

EXHIBIT A

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PHILIPS NORTH AMERICA LLC,) Case No. 1:19-cv-11586-IT
Plaintiff,)
v.)
FITBIT, INC.,)
Defendant.)
_____)

REMOTE VIDEOTAPED DEPOSITION OF
THOMAS L. MARTIN, PH.D.
June 18, 2020
10:02 a.m. Eastern Standard Time
Blacksburg, Virginia

REPORTED BY:
Kristi Caruthers
CLR, CSR No. 10560

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1 the patents issued or were filed?

2 A. No, I do not.

3 Q. Other than your lawyers, did you speak
4 with anyone in connection with the preparation for
5 your exhibit today -- or for your deposition today?

6 A. No, I didn't.

7 Q. Sticking with your materials considered,
8 you have a number of cites from this www.ck12.org
9 website.

10 Do you see that?

11 A. Yes, I do.

12 Q. What is the ck12.org organization?

13 A. It provides a set of tutorials for
14 different topics for kindergarten through 12th
15 grade, for grade school materials.

16 Q. Have you ever cited ck12.org in connection
17 with any of your published papers?

18 A. No, I haven't had a need to.

19 Q. And why did you choose to cite to ck12.org
20 in connection with this matter?

21 A. So one of the points in my declaration is
22 that the math that was required for calculating the
23 distance between two GPS waypoints is relatively
24 simple and would have been obvious to somebody who
25 was skilled in the art.

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1 And the math is the sort of math that you
2 would do for finding distance for somebody who was
3 exercising, is the kind of thing that somebody with
4 a knowledge of high school trigonometry or geometry
5 would be able to do.

6 And so I was citing the -- these cites
7 because they back up that opinion, showing that it's
8 the kind of thing that is taught in grade school.

9 Q. Now, why did you feel a need to look
10 outside the specification on the patent in order to
11 demonstrate an algorithm that calculated distance?

12 MR. RODRIGUES: Objection to form, lacks
13 foundation.

14 THE WITNESS: Actually, I wasn't trying to
15 show that there was an algorithm; I was just trying
16 to show that just saying find the distance between
17 two points is relatively simple.

18 BY MR. PETERMAN:

19 Q. And -- oh. Why were you -- why were you
20 trying to establish the point that finding the
21 distance between two points was relatively simple?

22 A. Because just saying finding the distance
23 between two points would be the kind of step -- if I
24 was sketching out an algorithm, that might be the
25 kind of step that I would provide in the sketch of

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1 the algorithm.

2 So just saying calculate the -- find the
3 distance between these two points, you find the
4 distance.

5 Q. So where in the specification of any of
6 the patents-in-suit that you reviewed is there an
7 algorithm for finding the distance between two
8 points?

9 A. I'm sorry. I just said I don't think
10 you -- you need to specify an algorithm for finding
11 the distance between two points. Saying "find the
12 distance between two points" would be the step that
13 I would provide within an algorithm.

14 Q. So is there anywhere in the specification
15 where there is an algorithm for finding the distance
16 between two points?

17 MR. RODRIGUES: Objection to form.

18 THE WITNESS: You know, as I've described
19 in my report and as what I think I've said in the
20 last couple of questions, just saying "find the
21 distance between these two GPS points" is enough to
22 describe what you need to do.

23 BY MR. PETERMAN:

24 Q. And what's your basis for saying that's
25 enough to describe what you need to do under patent

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