

# Philips v. Fitbit

Case No. 1:19-cv-11586 (D. Mass)

**Hon. Judge Talwani**

**Plaintiff's Opposition to Rule 12(b)(6) Motion to Dismiss**

August 20, 2020

U.S. Patent No.  
6,013,007  
(Root)

# '007: Structure – Claim Recites Algorithm

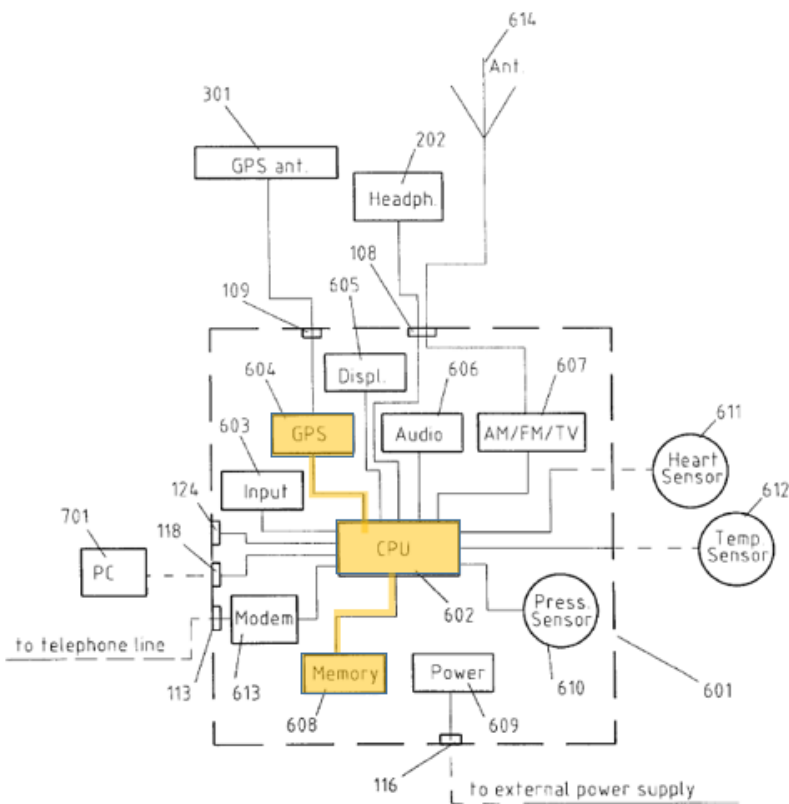


Fig. 6

1. A portable feedback system providing regular feedback on an athlete's performance, comprising:
  - a global positioning system GPS receiver that provides a series of time-stamped waypoints;
  - means for computing athletic performance feedback from the series of time-stamped waypoints from said GPS receiver; and
  - means for presenting the athletic performance data to an athlete.

During the exercise session, the GPS receiver continuously determines the athlete's geographic location and stores it in the memory 608 along with other data such as the date and time that each position was recorded.

## '007: Multiple Distinct Asserted Claims

Asserted Claims: 7, 21, 23, 24, 25, 26, 28, 29

### Amended Complaint DI 25

59. The '007 patent describing the above-described improved athletic performance monitor was filed with the U.S. Patent and Trademark Office on March 26, 1998 and issued on January 11, 2000. The U.S. Patent Office carefully examined the claims that ultimately issued as the '007 patent. Consistent with 35 U.S.C. §282 and the limitations of the claims of the '007 patent, a person having ordinary skill in the art would understand that each claim of the '007 patent (independent or dependent) relates to a separate invention distinct from other claims as for example with dependent claim 23 which is distinct from independent claim 21.

35 USC 282(a): A patent shall be presumed valid. Each claim of a patent (whether in independent, dependent, or multiple dependent form) shall be presumed valid independently of the validity of other claims; dependent or multiple dependent claims shall be presumed valid even though dependent

## '007: Claim comparison example

Asserted Claims: 7, 21, 23, 24, 25, 26, 28, 29

### Claim 23

21. A system for comparing the performance of an athlete with the performance of other athletes, said system comprising:

a global positioning system GPS receiver for obtaining a series of time-stamped waypoints;

means for computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver;

means for presenting the athletic performance feedback data to an athlete; and

a modem for transmitting the athletic performance feedback data to a remote computer for comparison with athletic performance data of other athletes.

23. A system as recited in claim 21, further comprising a headset and an audio module for presenting the athletic performance feedback data over said headset.

### Claim 7

1. A portable feedback system providing regular updates on an athlete's performance, comprising:

a global positioning system GPS receiver that obtains a series of time-stamped waypoints;

means for computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver; and

means for presenting the athletic performance feedback data to an athlete.

7. A portable feedback system as recited in claim 1, further comprising means for suspending and resuming operation of said means for computing when a speed of an athlete falls below a predetermined threshold.

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