

**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

**PLAINTIFF BLACKBIRD TECH LLC'S
PROPOSED CLAIM CONSTRUCTIONS**

Pursuant to the Scheduling Order, Plaintiff Blackbird Tech LLC d/b/a Blackbird Technologies (“Blackbird”) hereby serves its proposed constructions for following terms in U.S. Patent Nos. 6,434,212 (the “212 Patent”) and 6,175,608 (the “’608 Patent”) that it or Defendants identified as requiring construction:

I. Terms Proposed by Blackbird, or both Blackbird and Defendants

Claim(s)	Term	Proposed Construction
‘212 Patent claim 2, 5, and 6; ‘608 Patent claim 5	“a step counter”	“a device that collects data to generate step count”
‘212 Patent claim 2, 5, and 6; ‘608 Patent claim 5	“stride rate” (<i>‘212 Patent claim 2, and ‘608 Patent claim 5</i>); and “rate at which steps are counted” (<i>‘212 Patent claims 5 and 6</i>)	“number of steps over a time period”

II. Terms Proposed by Defendants

Claim(s)	Term	Proposed Construction
'212 Patent claims 2, 5, and 6	“a plurality of calibrations that each calculate a stride length as a function of a known stride rate” (<i>'212 Patent claim 2</i>) “a range of stride lengths calculated from a range of corresponding stride rates calculated from a plurality of calibration samples” (<i>'212 Patent claim 5</i>) “ from a range of stride lengths calculated from a range of corresponding stride rates” (<i>'212 Patent claim 6</i>)	“two or more calibrations that each generate a correspondence between stride rate and stride length” (<i>'212 Patent claim 2</i>) “a range of stride lengths that correspond to stride rates, the correspondence generated from two or more calibrations” (<i>'212 Patent claims 5 and 6</i>)
'212 Patent claim 2, 5, and 6; '608 Patent claim 5	“calculate”	plain and ordinary meaning; or “determine”
'212 Patent claim 6; '608 Patent claim 5	“a transmitter [in communication with the step counter] to generate a step count signal corresponding to each step and transmit the step count signal”	plain and ordinary meaning
'212 Patent claim 6; '608 Patent claim 5	“a receiver”	plain and ordinary meaning
'212 Patent claim 6	“a stride length that varies according to the rate at which steps are taken” (<i>'212 Patent claim 6</i>); “...according to a stride rate” (<i>'212 Patent claim 2</i>); “...according to a rate at which steps are counted” (<i>'212 Patent claim 5</i>)	plain and ordinary meaning
'608 Patent claim 5	“from a plurality of walks or runs each over a known distance	plain and ordinary meaning; or “from two or more walks or runs, each walk or run over a known distance”
'608 Patent claim 5	“actual stride rate”	“number of steps over the current time period”

Blackbird Technologies reserves the right to amend these proposed constructions based on, without limitation, Defendants' proposed constructions, any additional terms identified, the meet and confer process with Defendants, and information obtained via discovery.

Dated: August 16, 2017

STAMOULIS & WEINBLATT LLC

OF COUNSEL

Christopher Freeman
cfreeman@blackbird-tech.com
Wendy Verlander
wverlander@blackbird-tech.com
David Gerasimow
dgerasimow@blackbird-tech.com
Blackbird Tech LLC d/b/a
Blackbird Technologies
One Boston Place, Suite 2600
Boston, MA 02108
617.307.7100

/s/ Stamatios Stamoulis
Stamatios Stamoulis #4606
stamoulis@swdelaw.com
Richard C. Weinblatt #5080
weinblatt@swdelaw.com
Two Fox Point Centre
6 Denny Road, Suite 307
Wilmington, DE 19809
Telephone: (302) 999-1540

*Attorneys for Plaintiff
Blackbird Tech LLC
d/b/a Blackbird Technologies*

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2017, I electronically served the forgoing document on all counsel of record in this action.

/s/ Christopher Freeman

Christopher Freeman