

EXHIBIT 2

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FITBIT LLC,
Petitioner,

v.

PHILIPS NORTH AMERICA LLC,
Patent Owner.

IPR2020-00783¹
Patent No. 7,088,233 B2

Before STACEY G. WHITE, MICHELLE N. WORMMEESTER,
and NORMAN H. BEAMER, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining Some Claims Unpatentable
35 U.S.C. § 318(a)

¹ Garmin International, Inc., Garmin USA, Inc., and Garmin Ltd., filed a petition in IPR2020-00910 and have been joined as petitioner in this proceeding.

IPR2020-00783
Patent 7,088,233 B2

I. INTRODUCTION

In response to a Petition filed by Fitbit, Inc. (“Petitioner”), now Fitbit LLC, we instituted *inter partes* review of claims 1, 7–10, 13–16, 22, and 24–26 of U.S. Patent No. 7,088,233 B2 (“the ’233 patent”). Paper 1 (“Pet.”); Paper 12 (“Dec.”); Paper 33. Philips North America LLC (“Patent Owner”) filed a Response to the Petition, Petitioner filed a Reply, and Patent Owner filed a Sur-Reply. Paper 17 (“PO Resp.”); Paper 22 (“Reply”); Paper 24 (“Sur-Reply”).

An oral hearing took place on July 29, 2021. The Hearing Transcript (“Tr.”) is included in the record as Paper 32. After considering the parties’ arguments and supporting evidence, we determine that Petitioner has demonstrated by a preponderance of the evidence that claims 1, 7–10, 13, 15, 16, 22, and 24–26 are unpatentable. Claim 14 has not been proven to be unpatentable.

II. BACKGROUND

A. The ’233 Patent

The ’233 patent, titled “Personal Medical Device Communication System and Method,” was filed on June 7, 2002, issued on August 8, 2006, and recites various continuation-in-part and continuation applications as related. Ex. 1001, codes (54), (22), (45), (63), (60).² The patent also states that it is related to “[p]rovisional application No. 60/135,862, filed on May

² The ’233 patent states that it is a “[c]ontinuation-in-part of application No. 09/956,474, filed on Sep. 19, 2001, which is a continuation of application No. 09/384,165, filed on Aug. 27, 1999, now Pat. No. 6,356,192, application No. 10/165,624, which is a continuation-in-part of application No. 10/112,669, filed on Mar. 28, 2002, and a continuation-in-part of application No. PCT/US01/18734, filed on Jun. 8, 2001.” *Id.* at code (63).

IPR2020-00783

Patent 7,088,233 B2

25, 1999, provisional application No. 60/105,493, filed on Oct. 23, 1998, and provisional application No. 60/279,401, filed on Mar. 28, 2001.” *Id.* at code (60); *see* Exs. 1013–1015.

Petitioner assumes for purposes of its challenge that the earliest effective filing date for all but claims 13, 24, and 25 of the ’233 patent is the October 23, 1998, filing date of application No. 60/105,493. Pet. 3. For claims 24 and 25, Petitioner argues that the earliest effective filing date is the May 25, 1999, filing date of application No. 60/135,862. *Id.* at 3, 19–20 (*citing* Ex. 1002 ¶¶ 45–46). For claim 13, Petitioner argues that the earliest effective filing date is the March 28, 2001, filing date of application No. 60/279,401. *Id.* at 3–4, 20 (*citing* Paradiso Decl. ¶¶ 45, 47). Patent Owner does not contest these assertions for purposes of this proceeding. PO Resp. 6–7. This Decision adopts Petitioner’s unopposed positions on priority dates.

The ’233 patent describes a “personal and/or institutional health and wellness communications system, which may be used for a variety of emergency and non-emergency situations using two-way communication devices and a bi-directional communication network.” *Id.* at code (57). Figure 5 of the ’233 patent is reproduced below.

IPR2020-00783

Patent 7,088,233 B2

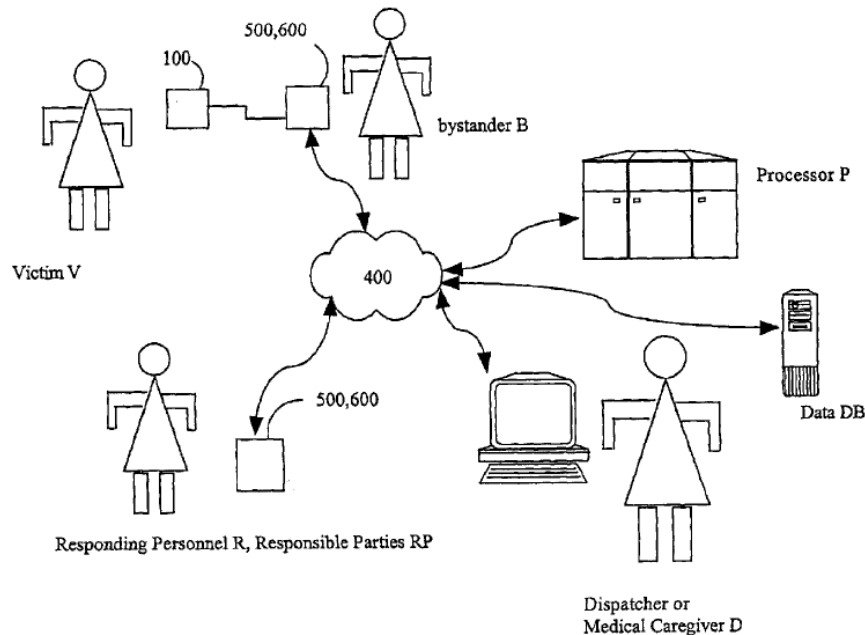
**FIG. 5**

Figure 5 is a network diagram showing communications with various system components. *Id.* at 2:47–48. Figure 5 shows Personal Medical Device 100, which may be implanted, or carried on the person, of Victim V. *Id.* at 11:49–50. For example, Personal Medical Device 100 could be a pacemaker. As another example, Personal Medical Device 100 could have one or more sensor inputs connected to external or embedded “detectors 140” (not shown on Figure 5) that:

may be any sensor of bodily or physiological parameters such as, but not limited to: temperature, motion, respiration, blood oxygen content, electrocardiogram (ECG), electroencephalogram (EEG), and other measurements.

Id. at 3:27–33.

Figure 5 shows that Personal Medical Device 100 may communicate with Medical Device Interface 600 (elsewhere numbered “200”), which 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.