UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FLIR SYSTEMS, INC. and

FLIR MARITIME US, INC. (F/K/A RAYMARINE, INC.),

Petitioner

v.

GARMIN SWITZERLAND GmbH,

Patent Owner

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Case IPR2017-00946

Patent 7,268,703 B1

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**PATENT OWNER'S
MOTION FOR OBSERVATION REGARDING
CROSS-EXAMINATION OF REPLY WITNESS**

I.   INTRODUCTION

Pursuant to the Scheduling Order (Paper 8), Patent Owner Garmin Switzerland GmbH ("Garmin") respectfully submits observations on the February 8, 2018, cross-examination of Petitioner FLIR Systems, Inc. and FLIR Maritime US, Inc.'s (f/k/a Raymarine, Inc.) ("FLIR") reply witness, Michael S. Braasch, Ph.D.

II.   OBSERVATIONS ON CROSS-EXAMINATION

Exhibit 2008, submitted with Patent Owner's Reply to the Motion to Amend, is the transcript of the deposition of Dr. Braasch taken on February 8, 2018. The following observations are with respect to Exhibit 2008.

Observation #1:

In Exhibit 2008, on page 38, line 25 through page 40, line 2, the witness testified as to his understanding of the disclosure of Figs. 4A and 4B of the '703 Patent. This testimony is relevant to the Patent Owner Response (Paper 16), Section II(A), on pages 15-21 regarding the claim construction for "re-routing"/"re-route." This testimony is relevant because it evidences that FLIR's expert understands the '703 Patent (and specifically, FIGS. 4A and 4B and the related discussion in the '703 Patent Specification) to disclose the following:

    (a)   a straight line course [course 404] is drawn between 410 and 414;

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(b) a preselected condition is identified in the analysis of course 404 (from Fig. 4A); and

(c) course 403 (in Fig. 4B) is recalculated "relative to the original calculation of Course 404 shown in Figure 4A in order to avoid the island." (EX_2008 at 39:11-13).

Observation #2:

In Exhibit 2008, on page 40, line 22 through page 41, line 9, the witness testified that his "understanding of the discussion in the 703 specification with respect to Figure 4A is that it's analyzing if any preselected conditions occur on the line between Waypoint 410 and Waypoint 414." This testimony is relevant to the Patent Owner Response (Paper 16), Section II(A), on pages 15-21 regarding the claim construction for "re-routing"/"re-route." This testimony is relevant because it evidences FLIR's expert understands Figs. 4A and 4B of the '703 Patent as discussing that the marine route calculation algorithm analyzes the line between Waypoint 410 and Waypoint 414 for preselected conditions.

Observation #3:

In Exhibit 2008, on page 45, lines 10-18, the witness testified regarding "calculating" as used in the '703 Patent (EX_1001 at 8:40-65; Figs. 4A-4B) being "synonymous" with "routing" and "recalculating" being "synonymous" with

"rerouting." This testimony is relevant to the Patent Owner Response (Paper 16), Section II(A), on pages 15-21 regarding the claim construction for "re-routing"/"re-route." This testimony is relevant because it evidences that FLIR's expert understands *routing* and *calculating* to be synonymous and *re-routing* and *recalculating* to be synonymous, as used in the '703 Patent. This testimony assists in further understanding the witness's testimony at Exhibit 2008, on page 38, line 25 through page 39, line 13, wherein the witness used the term "recalculating" in discussing the same section of the '703 Patent.

Observation #4:

In Exhibit 2008, on page 49, lines 8-13, the witness testified regarding claim 1 of the '703 Patent. Specifically, in response to the question "So would you only reroute if you've identified preselected conditions in the analyzing step," the witness testified "Yes. That's fair. There is an analysis component of this limitation and a rerouting to avoid the preselected conditions." This testimony is relevant to the Patent Owner Response (Paper 16), Section II(A), on pages 15-21 regarding the claim construction for "re-routing"/"re-route." This testimony is relevant because it evidences that FLIR's expert interprets claim 1 of the '703 Patent as rerouting to avoid preselected conditions identified in the "analysis component," of the claim. *See also* EX_2008 at 48:12-17, wherein the witness

agreed that claim 1 of the '703 Patent includes as a "limitation" the step of "analyzing cartographic data between the first location and the potential waypoints."

Observation #5:

In Exhibit 2008, on page 30, line 20 through page 31, line 11, the witness testified regarding whether "re-routing" as used in the original Challenged Claims should be construed differently as "re-routing" as used in the amended claims. This testimony is relevant to the Patent Owner Response (Paper 16), Section II(A), on pages 15-21 regarding the claim construction for "re-routing"/"re-route." This testimony is relevant because it evidences that FLIR's expert understands the same claim term used in the original claims versus the amended claims to have a different construction. Further, this testimony is relevant because it evidences FLIR's expert to understand that "in the amended claim, it's very clear that there is a first route, an analysis of that route, and then if there is an identification of preselected conditions along the routed course, there is then a rerouting step." (EX_2008 at 31:7-11).

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