EXHIBIT 2

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-FDS

EXPERT REPORT OF TOM MARTIN CONCERNING INFRINGEMENT

D. Conclusion

278. For the reasons stated above, it is my opinion that the Asserted Claims of the '377 Patent provided multiple inventive concepts. It is also my opinion that a POSITA would understand that the claims of the '377 patent do not pre-empt any field, but instead provide improvements to devices for monitoring exercise with wireless internet connectivity. Indeed, the '377 Patent acknowledges that health data is collected, analyzed and stored in different ways from the asserted claims of the '377 Patent, 1:45-2:40, while also describing the deficiencies that are addressed by the patent.

IX. Comparison of Patents

A. Technical Comparability of the '377 Patent with U.S. Patent No. 6,602,191

279. I have been asked by counsel to provide an opinion as to the technical comparability of the technology of the '377 Patent with U.S. Patent No. 6,602,191 (the "'191 Patent") that was licensed by Philips to Lifescan, Inc. ("Lifescan") in 2013 and Symcare in 2009. *See* PNA-FB0003484; PNA-FB0004196.

280. Having reviewed the '191 Patent thoroughly I conclude that it is technically comparable with the '377 Patent. I base this conclusion on three main reasons.

281. First, both patents are from the same family, as the '377 Patent is a continuation of Application No. 09/738,270, which became the '191 Patent. I also note that they have the same named inventor, Mr. Roger J. Quy.

282. Second, the specifications of the two patents are nearly identical in both text and drawings. The only difference between them that I was able to find was that the '377 patent uses the term "IEEE 802.11 protocols" and the '191 Patent just uses the term "802.11" as well as stylistic differences (e.g., shading) in the figures.

283. Finally, the claims of both patents are directed to the same type of technology, namely monitoring health and/or exercise parameters of a user via sensors, sending those parameters to an internet-enabled wireless web device, using a server to make calculations on these parameters, and providing the response to the internet-enabled wireless web device. For instance, as shown below, Claims 14 and 18 of the '191 Patent each claim a wireless health-monitoring system that include:

284. 1. An internet-enabled wireless web device (comparable to the web-enabled wireless phone claimed by Claim 1 of the '377 Patent)

285. 2. Having a health parameter related to a fitness/exercise (claim 14) or disease (claim 18) state/condition of a patient determined by a health parameter determining means (comparable to receiving the data indicating a physiologic status and data indicating an amount of exercise performed from the device which provides exercise-related information as claimed by Claim 1 of the '377 Patent)

286. 3. An application (comparable to the application as claimed by Claim 1 of the '377 Patent)

287. 4. A server application that receives the health parameter, calculates a response, and provides the response to the internet-enabled wireless web device (comparable to sending the exercise-related information to an internet server and receiving a calculated response from the server as claimed by Claim 1 of the '377 Patent)

14. A wireless health-monitoring system for health management of a patient or subject, comprising:

An internet-enabled wireless web device, the internet-enabled wireless web device including a first communications port having a generic wireless input/output port and a second communications port having a circuit for wireless communications with a network, the internet-enabled wireless web device configured to store:

a health parameter, the health parameter corresponding to a fitness, nutrition, health, or exercise state or condition of a patient and determined by a health parameter determining means;

an application; and

a user interface; and

A server application, residing on a computer readable medium and disposed on a server in communication with the wireless network, for causing the server to:

Receive the determined health parameter;

Calculate a response based in part on the determined health parameter; and

Provide the response to the internet-enabled wireless web device.

18. A wireless health-monitoring system for monitoring a disease state or condition of a patient, comprising:

An internet-enabled wireless web device, the internet-enabled wireless web device including a first communications port having a generic wireless input/output port and a second communications port having a circuit for wireless communications with a network, the internet-enabled wireless web device configured to store:

a health parameter, the health parameter corresponding to a disease state or condition of a patient and determined by a health parameter determining means;

an application; and

a user interface; and

A server application, residing on a computer readable medium and disposed on a server in communication with the wireless network, for causing the server to:

Receive the determined health parameter;

Calculate a response based in part on the determined health parameter; and

Provide the response to the internet-enabled wireless web device.

U.S. Patent No. 6,602,191 at claims 14, 18 (highlighting added).

288. Thus, I conclude that these two patents are technologically similar to each other.

X. Reservation

289. I expressly reserve the right to modify or supplement this report based upon any additional information produced or presented to me in this Investigation and/or based upon any alternative or supplemental claim interpretation rulings by the Court.

Date: November 16, 2021

/s/ Thomas L. Martin

Dr. Thomas L. Martin, Ph.D