certain Digital Media Devices, Including Television, Blu-Ray Disc Players, Home Theatre Systems, Tablets, and Mobile Phones, Components Thereof and Associated Software</i> , Inv. No. 337-TA-882, USITC Pub. 539707.....	9
<i>Default Proof Credit Card Sys., Inc. v. Home Depot U.S.A.</i> , 412 F.3d 1291 (Fed. Cir. 2005).....	5
<i>Golight, Inc. v. Wal-Mart Stores, Inc.</i> , 355 F.3d 1327 (Fed. Cir. 2004).....	3
<i>GPNE Corp. v. Apple Inc.</i> , 830 F.3d 1365 (Fed. Cir. 2016).....	11, 16, 18
<i>In re Katz Interactive Call Processing Patent Litig.</i> , 639 F.3d 1303 (Fed. Cir. 2011).....	5
<i>Microsoft Corp. v. Multi-Tech Sys., Inc.</i> , 357 F.3d 1340 (Fed. Cir. 2004) .....	12
<i>MobileMedia Ideas LLC v. Apple Inc.</i> , 780 F.3d 1159 (Fed. Cir. 2015).....	7
<i>MTD Prods. Inc. v. Iancu</i> , 933 F.3d 1336 (Fed. Cir. 2019).....	6
<i>O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co., Ltd.</i> , 521 F.3d 1351 (Fed. Cir. 2008).....	1

<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005).....	1
<i>PowerOasis, Inc. v. T-Mobile USA, Inc.</i> , 522 F.3d 1299 (Fed. Cir. 2008).....	11, 18
<i>Thorner v. Sony Computer Entm't Am. LLC</i> , 669 F.3d 1362 (Fed. Cir. 2012).....	12
<i>Trading Techs. Int'l, Inc. v. eSpeed</i> , 595 F.3d 1340 (Fed. Cir. 2010).....	17
<i>Vederi, LLC v. Google, Inc.</i> , 744 F.3d 1376 (Fed. Cir. 2014).....	1
<i>Verizon Servs. Corp. v. Vonage Holding Corp.</i> , 503 F.3d 1295 (Fed. Cir. 2007).....	14
<i>Williamson v. Citrix Online, LLC</i> , 792 F.3d 1339 (Fed. Cir. 2015).....	2, 3, 7
<i>Wis. Alumni Research Found. v. Apple Inc.</i> , 905 F.3d 1341 (Fed. Cir. 2018).....	16
<i>WMS Gaming, Inc. v. Int'l Game Tech.</i> , 184 F.3d 1339 (Fed. Cir. 1999).....	4
<b>Statutes</b>	
35 U.S.C. § 112.....	1, 3, 8

## I. INTRODUCTION

The purpose of claim construction is to “resol[ve] disputed meanings and the technical scope, to clarify and when necessary to explain what the patentee covered by the claims.” *O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co., Ltd.*, 521 F.3d 1351, 1362 (Fed. Cir. 2008). A patent’s claims, specification, and prosecution history (including references cited therein) comprise “intrinsic evidence” that must be consulted before any other evidence when construing patent claims. *Vedderi, LLC v. Google, Inc.*, 744 F.3d 1376, 1382 (Fed. Cir. 2014). “[T]he prosecution history provides evidence of how the PTO and the inventor understood the patent” and may show that “the inventor limited the invention in the course of prosecution . . .” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1317 (Fed. Cir. 2005) (citations omitted). Fitbit’s proposed constructions follow these and other canons of claim construction. Philips’ constructions ignore the canons, seek to recast the scope of its patents in an attempt to cover Fitbit’s innovative technology, and repeatedly contradict its prior arguments in this case and at the Patent Office.

## II. U.S. PATENT NO. 6,013,007

The ’007 patent claims a system for computing outdoor athletic performance, presenting the performance data audibly over a wired headset, and transmitting the performance data to a remote computer for comparison with other athletes. *See* ’007 patent, cover, 2:1-3:13, 6:63-9:20. Importantly, the specification explains prior art GPS systems “do not include real-time athletic performance algorithms.” *Id.*, 1:47-48. Yet, no such algorithms are disclosed in the patent. The lack of such algorithms invalidates the asserted claims under 35 U.S.C. § 112, ¶ 6.

The two disputed terms for the ’007 patent are written in the means-plus-function (“MPF”) format, pursuant to 35 U.S.C. § 112, ¶ 6, which states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.