

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT AND APPEAL BOARD

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TOMTOM, INC. Petitioner

v.

BLACKBIRD TECHNOLOGIES, LLC  
Patent Owner

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Case IPR2017-02023  
U.S. Patent No. 6,434,212

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**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE**

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. INTRODUCTION .....	1
II. LEVEL OF SKILL IN THE ART .....	2
III. CLAIM CONSTRUCTION .....	3
A. Stride Rate .....	4
B. Calibration .....	4
IV. THE ASSERTED REFERENCES AND GROUNDS RENDER THE ’212 PATENT’S CLAIMS INVALID .....	6
A. Claims 1-8 are Obvious under Ground 1 .....	6
1. Levi Discloses Calibration .....	6
2. Jimenez Discloses a Transmitter and Receiver .....	12
3. Claims 3 and 4 are Unpatentable .....	18
B. Claims 1-8 are Obvious under Ground 2 .....	21
V. MOTIVATION TO COMBINE .....	24
VI. IPR PROCEEDINGS ARE CONSTITUTIONAL IN THIS CONTEXT .....	26
VII. CONCLUSION .....	28

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>BioDelivery Scis. Int’l, Inc. v. Aquestive Therapeutics, Inc.</i> , 898 F.3d 1205 (Fed. Cir. 2018) .....	27
<i>Karlin Tech., Inc. v. Surgical Dynamics, Inc.</i> , 177 F.3d 968 (Fed. Cir. 1999) .....	5
<i>Landgraf v. USI Film Prod.</i> , 511 U.S. 244 (1994).....	26, 27
<i>NTP, Inc. v. Research In Motion, Ltd.</i> , 418 F.3d 1282 (Fed. Cir. 2005) .....	17
<i>SAS Inst., Inc. v. Iancu</i> , 138 S. Ct. 1348 (2018).....	27
<i>Superguide Corp. v. DirecTV Enterprises, Inc.</i> , 358 F.3d 870, 69 USPQ2d 1865 (Fed. Cir. 2004).....	5
<i>Wowza Media Sys., LLC v. Adobe Sys., Inc.</i> , IPR2013-00054, 2013 WL 5653114 (P.T.A.B. July 13, 2013).....	3
<b>Statutes</b>	
35 U.S.C. §§ 301 .....	26
35 U.S.C. §§ 303 .....	26
35 U.S.C. § 311 .....	26

**LISTING OF EXHIBITS**

Exhibit	Description
Ex. 1001	U.S. Patent No. 6,434,212
Ex. 1002	U.S. Patent No. 4,367,752
Ex. 1003	U.S. Patent No. 5,583,776
Ex. 1004	U.S. Patent No. 6,145,389
Ex. 1005	Expert Declaration of Thomas Blackadar
Ex. 1006	U.S. Patent No. 5,807,267
Ex. 1007	U.S. Patent No. 6,099,478
Ex. 1008	U.S. Patent No. 6,175,608
Ex. 1009	File Wrapper of U.S. Patent No. 6,434,212
Ex. 1010	File Wrapper of U.S. Patent No. 6,175,608
Ex. 1011	<i>Blackbird Tech LLC d/b/a Blackbird Technologies v. Fitbit, Inc.</i> , D.I. 87, Case No. 16-CV-00683 (D. Del. Aug. 23, 2017)
Ex. 1012	Infringement Contentions
Ex. 1013	TS Keller, AM Weisberger, JL Ray, SS Hasan, RG Shiavi, DM Spengler, <i>Relationship Between Vertical Ground Reaction Force and Speed During Walking, Slow Jogging, and Running</i> , Clinical Biomechanics, Vol. 11, Issue 5 at 253-259 (July 1996)
Ex. 1014	Karvonen, Juha and Vuorimaa Timo, <i>Heart Rate and Exercise Intensity During Sports Activities</i> , Sports Medicine, Vol. 5, Issue 5, at 303–311 (May 1988)
Ex. 1015	U.S. Patent No. 4,578,769
Ex. 1016	U.S. Patent No. 5,117,444
Ex. 1017	U.S. Patent No. 4,771,394
Ex. 1018	U.S. Provisional Patent App. No. 60/030,743
Ex. 1019	U.S. Patent No. 5,891,042
Ex. 1020	Filing Receipt for IPR2017-02017
Ex. 1021	Blackadar Deposition Exhibit, Blackadar CV
Ex. 1022	Deposition Transcript of Thomas Blackadar, June 27, 2018
Ex. 1023	Deposition Transcript of Michael Caloyannides, September 21, 2018

## I. INTRODUCTION

As demonstrated in the Petition (Paper 1), the claims of the '212 patent are nothing more than the obvious combination of a prior art pedometer capable of calculating a distance traveled by multiplying a number of steps counted by the step counter by a stride length that varies according to a rate at which steps are counted together with a pedometer having a heart rate monitor. Patent Owner's arguments to the contrary cannot withstand scrutiny.

First, as the Decision (Paper 7) noted, "none of the independent claims recite 'for a particular use.'" Paper 7 at 17. Nor do any of the dependent claims recite "for a particular user." Patent Owner's attempts to insert this phrase into the claims is misguided and contrary to the law.

Second, even if the claims were construed to include the phrase, Levi discloses calibration for a particular user. *See* Paper 1 at 35-36. Patent Owner's attempts to mischaracterize Levi are directly contradicted by a plain reading of Levi, which specifically explains that the calibration process "is particular to the individual person using the system." EX1001 at 6:22-25.

Further, as set forth in the Petition, Jimenez discloses a transmitter and receiver. *See* Paper 1 at 46-47 and 68. The terms transmitter and receiver are undefined by the '212 patent, and Petitioner submits that any component that sends

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