

**IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
DELAWARE**

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

Plaintiff,

v.

FITBIT, INC.

Defendant.

C.A. No. 1:16-cv-00683-GMS
CONSOLIDATED

FINAL JOINT CLAIM CHART – U.S. PATENT NOS. 6,175,608 AND 6,434,212

Pursuant to the Scheduling Order, the parties in the consolidated matters hereby submit their Final Joint Claim Chart for the claim terms in U.S. Patent Nos. 6,175,608 (the “’608 Patent”) and 6,434,212 (the “’212 Patent”), including the claim terms that the parties believe require construction, each side’s proposed construction, and citations to intrinsic evidence and dictionary definitions:

Claim(s)	Term	Blackbird Proposed Construction	Fitbit, Garmin, Sony, and TomTom Proposed Construction	Wahoo Proposed Construction
'212 Patent claim 2, 5, and 6; '608 Patent claim 5	"a step counter"	"a device that collects data to generate a step count"	"a device mounted to the chest, waist, or leg that counts the number of steps a user takes"	"a device mounted to the chest, waist, or leg that counts the number of steps a user takes"
Blackbird's Evidence Citations¹:		<u>Intrinsic</u> : Col. 2:40-52; Col. 3:6-11; Col. 3:11-35; '608 Patent Col. 7:65 – prosecution history – Jan. 28, 2000 Rejection and accompanying remarks; prosecution history – March 21, 2000 Amendment and accompanying remarks		
Defendants' Evidence Citations:²		<p>Timex <u>Intrinsic</u> Claim Language, including at least: Claim 6 Specification, including at least: Abstract, Figures, 1:7-12; 1:17-55; 2:8-20</p> <p><u>Extrinsic</u> Dictionary definitions, including: (1) Merriam Webster's Collegiate Dictionary "counter" at p.264, and (2) The American Heritage College Dictionary (3rd ed.) p.316.</p> <p>Fitbit et al. <u>Intrinsic</u> Claim language, including at least: Claim 6 Specification, including at least: Abstract; Figures; Col. 1:7-12; Col. 1:47-52; 2:27-31; Col. 2:65-3:20.</p> <p>Wahoo <u>Intrinsic</u></p>		

¹ All references are to the '212 Patent unless otherwise noted.

² Each party reserves the right to rely on evidence cited by any other party.

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	Claim language, including at least: Claim 6 Specification, including at least: Abstract; Figures; Col. 1:7-12; Col. 1:47- 2:27-31; Col. 2:65-3:20.
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Claim(s)	Term	Blackbird Proposed Construction	Fitbit, Garmin, Sony, and TomTom Proposed Construction	Wahoo Proposed Construction
'212 Patent claim 2, 5, and 6; '608 Patent claim 5	"stride rate"	"number of steps over a time period"	"strides or steps per unit of time"	"strides or steps per unit of time"
Blackbird's Evidence Citations:		<p><u>Intrinsic</u>: Col. 2:15-26; Col. 3:65-67; Col. 4:12-20; Col. 4:30-46; '608 Patent history – Jan. 28, 2000 Rejection and accompanying remarks; '608 Patent March 21, 2000 Amendment and accompanying remarks.</p> <p><u>Extrinsic</u>: The Oxford Dictionary and Thesaurus, American Edition (1996) (BBTECH_PED000540-548).</p>		
Defendants' Evidence Citations:		<p>Timex</p> <p><u>Intrinsic</u> Specification, including at least: Abstract, 1:7-16; 1:17-65; 2:8-26; 2:23-59 Prosecution Record, including at least Notice of Allowability (3/16/02) Prosecution Record for Parent Application, including at least: (1) Original (10/28/98), (2) First Amended Application Claim 17 (3/21/00), (3) Supplemental Disclosure Statement (3/21/00), (4) Amendment and Remarks (6/19/00), (5) Summary for interviews on June 12 and 15, 2000, (6) Notice of Allowability</p> <p><u>Extrinsic</u> Dictionary definitions, including: (1) Merriam Webster's Collegiate Dictionary "stride" at p.1164, and (2) The American Heritage College Dictionary (3rd) p.1344.</p> <p>Fitbit et al.</p> <p><u>Intrinsic</u> Claim Language, including at least: Claims 1-3, 5-7 Specification, including at least: Abstract; Col. 1:7-16; Col. 1:28-65; Col. 2:67; Col. 4:7-11; Col. 4:34-58; Col. 5:1-6:10</p>		

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	<p>Prosecution History of Application No. 09/181,738, including at least: June amendment, at 4.</p> <p><u>Extrinsic</u> Rate: <i>A quantity, amount, or degree of something measured per unit of something</i>. Merriam-Webster, Eleventh Edition. Rate: <i>A quantity measured with respect to another measured quantity</i>. American Dictionary of the English Language, 5th Edition. Rate: <i>The amount of change of some quantity during a time interval divided by the time interval</i>. McGraw-Hill Dictionary of Scientific and Technical Terms, 2nd Edition.</p> <p>Wahoo</p> <p><u>Intrinsic</u> Claim Language, including at least: Claims 1-3, 5-7 Specification, including at least: Abstract; Col. 1:7-16; Col. 1:28-65; Col. 2:1-6; Col. 2:67; Col. 4:7-11; Col. 4:34-58; Col. 5:1-6:10 Prosecution History of Application No. 09/181,738, including at least: June amendment, at 4.</p> <p><u>Extrinsic</u> Rate: <i>A quantity, amount, or degree of something measured per unit of something</i>. Merriam-Webster, Eleventh Edition. Rate: <i>A quantity measured with respect to another measured quantity</i>. American Dictionary of the English Language, 5th Edition. Rate: <i>The amount of change of some quantity during a time interval divided by the time interval</i>. McGraw-Hill Dictionary of Scientific and Technical Terms, 2nd Edition.</p>
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